

ONTARIO

LAWYERS

GAZETTE

LA REVUE DES JURISTES DE L'ONTARIO

FOCUS ON

Solo and Small Firm Conference and Expo



The Law Society of
Upper Canada

Barreau
du Haut-Canada

2006 Law Society Medal Recipients



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JUN 2006

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DE L'ONTARIO

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Run for benchers: Have a say in regulating the profession

REMINDER:
Nominations due in February for April 30, 2007 election

It's not too early for Law Society members to start thinking about running in the upcoming benchers election. Along with other prerequisites, candidates must be nominated by at least ten members whose rights and privileges are not suspended.

Quick facts about serving as benchers:

Every four years, forty lawyers are elected by the membership to govern the profession in the public interest.

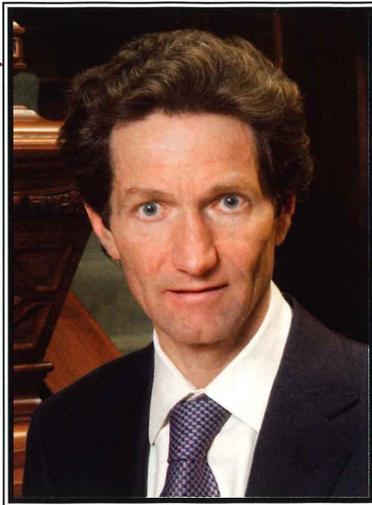
- As members of Convocation, the Law Society of Upper Canada's governing body, benchers develop policy and strategy for dealing with the major issues facing the profession – rules of professional conduct, education, competency, access to justice, mobility of lawyers, government regulation and paralegals.
- As members of the Hearing Panel, benchers adjudicate on applications dealing with the conduct, competence and capacity of members.
- Benchers volunteer, on average, three to five days a month to attend Convocation and other committee and task force meetings, as well as discipline hearings.
- Benchers are remunerated at the rate of \$300 per half day and \$500 per full day after serving the Law Society for 26 days. They are also reimbursed for expenses. Benchers are not required to receive remuneration.

Election packages – including ballot and candidate information – will be sent out to all members approximately one month before the election.

More information about the election will appear in the *Ontario Reports* and in future issues of the *Ontario Lawyers Gazette*.

TREASURER'S MESSAGE

A TIME OF TRANSFORMATION IS AT HAND FOR THE LAW SOCIETY. GROUNDBREAKING LEGISLATION THAT WILL CONSIDERABLY EXPAND OUR PUBLIC INTEREST MANDATE, *BILL 14 – THE ACCESS TO JUSTICE ACT* – IS EXPECTED TO BE INTRODUCED FOR THIRD READING THIS FALL.



Treasurer
Gavin MacKenzie

MESSAGE DU TRÉSORIER

LE BARREAU SE DIRIGE VERS UNE PHASE DE TRANSFORMATION. UNE LOI NOVATRICE QUI ÉLARGIRA CONSIDÉRABLEMENT NOTRE MANDAT DANS L'INTÉRÊT PUBLIC, LE PROJET DE LOI 14 – *LA LOI SUR L'ACCÈS À LA JUSTICE* – DEVRAIT ÊTRE PRÉSENTÉE EN TROISIÈME LECTURE À L'AUTOMNE.

On behalf of the Law Society, I appeared before the Justice Policy Committee of the Legislature in the spring, after Bill 14 received second reading. Further hearings before the Committee have been scheduled for September.

The anticipated enactment of Bill 14 will close a long-standing gap in consumer protection for individuals choosing to use paralegal services for basic legal matters. Specifically, the Law Society will, for the first time, comprehensively regulate a broader group of legal service providers, including independent paralegals.

As our public interest mandate continues to be our foremost priority, we readily agreed when asked by the Attorney General to take on this additional responsibility.

Attempts at paralegal regulation date back more than 15 years, including a number of judicial decisions and two major government reports recommending such regulation, the most recent in 2000 by former Justice Peter Cory.

As the Attorney General stated when he asked the Law Society to take it on, “[Paralegal regulation] will modernize and improve the people’s access to the justice system, and it will

Au nom du Barreau, j’ai comparu devant le comité de la justice de l’Assemblée législative au printemps, après que le projet de loi 14 a été en deuxième lecture. D’autres audiences devant le comité ont été prévues pour septembre.

La promulgation anticipée du projet de loi 14 comblera une lacune existant depuis longtemps dans la protection des consommateurs pour les personnes qui choisiront les services de parajuristes dans des affaires juridiques de base. Plus particulièrement, et pour la première fois, le Barreau assurera la réglementation globale d’un groupe plus large de fournisseurs de services juridiques, y compris les parajuristes autonomes.

Notre mandat de protection du public continue d’être notre priorité et nous avons accepté avec empressement de jouer ce rôle additionnel lorsque le Procureur général nous l’a demandé.

Il y a plus de 15 ans qu’on cherche à réglementer les activités parajuridiques, en prenant un certain nombre de décisions judiciaires et en produisant deux rapports gouvernementaux majeurs recommandant la réglementation, le plus récent étant celui de l’ancien juge Peter Cory datant de 2000.

Comme l’a dit le Procureur général lorsqu’il a demandé au Barreau d’assumer cette nouvelle

provide greater openness, transparency and accountability.” He also cited the Law Society’s 200 years’ experience regulating lawyers and its expertise and existing infrastructure as a solid foundation upon which to build.

It must be noted that this important consumer protection initiative has been possible only because of the enormous contributions of our partners and stakeholders within the profession, government, paralegal and education communities. The time and dedication that have brought us this far are both commendable and inspirational.

With such a solidly and finely wrought foundation, we are well equipped to continue the significant work yet to be done. We look forward with enthusiasm to working with all stakeholders on our new responsibilities under this legislation. ■

Gavin MacKenzie

responsabilité, « [la réglementation des parajuristes] va moderniser et améliorer l’accès du public à l’appareil judiciaire, et offrira une plus grande ouverture, transparence et imputabilité ».

Il a aussi donné en exemple l’expérience bicentenaire du Barreau dans la réglementation et son infrastructure en place comme fondation solide sur laquelle bâtir.

Il faut noter que cette initiative de protection majeure des consommateurs est rendue possible grâce aux énormes contributions de nos partenaires et intervenants dans la profession, le gouvernement, les communautés parajuristes et éducationnelles. Le temps et le dévouement qui nous ont si bien fait progresser sont louables et sont source d’inspiration.

Avec une telle fondation, solide et bien ouverte, nous sommes prêts à continuer le grand travail qui reste à faire. Nous abordons avec enthousiasme la tâche de travailler avec nos intervenants sur nos nouvelles responsabilités en vertu de cette législation. ■

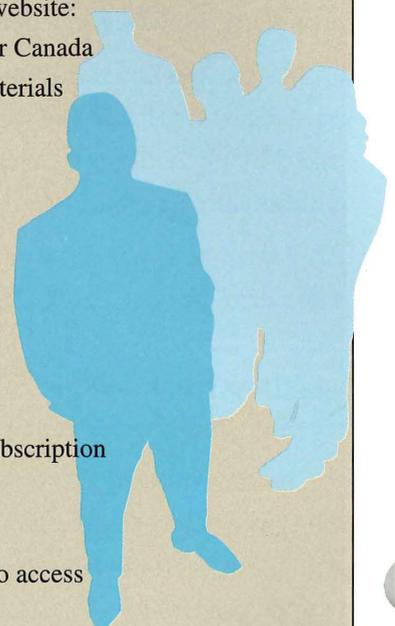
Sole and Small Firm Practitioners’ section on the MRC

A new section devoted to the sole and small firm practitioner has been created on the new Law Society’s Member Resource Centre website. Lawyers with a demanding practice can access a wide range of useful products and resources 24 hours a day, 7 days a week. You can update, improve or assess your skills and knowledge easily and conveniently on the Member Resource Centre website.

Below is a list of resources lawyers may access from the Sole and Small Firm Practitioners’ section of the Member Resource Centre website:

- The latest news from the Law Society of Upper Canada
- Continuing Legal Education Programs and Materials
- The Bookkeeping Guide
- e-Bulletin Resources for Lawyers
- Stay Informed: Current Awareness
- Reference Services
- Best Practices Self-assessment Tool
- The Practice Management Guidelines
- Practice Management Helpline
- Practice Tips: The Knowledge Tree
- Join or renew your Lawyer Referral Service subscription
- Mentorship Program
- Bar Admission Reference Materials

Visit the Member Resource Centre at www.lsuc.on.ca to access the resources you need.





Solo and Small Firm Conference and Expo

OVER 200 LAWYERS ATTENDED THE FIRST-EVER SOLO AND SMALL FIRM CONFERENCE AND EXPO JOINTLY PRESENTED BY THE LAW SOCIETY AND THE ONTARIO BAR ASSOCIATION IN MAY 2006.

Billed as “much more than a CLE program,” the conference was developed to address the unique needs of sole and small firm lawyers, who often don’t have the same infrastructure support as lawyers in large law firms. Its purpose was to provide these practitioners with the opportunity to update their skills and knowledge, sample innovative legal support products, and connect with other sole and small firm lawyers from across the province.

Law Society bencher and co-chair of the Sole Practitioner and Small Firm Task Force Judith Potter and Ontario Bar Association President Heather McGee welcomed the participants. Potter noted that the Law Society and Treasurer Gavin MacKenzie consider the ongoing survival of these practices a serious access to justice issue and a priority for Convocation.

"In March 2006, after three years of extensive consultation and examination with organizations including the Ontario Bar Association (OBA) and the County and District Law Presidents' Association (CDLPA), the Sole Practitioner and Small Firm Task Force passed its final report on the issues facing this group," said Potter. "As a result, Convocation has approved the formation of a working group consisting of two representatives from the OBA, two from CDLPA and two Law Society benchers to go ahead and implement the report's recommendations."

Potter also noted that the work being done must be a "profession-wide effort" if it is to be successful and useful and that "only through teamwork and consultation with other organizations can we address this undertaking in a meaningful way." (To read the full report of the Sole Practitioner and Small Firm Task Force, visit the Law Society's website at www.lsuc.on.ca.)

McGee told participants that lately she has been sensing an awakening of the profession: "Lawyers are first and foremost a profession. They are also astute business people and industry

Solo and Small Firm Conference and Expo

members who serve the public – and who are worth protecting."

"The role of sole and small firm practitioners in urban and non-urban areas, whether in Toronto, Peterborough, Iroquois Falls, Brockville or Owen Sound, is vital," she continued. "Lawyers

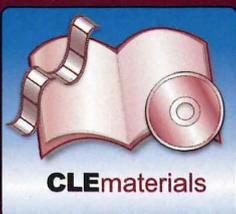
must not lose their ability to deliver service where needed most. The work we do matters, and it is up to us as a profession to find better ways to run small businesses and deliver services – and to be vigilant in protecting our ability to have economically viable practices."

The conference featured several law practice management workshops comprising the most up-to-date information available. In a concurrent track of substantive law workshops, presenters shared their knowledge of family law, real estate law, civil litigation, business law, criminal law and wills and estates.

Topics include:

- 60 Tips in 60 Minutes for Solos and Small Firms
- Building a Better Practice and Clientele Through Marketing and Client Management
- Technology to Jumpstart Your Practice
- The 21st Century Law Office – Skills You Need to Succeed
- The Lawyers' Guide to Adobe Acrobat and the Paperless Office
- Effective Financial Management and Accounting for the Bottom Line
- Dealing with Information and E-mail Overload

Did you miss the conference? You can still get the materials.



CLE materials

Prepared by leading practitioners and top industry professionals, the Solo and Small Firm Conference and Expo materials are an invaluable resource for sole and small firm practitioners seeking to update their knowledge and revitalize their practice. All Law Society CLE materials can be found on the Member Resource Centre website at www.lsuc.on.ca. Place your order online through e-Transactions or phone the Member Resource Centre at 416-947-3315 or 1-800-668-7380, ext. 3315.

The Law Society is pleased to provide the following best practices and tips summarized from four of the workshops and accompanying materials.

Building a Better Practice and Clientele via Marketing and Client Management Workshop

Presenter: Karen MacKay, MBA, Principal, Edge International Inc., and Founder and President, Phoenix Legal Inc.

YOU'VE ALREADY GOT CLIENTS – WHY SPEND TIME MARKETING? PRESENTER KAREN MACKAY CHALLENGED ATTENDEES AT THE SOLO AND SMALL FIRM CONFERENCE TO THINK OF THEIR TIME AS EITHER INCOME TIME OR INVESTMENT TIME.

According to MacKay, income time is working at your desk and investment time is working on future projects. She stressed the importance of spending time researching and keeping up on websites and publications, noting that non-billable work is just as important as billable work. Those who want to chart a new course, she said, should commit one hour per day to non-billable marketing work.

Marketing is not solicitation.

If you're not looking for new clients, you're not going to generate business, said MacKay, and there are many ways to go about raising your profile. For instance, consider speaking to church groups or not-for-profit groups (anywhere you have value). Try writing a quarterly newsletter for clients or advertising your existence on a billboard. Think about where your audience is located, she said, and research to find out what your potential target clients read. Turn one-time transactions and connections into larger relationships by making regular contact with clients, following up with

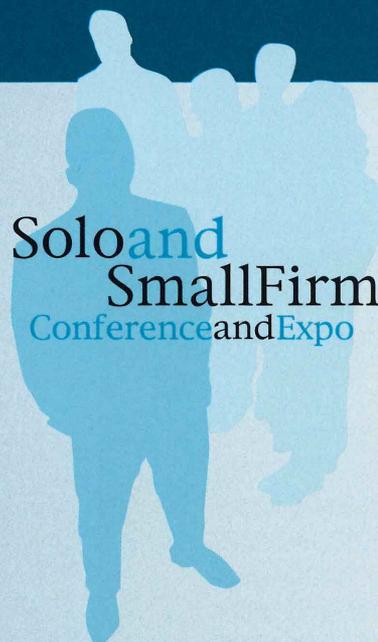
business cards from a CLE program you attended, and so on. Simply spending one hour a week on contacts will grow your referral sources, said MacKay.

Focus your client base. Decide whom to target, find out what they read and find ways to connect with them in a real way, said MacKay. If you are overwhelmed with calls in an area where few queries turn into clients, such as personal injury law, train an assistant to screen calls for you, she suggested.

Think of networking as giving, not taking or "schmoozing."

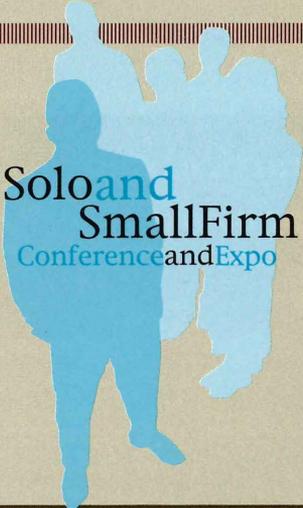
The more you give, the more potential favours you set up – so that you are in a position to "call in favours" in the future for information or referrals.

Designing a good website is key to success. As an example, MacKay referenced the use of technology by Toronto lawyer Rob Hyndman to reach and serve his clients. MacKay noted that



Hyndman's office is virtual, amorphous and portable. Equipped with a laptop, a thumbdrive, Blackberry and blog that helps spread the latest word on the technology front, he puts everything at his client's fingertips. His widely quoted blog (www.robhyndman.com) is his best client service and marketing tool, said MacKay.

Remember that people don't want to be managed; they want to be led. Most leaders in law firms got there because of their billable contributions and legal talent. They may not, however, have the skills needed to lead, such as an understanding of financial, marketing and people management, said MacKay. Top leaders attract and retain the next generation because they provide opportunities for future leaders to be continuously challenged and to grow professionally. They effectively communicate their vision and make the next generation feel they are part of a winning team. ■



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Lawyers Can Be Different – Providing Innovative Legal Services Workshop

Presenter: Lawrence S. Pascoe, Mirsky Pascoe (Ottawa)

IN TODAY'S COMPETITIVE WORLD, LAWYERS NEED TO BE DIFFERENT TO STAND OUT. OTTAWA LAWYER LAWRENCE PASCOE PROVIDED EXAMPLES OF HOW LAWYERS CAN ACCOMPLISH THIS WHILE DELIVERING INNOVATIVE LEGAL SERVICES AND PROMOTING THEIR DIFFERENCES.

For more information on Client Service, consult the Law Society's Client Service and Communication Guideline, one of eight Practice Management Guidelines on the Member Resource Centre website at www.lsuc.on.ca.

Distinguishing one's practice is necessary today, Pascoe believes, because there is more competition for legal business from lawyers and other businesses. For example, he noted, banks and funeral homes are providing some estates work at little to no cost. Further, clients have changed. They are now buying legal services like any other consumer product – they are “shopping around. Client loyalty has decreased and clients want more control of the process.”

Being innovative requires knowing how the client measures success as well as focusing on the client's desired outcomes, says Pascoe. Since law lags behind the business community in technology and management, lawyers need only look at what the business community (or lawyers in other jurisdictions) are doing for ideas and inspiration. Client service is key: the client may not be able to properly judge how well the lawyer performed on substantive matters, but the client can judge service.

Manage client expectations so they can assess outcomes reasonably, and try to provide tangible items in conjunction with your services. Some innovative ideas for establishing or improving client relations suggested by Pascoe:

- Informative and creative website that includes personal information about lawyers, photos (fun ones too, not just head shots), information about law and the legal process, and what to bring to the first interview.
- Client surveys, which may lead to a great idea, show clients you value their input and reinforce the relationship.
- Manuals – Pascoe provides each client with a substantive manual that provides information sources about the law and legal process, forms, guidelines and more. It serves as an organizational tool for clients, as all correspondence sent by the lawyer is three-hole punched for insertion into the manual.
- Mailed information packets per area of law for Internet non-users.
- Client consultation – Pascoe keeps a second computer monitor in his office for clients to follow along as he alters documents or does other work.
- Detailed memo to clients regarding court appearances (including what to wear) and providing typed-out presentation to client.
- Fees – provide checklists for clients for matters they can take care of themselves if they choose (and thus save money).
- Innovative “thank-you’s” to clients and others who refer business – a thank you card or Christmas card is not enough. Pascoe sends a bottle of maple syrup to suppliers and lawyers he has called on in the year.
- Clients want a friendly process and to be comfortable with their lawyer; they want to feel in control and to keep their costs down. To achieve this, provide information about yourself, your firm, the area of law in question and the process. ■

Effective Financial Management & Accounting for the Bottom Line Workshop

Presenters: Dave J. Bilinsky, Practice Management Advisor and staff lawyer with the Law Society of British Columbia; Darren Braun, Senior Technical Support Analyst, LexisNexis PC Law

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EFFECTIVE FINANCIAL MANAGEMENT AND ACCOUNTING ARE CRITICAL TO EFFECTIVE PRACTICE MANAGEMENT. BILINSKY AND BROWN GAVE CONFERENCE PARTICIPANTS SOME STRONG ADVICE: KEEP TRACK OF, OR RECORD, EVERYTHING – AND MAKE SURE YOU STAY ON TOP OF YOUR RECORDS.

A Statement of Cash Flows is very important when using an accrual system because it brings everything back to cash amounts, accounting for all cash receipts and expenditures for a given period. The PCLaw General Bank Journal details all cheques and receipts, and it can be viewed by date, payee, or general ledger account. This makes it easy to keep on top of your firm's cash flow, and to see at a glance your firm's cash position.

Budget projects revenues/expenses for a given time period so you can see "actuals versus projected" – in other words, how you are doing. If you don't know where you are going, how do you know if you have arrived? Budget figures can be created in PCLaw for both Income Statement (revenue/expense) and Balance Sheet (asset/liability). Income Statements and Balance Sheets can detail budget versus actual comparisons.

"Write-up, Write-down" Journals are necessary. These are the hours and the dollar amount billed by a lawyer and the realized billing rates (hours billed multiplied by lawyer's standard billing rate). The variance between actual billings and the standard billings (write-ups, write-downs) will show the effective hourly rate (EHR) billed by the lawyer. This report measures as a percentage the variance between time worked and time billed for your firm and allows you to track productivity by client, lawyer or practice area.

Client Activity Reports are important too. Rank clients top to bottom in the areas of fees billed, trust balances, EHR, work in progress, accounts receivable, outstanding disbursements, fees collected. You can run this report for different criteria including payments received, billings, work in progress and accounts receivable.

"Projected Billings versus Cash Flow" Records will show collected billings compared to budgeted cash flow needs for the month. There will be a positive or negative cash balance for the month. There is, on average, a 105-day lag between billing and payment; of course every lawyer will have different results depending on their particular client base. PCLaw's Cash Flow Planner provides at a glance your firm's cash position and includes cash on hand, projected spending and expected revenues based on current accounts receivable.

The Realization Rate (RR) is the percentage of actual income paid to the firm for the billable hours of each timekeeper. It will show who has a high/low write-off rate. For example, if Partner A bills 200 hrs/month at \$200/hr = \$40,000, and 10 hours are written, clients pay \$30,000, Partner A's RR = 75%.

The Billing by Lawyer Report offers a quick summary of each lawyer's effective contribution to the firm. Keep track of unbilled fees and disbursements

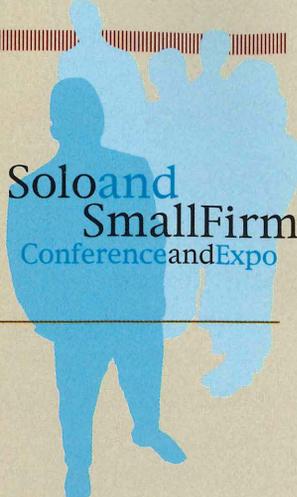
by lawyer, client and area of practice. View all unbilled fees and disbursements as well as available trust funds on the Client Work-In-Progress Report to help identify candidates for billing.

"Leakage" Reports: Take each lawyer's standard hourly rate and multiply it by budgeted billable hours. This is the billing "ceiling." From this, determine the "leaks," which typically include failure to record billable hours, writing off of billable hours at billing time, failure to collect and total write-off, and lost interest waiting for payment. The daily calendar's time tab view alerts you to any day in a given month an attorney is not meeting budgeted hourly goals. Daily goals are set by attorney and can be adjusted at any point to reflect the firm's current expectations. Other reports that detail productivity loss include the Billing Realization, Billings by Lawyer and the "Write-up, Write Down" Journal. ■

Do you have your copy of the Law Society's *Bookkeeping Guide*? A paper copy of the guide is free to members of the Law Society of Upper Canada and can be accessed online in PDF format on the Member Resource Centre website at www.lsuc.on.ca. You may also view the online Financial Management Guideline for more information.

The 21st Century Law Office Workshop Top Twenty Internet and Technology Tips for Ontario Solo and Small Firm Lawyers

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Presenter: Ted Tjaden, LL.M., M.I.St., legal research lawyer and law librarian

WHILE THE INTERNET HAS REVOLUTIONIZED THE PRACTICE OF LAW, IT SHOULD BE USED WITH CAUTION, SAYS TED TJADEN. HE OFFERED TIPS ON EFFECTIVE USE OF THE INTERNET FOR LEGAL RESEARCH AND WRITING AND THE MANAGEMENT OF A SOLO OR SMALL FIRM PRACTICE.

Tjaden noted that the Internet lacks the scope and depth of high-quality, reliable law-related information that is ordinarily found only in print. You must constantly evaluate the legitimacy of any information found, he advises, since links often go stale and cannot be located at a later date. Also, security is always a concern when using the Internet in your legal practice.

Tjaden posits that print-based legal materials still have a number of advantages: their relative "permanence"

or stability in availability; quality of editorial control; and comfort level for many users, such as the ease to quickly scan a book or index to find relevant information. Further, he points out, Quicklaw, WestlaweCARSWELL, and Canada Law Book each have "e-books" as part of their services.

He also encourages lawyers to leverage the services of the Great Library and LibraryCo. The law librarians and library staff at these libraries are pleased

to help members find relevant law-related information and conduct legal research. Services available include: e-Reference; Stay Informed, a current awareness service; AdvoCHAT, an online "live reference" service; telephone reference support; access to vast print and (free) online resources within the libraries; and, for lawyers in any of the 28 local law library areas, the (free) lawyer's "toolkit," which is a suite of commercial online law-related products. ■

Additional Internet resources include:

Free Online Law Journals:

- York University's List of (free) Legal Journals on the Web: <http://library.osgoode.yorku.ca/mr/linksjournal.york.htm>
- Legal Scholarship Network: <http://www.ssrn.com/lisn/index.html>
- University Law Review Project: <http://www.lawreview.org>

Subscription-based Legal Journals:

- <http://heionline.org> – provides PDF versions of over 400 law journals
- <http://qv3lh3cb8t.search.serialssolutions.com> – links to Great Library law journal sources

Law-related Encyclopedia Guide:

<http://www.law-lib.utoronto.ca/construction>

Case Law Online (free):

- Canada – CanLII <http://www.canlii.org>
- Australia – AustLII <http://www.austlii.edu.au>
- U.S. – Cornell's LII <http://www.law.cornell.edu/index.html>
- U.K./Ireland - BAILII <http://www.bailii.org>
- Hong Kong LII <http://www.hklii.org>
- PacLII (Pacific Islands) <http://www.paclii.org>
- World LII <http://www.worldlii.org>
- US case law: <http://www.lexisone.com>

Reference Information (translators, dictionaries, etc.):

<http://www.refdesk.com>

Canadian Legislation and Parliamentary Material:

<http://www.law-lib.utoronto.ca/canleg.htm>

Ontario Government e-Laws Website: <http://www.e-laws.gov.on.ca>

International and Foreign Legal Research:

- Canada Treaty Information: <http://www.treaty-accord.gc.ca>
- LLRX: Comparative & Foreign Law Guides: http://www.llrx.com/comparative_and_foreign_law.html
- LLRX: International Law Guides: http://www.llrx.com/international_law.html
- ASIL Guide to Electronic Resources for International Law: <http://www.asil.org/resource/Home.htm>
- Project on International Courts and Tribunals: <http://www.pict-pecti.org>

Corporate Information Online:

- SEDAR (Canada) <http://www.sedar.com>
- EDGAR (U.S.) <http://www.sec.gov/edgarhp.htm>
- Ontario Securities Commission <http://www.osc.gov.on.ca>
- Toronto Stock Exchange <http://www.tse.com>
- Strategis (Industry Canada) <http://strategis.ic.gc.ca>

Technology Advice for Solo and Small Firm Lawyers:

- The Technology Practice Management Guidelines: <http://mrc.lsuc.on.ca/jsp/pmg/technology.jsp>

The Great Library Website: <http://library.lsuc.on.ca/GL/home.htm>

Creating and Using Conflict Checking Systems

The following are some practice tips on creating and using conflict checking systems:

- the system contains a record of
 - all current and former client names (including former names or other names used by the client)
 - all adverse parties
 - all persons connected to the matter
 - officers and directors of a corporate client
 - owners of a corporate client
 - parent corporation or subsidiary of a corporate client
 - partners or affiliates of a client
 - co-plaintiffs or co-defendants
 - common law spouses of client and others
 - officers and directors of a corporate client or subsidiaries or the parent corporation of a corporate client
 - other persons known to be connected to the client (e.g., relative of the client)
 - members of the law firm and any organizations in which they have a major interest
- the system integrates with other office systems
- the system ensures that names are entered in a consistent manner
- staff are trained to spot and assist the firm in spotting conflict of interest situations
- information in the system is readily accessible by the lawyer and staff
- there is an office procedure in place for checking for conflicts
- the responsibility for checking for conflicts is assigned to specific individuals
- the system provides for conflict-checking at four stages:
 - at first contact and prior to the disclosure of confidential information;
 - at the first interview and before being retained;
 - after the firm is retained when a new party enters the matter or transaction; and
 - when a lawyer is considered for employment by the firm.
- a record is maintained of the conflict search (date of search, name checked and name of individual who conducted search)
- the lawyer is immediately notified when a name is found in the conflict search
- once the lawyer determines that there is a conflict and that the lawyer cannot act, the client is immediately advised and a non-engagement letter is sent to the client
- as a backup to the conflict checking system, a list of new clients and matters is circulated to all lawyers and staff in the firm.

[Adapted from a publication of the Oregon State Bar Professional Liability Fund (Conflict of Interest Systems – Procedures).] ■

Practice tips

The Knowledge Tree

Q There is a lot of ill will between my client and the other side. My client has instructed me to bring numerous motions and to take other steps solely to try to devastate the other side financially. I've tried to persuade him to change his mind but he won't listen to my advice. What should I do?

A You must withdraw, subject to the direction of the tribunal. Clause 2.09(7)(c) of the *Rules of Professional Conduct* provides that "Subject to the rules about criminal proceedings and the direction of

the tribunal, a lawyer shall withdraw if... the client is guilty of dishonourable conduct in the proceedings or is taking a position solely to harass or maliciously injure another."

Q Have you had to withdraw your services because of a conflict with your client? If so, what is the scope of the information you can provide to the Court or the opposing side?

A Remember that in criminal cases you should not indicate in the notice addressed

Practice tips

The Knowledge Tree

to the court or Crown counsel the cause of the conflict or make reference to any matter that would violate the privilege that exists between lawyer and client. The notice should merely state that the lawyer is no longer acting and has withdrawn (commentary to **subrule 2.09(4)** of the *Rules of Professional Conduct*). Similarly, in civil cases the rule on confidentiality,

rule 2.03, generally prohibits disclosure of the cause of the conflict and any other confidential information without client consent.

See **Practice Tips: The Knowledge Tree** on the Member Resource Centre at www.lsuc.on.ca for more information on conflicts and other practice management issues. ■

THE ONTARIO LAWYERS' ASSISTANCE PROGRAM

– combining the *BEST* of two great programs

The Ontario Lawyers' Assistance Program (OLAP) is the combination of two programs that have served the legal community in Ontario for many years. OLAP is not really new – it is enhanced and improved. The combined resources and focus will enhance the best of both programs and operate under one board of directors. Much care has been taken to maintain the strengths of both models and to provide one integrated and responsive program. The new **OLAP** will offer professional counselling and enhance the peer support and volunteer roles in the tradition of “*lawyers helping lawyers.*”

A little bit of history

The **Ontario Bar Assistance Program** was established in 1978. OBAP began as a volunteer network of lawyers helping each other with addiction issues that grew to them helping each other with a range of issues.

LINK provided access to short term professional counselling services contracted out to an Employee Assistance Program.

The Ontario Lawyers' Assistance Program

- UNDERSTANDS LAWYERS AND REACHES OUT TO LAWYERS
- CONFIDENTIAL
- VOLUNTARY
- EASILY ACCESSIBLE
- SECURELY FUNDED by the Law Society of Upper Canada and LAWPRO
- PROFESSIONALLY MANAGED
- UTILIZES THE STRENGTH OF THE PEER VOLUNTEER SUPPORT SYSTEM
- PROVIDES PROFESSIONAL COUNSELLING SERVICES
- AVAILABLE ALWAYS

Ontario Lawyers' Assistance Program

Phone: 905-238-1740 or toll-free: 1-877-576-6227

For assistance or information call:

John Starzynski, Volunteer Executive Director, 1-877-584-6227

Leota Embleton, Program Manager, 416-241-7983

AT YOUR SERVICE...

A spotlight on the Client Service Centre

WHEN THE CLIENT SERVICE CENTRE (CSC) CAME INTO EXISTENCE MORE THAN SEVEN YEARS AGO, ITS PRIMARY FOCUS WAS TO PROVIDE A SINGLE POINT OF ACCESS FOR BOTH MEMBERS AND THE PUBLIC TO REACH THE LAW SOCIETY'S MANY SERVICES AND DEPARTMENTS.

"We are proud of the progress made by the CSC since its inception, and we plan to build on that progress in the years to come."

Terry Knott, Director,
Membership & Complaints Services



The CSC quickly established itself as a vital link in connecting members and the public with the Law Society, and it became apparent that the CSC's efficiencies could be applied to a number of other functions as well. Today, the department encompasses four externally-focused business units – Administrative Compliance Processes, Complaints Services, Membership Services and our Call Centre.

In addition, the CSC is responsible for a number of internal Facilities-related functions including Building Services, Curatorial Services, Event Coordination, Employee/Visitor Safety and a 24-hour Security presence at Osgoode Hall.

For many types of enquiries, the CSC is the only department that members will need. CSC staff can answer questions about the Member's Annual Report or other by-law related processes; complete adjusted billings, issue Photo ID cards; answer questions about inter-jurisdictional mobility; help members locate required forms and applications; and coordinate the booking of rooms at Osgoode Hall for social or professional functions.

"We have an intensive training program in place to equip staff with the level of knowledge they require to respond effectively to calls from our membership and the public," says Terry Knott, Director of Membership and Complaints Services. "Staff are kept informed on emerging issues and topics of importance to the legal profession through regular training sessions, staff meetings, and access to comprehensive on-line documentation. They also have access to a number of internal and external resources, in the event that they are not able to assist directly with an enquiry."

For members who prefer to access information via the Internet, the CSC recently participated in a project coordinated by Professional Development and Competence (PD&C) to redevelop the Member Resource Centre pages at the Law Society's Website: www.lsuc.on.ca.

The CSC also administers the popular Lawyer Referral Service, which puts subscribing members in touch with prospective clients in their geographic area. In 2005, the LRS received nearly 60,000 calls.

Another area of responsibility for the CSC is Complaints Services. "The CSC is the first point of contact for all complaints coming into the Law Society," says Knott.

Staff in this department open and log all initial complaints, acknowledge receipt to the complainant, and identify complaints that fall outside the Society's mandate. Most of the remaining files are then transferred to the Intake area of the Professional Regulation division.

"Complaints Services staff do try to resolve certain types of complaints from financial institutions and are often proactive in referring complainants to other resources where appropriate," adds Knott.

"Whether staff are involved in processing member transactions or responding to complaints, providing quality customer service is always our number one priority. We are constantly setting targets for efficiency and quality, monitoring our progress and identifying ways to serve our customers better."

This emphasis on service times and standards is validated and tested against an extensive set of internal tracking mechanisms. Both qualitative and quantitative measurements have been implemented for every one of the area's processes, and a rigorous quality assurance program is in place.

In 2005, the CSC made the decision to seek outside validation for its quality initiatives. To that end, the CSC has now attained Level 1 certification within the Progressive Excellence Program offered by the National Quality Institute (NQI). NQI is an independent, not-for-profit organization and is considered to be the leading authority in Canada on workplace excellence.

The CSC has definitely come a long way in the years since it was launched. What's next? "Our focus will continue to be firmly placed on quality and continuous improvement," says Knott. "We are proud of the progress made by the CSC since its inception, and we plan to build on that progress in the years to come." ■

Visit the online Member Resource Centre at www.lsuc.on.ca or contact the MRC at 416-947-3315 or toll-free at 1-800-668-7380, ext. 3315.

Congratulations to our newest Certified Specialists



The Law Society of Upper Canada is pleased to announce that 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 have maintained exemplary standards of professional practice.

Citizenship and Immigration Law

J. Andrew Porter, Windsor (Immigration)

Civil Litigation

Jacqueline L. King, Toronto
Samuel S. Marr, Toronto
Paul Vincent McCallen, Toronto
William S. O'Hara, Toronto
Steven Wayne Pettipiere, Guelph
Edward J. Posliff, Windsor
Alan L. Rachlin, Toronto

Environmental Law

Tamara Farber, Toronto

Estates and Trusts Law

Adam Dominic David Cappelli, Hamilton
Laura M. Tyrrell, Toronto

Family Law

Stephen M. Grant, LSM, Toronto

Health Law

Irwin W. Fefergrad, Toronto

Intellectual Property Law

Adebayo Odutola, Ottawa
(TradeMark / Copyright)

Labour Law

John Robert Evans, Burlington
Michael C.P. McCreary, Toronto

Municipal Law

Mary Ellen Bench, Mississauga
(Local Government / Land Use
Planning and Development Law)
Karey Lunau, Toronto
(Local Government)
M. Virginia MacLean, Q.C., Toronto
(Local Government / Land Use
Planning and Development Law)
Valerie M'Garry, London
(Local Government / Land Use
Planning and Development Law)

Municipal Law

George Hastings Rust-D'Eye, Toronto
(Local Government / Land Use Planning
and Development Law)
David R. Shelly, Ottawa
(Local Government / Land Use Planning
and Development Law)

Real Estate Law

Mark F. Freedman, Toronto

Workplace Safety and Insurance Law

Leo J. Dillon, Toronto

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. ■

**2005
e-MAR**

E-filing usage increases in 2006

As of July 11, 2006: 21,399 Member's Annual Reports were submitted via e-filing versus 13,540 via paper filing. This represents a 24% increase in e-filing and an 18% decrease in paper filing in the past year.

Private Practice Refresher Program begins to apply January 1, 2007

THE PRIVATE PRACTICE REFRESHER PROGRAM THAT WAS approved by Convocation in early 2002 will begin to apply on January 1, 2007. We will look back on the five-year window of experience as of that date to determine which members will be subject to the program.

Created for members who intend to return to private practice after a significant absence, the program protects the public interest while ensuring members do not face unreasonable barriers when entering or re-entering private practice.

How the program will work:

Members will fall into three categories:

Category A: those who have been in private practice (i.e., are eligible for and required to have errors and omissions insurance)

Category B: all members who are not in Category A or C

Category C: retired members

Members who have not been in private practice for at least twelve months of the previous five years will be required to submit a form outlining their work history for those years before they can return to private practice. Case-by-case assessments will then be made as to which, if any, of the program's eight modules the member must successfully complete.

This more objective requirement will replace the previous subjective test of "making substantial use of legal skills on a regular basis." There will be no requirement to redo the Licensing Process.

Program modules focus on practice management, professional responsibility and client relationships rather than on substantive law. The self-study modules were designed to be flexible and to acknowledge the diverse experience acquired by members while out of private practice.

Members who must change status immediately will be permitted to do so conditionally. They will be required to sign an undertaking to the Law Society that they will successfully complete some or all of the relevant modules within six months. Members without a time constraint will be given twelve months to successfully complete their modules and their status will change only when this has been accomplished.

More information about this program will be made available on the Law Society website. ■



OBA • ABO

Ontario Bar Association
Association du Barreau de l'Ontario



The Law Society of
Upper Canada



Consultations result in proposed Residential Real Estate Transaction Guidelines

The Law Society Working Group on Real Estate Issues recently concluded a series of consultation sessions held at locations across Ontario. During the sessions, the working group discussed and listened to members' comments and suggestions regarding proposed Residential Real Estate Transaction Guidelines and amendments to the *Rules of Professional Conduct*.

The proposed Residential Real Estate Transaction Guidelines are intended to inform and educate the profession on the generally accepted standards of practice by lawyers involved in residential real estate transactions and to demonstrate to the public the inherent value in retaining a lawyer for a real estate transaction. The draft guidelines are based on six broad-based principles that underlie the standards of

practice real estate lawyers should observe.

The proposed amendments to the *Rules of Professional Conduct* relate to real estate practice and include amendments aimed at reducing the risk of mortgage fraud.

The Working Group on Real Estate Issues is currently studying the results of its consultations and will report back to Convocation with recommendations.

Members of the working group include Law Society benchers and representatives from the Ontario Bar Association (OBA) Real Property Section, the County & District Law Presidents' Association (CDLPA) and the Ontario Real Estate Lawyers Association (ORELA).

More information can be found on the Law Society website under Hot Topics.

ajefo

Association des juristes
d'expression française
de l'Ontario

L'AJEFO à Deerhurst, juin 2006

LE 22 JUIN DERNIER, L'ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DE L'ONTARIO TENAIT SON 27^e CONGRÈS ANNUEL AU CENTRE DE VILLÉGIATURE DE DEERHURST, PRÈS DE HUNTSVILLE, SOUS LE THÈME « HORS DES SENTIERS BATTUS », DONT L'ORGANISATION A ÉTÉ PRÉSIDÉE PAR M^e JULIE THORBURN.

Après avoir écouté l'allocution de la ministre Madeleine Meilleur qui était l'invitée d'honneur au petit-déjeuner, les participants et participantes ont plongé dans les récents développements du monde juridique. Très succinctement, M^{es} Nathalie Boutet, Sylvie Charron, Sean McGee, Kip Daechsel, Luc Leclair et Paul Le Vay ont fait un survol de ces développements. C'est ainsi que M^e Charron a parcouru les derniers arrêts de la Cour suprême du Canada, de la Cour fédérale et de la Cour d'appel de l'Ontario en droit administratif, que M^e McGee a parlé de l'évolution en droit du travail, que M^e Le Vay a parlé de contentieux civil, et que M^e Daechsel a fait une brève analyse de la *Loi de 2002 sur la prescription des actions*, de ses mécanismes et de sa solution finale, le projet de loi 14, dont il a remis en question le libellé. Le criminaliste Luc Leclair a cité trois motifs de détention : assurer la comparution du suspect à son procès, protéger le public et protéger l'administration de la justice en soulignant qu'à son avis, le choix était souvent politique. M^e Boutet a parlé de décisions de la dernière année en droit de la famille en faisant l'apologie du droit collaboratif.

Le vendredi, le panel de M^e Daniel Bourque a porté sur la diffamation et l'interdiction de publication. Les invités étaient les journalistes François Bergeron de l'Express de Toronto, Christian Dognon de Radio-Canada et l'avocat Marc-André Blanchard de Montréal. Après avoir fait un bref survol de la situation, les panélistes ont parlé de jugements de la Cour suprême et du droit à l'image, et ont expliqué, entre autres, comment l'affaire Aubry a changé la façon de rendre les nouvelles dans les médias. Ils ont comparé la common law et le droit civil dans ce genre de cause et comment les mises en demeure visant à avoir un droit de réponse sont inutiles puisqu'un droit de réponse est facile à obtenir en général dans un journal. Les médias ont dit trouver de plus en plus difficile d'exprimer leurs opinions par crainte de se retrouver devant la justice : La perception des journalistes est, par conséquent, que la loi brime la liberté d'expression. Les interdits de publication dans certaines affaires peuvent empêcher de rendre les faits avec justesse puisque souvent les journalistes ne savent pas exactement ce qui est interdit. Parfois, les interdits donnent l'impression que les procès sont tenus en secret.

L'après-midi, on a entendu parler du droit des technologies. Un autre panel fort intéressant où M^{es} Gilles Daigle, Joanne Laperrière et Parna Sabet ont analysé, en citant plusieurs causes, en quoi la protection des consommateurs et la protection des utilisateurs ont des priorités divergentes.

Plus tard, M^e Gabrielle St-Hilaire, de l'Université d'Ottawa, a passé en revue l'étude de la section de common law en français de la faculté de droit de l'Université d'Ottawa. La présentation de cette étude, que le Barreau du Haut-Canada a en partie financée, visait à exposer les résultats de l'étude et à partager certaines de ses conclusions. Cette étude, dont la Revue des juristes a parlé dans son numéro de l'été 2005, cherchait à savoir ce que les diplômés du Programme de common law en français sont devenus. Le bilan est positif : les diplômés se retrouvent dans tous les champs de pratique, dans tous les types d'institutions et sont engagés sur le plan communautaire. Les juristes qui sortent de ce programme offrent activement des services en français à leur clientèle francophone, sont à même de rédiger des ouvrages de doctrine importants en français et atteignent souvent des postes juridiques de marque.

Dans l'après-midi, les organisateurs du Congrès avaient concocté une conférence-cocktail qui a servi de touchant hommage à l'honorable Roy McMurtry. En simulant une émission de télévision de TFO organisée par M^e Pascale Giguère, avec l'animatrice de panorama Gisèle Quenneville, le juge en chef a témoigné de son attachement à la francophonie en Ontario et de son travail avec la communauté juridique. Toujours dans le cadre de l'émission d'actualité, la parole a ensuite été donnée tour à tour à M^e Lepage, président de la Fédération des associations de juristes d'expression

française, qui a parlé du jugement de la Cour suprême des Territoires du Nord Ouest dans l'affaire de la Fédération franco-ténoise contre le Procureur général du Canada; à M. Marcel Castonguay, anciennement coordonnateur des services en français du secteur de la justice en Ontario, qui a parlé d'une étude visant à dresser un portrait des services en français dans le domaine de la justice et d'élaborer un plan stratégique; à M^e Marc Tremblay, avocat général et directeur du Groupe du droit des langues officielles à Justice Canada, qui a parlé du projet de loi S-3 modifiant la *Loi sur les langues officielles* afin d'établir le caractère exécutoire des obligations qui incombent au gouvernement du Canada; à M. Graham Fraser, journaliste, qui a parlé de son livre analysant la situation de bilinguisme officiel au Canada et des

mythes liés aux deux solitudes; et enfin à l'honorable Paul Rouleau pour qui suivait un souper célébrant sa nomination à la Cour d'appel de l'Ontario, organisé par M^e Michelle Vaillancourt.

Le samedi 24 juin, la conseillère du Barreau en matière d'équité, M^e Josée Bouchard, a modéré un atelier qui a suscité beaucoup d'enthousiasme. M^e Bouchard avait réuni M^{es} Nathalie Des Rosiers, Martha Jackman, Raj Anand et Roger Bilodeau pour discuter du rôle du pouvoir politique et judiciaire dans la promotion des droits des citoyens. M^e Des Rosiers a dénoncé le mythe de l'activisme judiciaire. Elle a présenté une analyse statistique du corpus jurisprudentiel récent de la Cour suprême du Canada qui démontre un taux moins élevé d'« activisme judiciaire » qu'au cours des années 30 ou 40. Elle a aussi discuté d'autres analyses d'auteurs qui

concluent que le succès judiciaire des minorités est souvent plus symbolique que transformateur de leurs circonstances économiques. Elle a conclu en suggérant que la création du mythe est entretenue pour masquer d'autres déficits démocratiques, en particulier ceux de l'appareil politique actuel.

M^e Jackman trouvait quant à elle qu'il n'y avait pas assez d'activisme judiciaire. Elle a essayé de comprendre ce qui motive les critiques, leur objection fondamentale au rôle des tribunaux dans la protection des minorités, important pour la minorité francophone. Elle a réitéré le principe que l'activisme judiciaire est le fondement de notre démocratie qui protège les minorités.

M^e Bilodeau a parlé de son expérience avant et après avoir passé par la machine gouvernementale comme sous-ministre où il s'est rendu compte de la lenteur à

M^e Louise Hurteau, présidente de l'AJEFO



M^e Louise Hurteau
Nouvelle présidente de l'AJEFO

M^e LOUISE HURTEAU EST DEVENUE présidente de l'Association des juristes d'expression française de l'Ontario lors du dernier Congrès qui a eu lieu en juin 2006 à Deerpark. Diplômée en droit civil de l'Université d'Ottawa et en common law de l'Université Dalhousie, M^e Hurteau est membre du Barreau du Haut-Canada et a été membre du Barreau du Québec. De 1989 à 1997, elle a été au ministère du Procureur général de l'Ontario comme avocate bilingue au bureau de la Couronne – droit civil. Elle a par la suite pratiqué dans le secteur privé pendant cinq ans.

Après un passage de deux ans à une compagnie d'assurances, M^e Hurteau a trouvé sa place au sein du Barreau du Haut-Canada comme avocate au Service de la discipline.

Après avoir siégé comme présidente du Comité des langues officielles de l'Association du Barreau de l'Ontario de

2002 à 2004, elle siège maintenant sur le Comité consultatif du juge en chef de l'Ontario sur le professionnalisme.

M^e Hurteau a des projets pour rendre sa présidence à l'AJEFO productive. En plus de continuer les projets entamés par son prédécesseur, M^e Daniel Boivin, comme la relance du bulletin *L'Expression*, elle veut, entre autres, mettre sur pied un programme d'éducation des juristes anglophones pour les renseigner sur les droits linguistiques de façon à ce qu'ils en tiennent compte dans leur travail juridique. Elle parle aussi de faire du réseautage avec les petits centres pour sensibiliser les avocats francophones à la nécessité du travail de l'AJEFO.

M^e Hurteau est une femme très passionnée et énergique. Nul doute qu'au cours de son mandat, et avec l'appui d'une solide équipe à Ottawa, l'AJEFO continuera l'avancement de l'accès à la justice en français en Ontario.

laquelle les lois sont élaborées en regard de la réalité des gens. Les parties se rendent au tribunal pour défendre une position sur laquelle la législation travaille déjà. Pour lui, le Procureur général ne craint pas l'activisme judiciaire, mais craint plutôt de se faire dire comment dépenser les deniers publics. Il a souligné à quel point le travail des rédacteurs législatifs est critique à cause du choix des mots. Il croit que le public aurait intérêt à mieux comprendre les rôles des branches du gouvernement pour ne pas s'y perdre et il a proposé qu'on donne des cours dans les écoles pour éclairer le débat.

M^e Anand a proposé que les tribunaux soient activistes pour protéger la démocratie parce que les contestataires des lois ont la plupart du temps peu d'expérience, et qu'il y a d'énormes obstacles à l'accès à la justice, comme l'argent, les dépens des parties adverses et la procédure elle-même. Il a rappelé qu'on a souvent dit que dans toute guerre, la première victime était la vérité.

Il s'est demandé si la deuxième victime de la guerre contre le terrorisme était la justice, soit l'application régulière de la loi et de l'égalité. Qui d'autre que le tribunal peut assurer la réparation contre les procès et les expulsions sans accusations? Pour lui, le problème n'est pas tant l'activisme judiciaire, mais la peur de celui-ci. Est-ce anti-démocratique ou activiste d'exiger un procès équitable ou une représentation par le procureur?, a-t-il demandé. Ce panel a donné lieu à un débat animé dans l'assistance qui a posé beaucoup de questions et offert de nombreux commentaires.

Le dernier panel, sur le droit corporatif et commercial, a porté sur les valeurs mobilières et la responsabilité des dirigeants. M^{es} Marc Babinski, Martin Aquilina et Catherine Tyndale ont à tour de rôle examiné les modèles traditionnels et les pratiques exemplaires et cherché à démythifier la législation canadienne sur les valeurs mobilières. Les conférenciers ont réussi à capter l'attention en parlant

de sujets concrets, comme Enron, les réactions américaines et canadiennes, ou l'affaire Danier, et du défi des avocats de faire comprendre des concepts abstraits aux gens d'affaires.

Après le lancement des livres de M^{es} Yves LeBouthillier et André Braen en droit constitutionnel, de M^e Denis Boivin en responsabilité délictuelle et de M^e Gilles Levasseur en droit des affaires, le Congrès s'est terminé avec la remise de l'Ordre du mérite à M^{es} Josée Forest-Niesing et Lionel Levert. Cet Ordre souligne leurs importantes contributions faites à la promotion des services juridiques en français ainsi qu'à l'aide apportée à la mise en œuvre et au développement de la common law en français.

En conclusion, ce fut un beau congrès hors des sentiers battus dans un décor des plus enchanteurs – un nouveau logo et une nouvelle présidente, M^e Louise Hurteau, qui est avocate au service de la discipline du Barreau du Haut-Canada. ■

En bref

Doctorats honorifiques

Le Barreau a remis des doctorats honorifiques à M^e Emily Carasco de Windsor, à l'honorable Patrick LeSage, c.r. de Toronto, à M^e Diana Margaret Majury de Toronto, à M^e Ed Ratushny d'Ottawa et à M^e Clayton Ruby de Toronto.

Entente de libre circulation territoriale

Le Conseil a approuvé l'entente de libre circulation territoriale portant sur le Yukon, les Territoires du Nord-Ouest et le Nunavut.

Règlement administratif 5 modifié

Le Conseil a permis des changements aux élections des conseillers et conseillères tels que le vote par Internet.

Choix de carrière

Le Barreau fera un sondage auprès des candidats et candidates au processus d'accès à la profession sur les facteurs qui influencent le choix de carrière des étudiants et des étudiantes.

DISCIPLINE

Le comité d'audition du Barreau a ordonné des sanctions disciplinaires contre 26 avocats. Il a réprimandé M^{es} Michael Harold Kimberley et Vivek Nijhawan, et suspendu Joseph Dannial Ernest Stewart Baker, Michael Moses Bines, Donald Eardley McEwen Bodkin, Robert Laurent Carrier, Stephen Morris Cheifetz, Harvey James Katz, Mark William Kushner, Peter Poulakis, Aaron M. Spektor, Michael Laverne Telfer, Mitchell Lewis Wolfe et Gerald Bernie Yasskin. Il a permis à Cameila Anderson, Bryan Thomas Davies, Abdul Aziz Khalifa, Devindra Lalbeharry et à Allan George Maenza de démissionner, et radié David Buzaglo, Wayne Valentine Colin De Landro, Renato Rosario Maurizio Fellin, Morton Greenglass, Richard Roy Kennedy et Colin Clive MacDonald. Le comité d'appel a rejeté l'appel de Daniel Alexander Barna. Pour plus de détails, consultez les pages 31 à 37 ou le site Internet en français.

POUR LA BONNE CAUSE

Une voix pour parler au nom de la liberté

DANS LA VIE PROFESSIONNELLE d'Alex Neve, secrétaire général pour Amnesty International au Canada, les jours se suivent et ne se ressemblent pas. Les activités hebdomadaires de cet avocat bilingue sont très variées. Le lundi, il est expert sur la situation des droits de la personne en Colombie. Le mardi, c'est la protection des réfugiés. Le mercredi, c'est la situation au Zimbabwe. Le jeudi, c'est le débat sur la torture et le vendredi, c'est le contrôle des armes.

Alex Neve est un activiste né. Depuis son enfance, il savait qu'il se servirait du droit, comme son père, pour faire avancer le monde. C'est dans une réunion d'Amnesty International à Halifax qu'il a trouvé sa vocation. Après sa maîtrise en droit international des droits de la personne, il a exercé le droit des réfugiés et de l'immigration, a travaillé dans une clinique d'aide juridique communautaire à Toronto et a enseigné à la faculté de droit d'Osgoode. Il a été membre de la Commission de l'immigration et du statut de réfugié du Canada juste avant d'entrer en fonction à Amnesty International.

Dans le cadre des fonctions qu'il exerce depuis plus de 6 ans, il travaille beaucoup avec des pays francophones où il y a des situations très graves, que ce soit en Guinée, au Tchad ou en Haïti. Son organisation assure un travail bilatéral dans plusieurs pays, et au sein des organisations de la francophonie, de l'ONU et du gouvernement canadien pour encourager des réformes nécessaires. Par ailleurs, il rencontre ministres, ambassadeurs ou fonctionnaires du ministère des Affaires étrangères et fait beaucoup d'entrevues avec les journalistes pour diffuser son message. Une ou deux fois par année, il a, dit-il, le grand honneur d'être membre d'une équipe d'enquête dans des pays comme la Colombie, la Côte d'Ivoire, le Burundi pour faire des recherches, en

anglais, en français ou en espagnol sur la situation des droits de la personne. Dans des pays où rôde le danger, il a appris à voyager prudemment, en groupe et en ne prenant aucun risque inutile pour ses témoins et ses sources. Cependant nombreux sont les avocats et activistes qui risquent leur vie pour défendre les droits de la personne. « Ils sont courageux, et leur travail héroïque, qui peut entraîner leur mort, ou même celle de leur famille et collègues, est impératif », dit M^e Neve qui affirme que quand nous vivons dans un monde où il y aura partout des gens prêts à défendre les droits de leurs voisins, alors il y aura partout une protection forte et universelle des droits de la personne.

Pour M^e Neve, il faut absolument continuer d'améliorer la protection des droits de la personne, élaborer et imposer de nouvelles normes, de nouvelles institutions nationales et internationales. Il craint les gouvernements et les personnages publics qui suggèrent que les droits de la personne peuvent être des obstacles à la sécurité, et qu'un peu de torture et de discrimination sont acceptables. Pour lui, ces droits sont au contraire essentiels à la sécurité. « Nous vivons dans un monde de frayeur, pas parce que les gouvernements ont trop protégé les droits de la personne, mais parce qu'ils ont failli à tout ce que les droits de la personne exigent de faire. Heureusement, on avance malgré les pas en arrière. »

Avec Alex Neve, Amnesty International a obtenu le statut d'intervenant dans l'affaire Maher Arar. « Nous espérons que le rapport de la Commission d'enquête signalera que le Canada ne doit pas être complice de la torture, intentionnellement ou non, et qu'il contiendra des recommandations concrètes pour améliorer le dossier du Canada dans la matière. »



Alex Neve

Les certificats de sécurité sont un autre cheval de bataille de M^e Neve. « Le processus n'est pas conforme aux obligations internationales en matière des droits de la personne. On refuse aux personnes la capacité d'avoir une défense adéquate contre les allégations qui pèsent sur eux. Amnesty International demande depuis longtemps au Canada de réformer ses lois pour s'assurer que les procédures sont justes et protègent les personnes contre la possibilité d'être envoyées à la torture. Mais le gouvernement résiste. La Cour suprême du Canada examinera la situation et Amnesty International et d'autres groupes feront valoir haut et fort que selon la Charte canadienne des droits, les obligations internationales du Canada envers les droits de la personne devront jouer un rôle central. »

Alex Neve parle de l'impunité qui répond aux violations graves des droits de la personne dans le monde et au travail de certaines sociétés qui sur une base volontaire commencent à adopter des politiques sur les droits de la personne. Mais grâce à des créations récentes comme le Tribunal pénal international, « nous avons des outils pour affirmer que la justice est une responsabilité internationale commune. » Le travail est ardu et dans l'ombre des nombreux conflits, le seul espoir des victimes est que des voix fortes puissent encore défendre les droits de la personne. ■

CONVOCATION

June Highlights

Law Society to expand Practice Review Program

THE LAW SOCIETY IS SET TO EXPAND ITS PRACTICE REVIEW PROGRAM TO include a practice management review component. Reflecting the Society's emphasis on quality assurance in service of the public interest, the new program will be proactive and preventive – designed to support the goals of Law Society members to be efficient, effective and competent. Members one to eight years from the call to the bar and in private practice will be eligible for participation.

Competence and capacity hearings to be held in public to enhance regulatory transparency

To further enhance the transparency of its regulatory processes, the Law Society will now hold competence and capacity hearings in public. As with conduct hearings, hearing panels will have the discretion to determine whether some or all of the hearing should be held in absence of the public.

Other policies applicable to conduct hearings will also apply to competence and capacity hearings. Conduct hearings are held in public with few exceptions, and the schedule of upcoming hearings as well as the results of the hearings are published.

The *Rules of Practice and Procedure* are to be amended to reflect the new policies.

Honorary doctorates awarded

The Law Society awarded Honorary Doctorates of Laws (LLD) during the five call to the bar ceremonies held in July.

The recipients were:

- Dr. Emily Carasco, LL.B., LL.M., S.J.D., LLD – Windsor
- The Hon. Patrick J. LeSage, Q.C., LLD – Toronto
- Diana Margaret Majury, LLD – Toronto
- Ed Ratushny, C.M., Q.C., S.J.D., LLD – Ottawa

- Clayton C. Ruby, C.M., LL.B., LL.M., LLD – Toronto

Honorary Doctorates of Laws are presented to individuals who have shown themselves to be role models because of their high standards, dedication and outstanding contribution to society.

New 'Emeritus' membership status permits retired lawyers to provide pro bono legal services without paying annual fees

As a means to increase access to justice, Convocation approved in principle a new membership category – Emeritus lawyer. The new category will permit retired lawyers to provide legal services pro bono (without charge) through Pro Bono Law Ontario (PBLO) without paying the Law Society annual fee. Convocation also approved regulatory requirements for the new membership category and agreed to review it three years after implementation.

Territorial Mobility Agreement approved

Convocation approved the Territorial Mobility Agreement and authorized the Law Society to become a signatory to the agreement. The Territorial Mobility Agreement addresses the unique concerns of the Yukon, the Northwest

Visit our 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.

Territories and Nunavut and is an important step in the ongoing progress of national mobility. The Inter-Jurisdictional Mobility Committee will return to Convocation with by-law amendments to implement the terms of the agreement.

Retired members acting as estate trustees to be exempt from payment of annual fee

Members who retire from the practice of law and continue to act as estate trustees are to be exempt from paying the Law Society's annual fee. These members must declare the trusteeships and will

continue to be subject to audit and the requirement to file the Member's Annual Report. Members who enter a non-practising status and continue to act as estate trustees will also be subject to these regulatory requirements.

By-Law 5 – Election of benchers to be amended

Convocation approved a number of recommendations regarding conduct of the bencher election and provisions of By-Law 5. Recommendations include

permitting Internet voting. The amended by-law, reflecting the recommendations, will return to Convocation for approval.

Appointment

Bencher Alan Gold was appointed Chair of the Appeal Panel effective August 18, 2006. ■



Alan Gold

May Highlights

Treasurer acclaimed for second term

GAVIN MACKENZIE, TREASURER OF THE LAW SOCIETY OF UPPER CANADA, WAS ACCLAIMED FOR A SECOND TERM.

Investigations Task Force recommendations to improve regulatory processes adopted

The Investigations Task Force's recommendations to improve regulatory processes were approved by Convocation. The Task Force, established in November 2004, expressed confidence that systems are already in place to support quality and timely investigations. The recommendations, outlined below, will assist the Society in its mandate to regulate the legal profession in the public interest.

Recommendation #1 – Utilization of Available Information and Tools

The Task Force recommended that the Director of Professional Regulation and the Director of Professional Development and Competence prepare an issues paper for their respective committees to address the need to align conduct, competence and capacity processes and to identify and close gaps in existing processes. This will lead to more effective management of the remedial and enforcement aspects of a member's conduct, reduction and elimination of parallel proceedings, and improved information exchange between the two departments.

Recommendation #2 – Changes to Operational Policies Established by Convocation

The Task Force recommended that Convocation's Complainant's Protocol and Third Party Complaints Policy be revoked and replaced with Convocation policies, included in the report, that require Law Society staff to create and maintain operational standards with respect to complaints handling and 'third party complaints.' This will provide flexibility in the application of investigative processes while ensuring

that investigations are timely, thorough and appropriate for the matter investigated.

Recommendation #3 – Ensuring a Fair and Transparent Process

The Task Force also recommended enhancements to communications including a new initiative to improve the accessibility of rules, by-laws and other regulations for members and the public and a recommendation that the Tribunals Committee consider improvements to the distribution of information about the results of hearings and appeals to members and the public.

Law Society to undertake survey on impact of law school tuition fee increases

The Law Society is set to survey Licensing Process candidates and lawyers recently called to the bar to determine the impact of law school tuition fee increases in Ontario. The survey will examine:

- the debt load of law school students;
- the effectiveness of bursaries, financial support programs and back end debt relief programs;

May Highlights (continued)

- whether the increase in tuition fees has an impact on students' career choices; and
- strategies to alleviate the burden of increasing tuition fees.

Convocation approved a budget of \$45,000 for the study.

The initial survey may be developed into an annual survey of Licensing Process students so that longitudinal data on the effect of changes in tuition fees may be accumulated.

Law Society to mark 175th anniversary of Osgoode Hall

Convocation approved the proposal of the Heritage Committee to mark the 175th Anniversary of Osgoode Hall. Details of the proposal, along with the budget, are subject to further approval during the 2007 budgetary process.

Mandate for Human Rights Violations Against Lawyers and the Judiciary Monitoring Group approved

Convocation approved the Mandate for Human Rights Violations Against

Members of the Legal Profession and the Judiciary Monitoring Group. The mandate of the Monitoring Group is to:

- review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
- determine if the matter is one that requires a response from the Law Society; and
- prepare a response for review and approval by Convocation.

The Monitoring Group was established in March 2006.

Governance Task Force – Terms of Reference approved

Convocation approved the following terms of reference for the Governance Task Force.

The Task Force will consider and recommend to Convocation improvements to the corporate governance of the Law Society to fulfill its mandate through:

- efficient and effective corporate governance;
- co-ordination of corporate governance

with the operational management of the Law Society, and

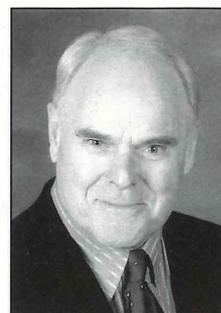
- effective priority setting, including budgetary considerations.

In addition, the Task Force will study two specific issues referred to it by Convocation:

- the Treasurer's election process, including certain provisions of By-Law 6, based on the Secretary's report to Convocation of March 23, 2006;
- procedural issues relating to Committee recommendations and motions before Convocation, arising from adoption of *Rules of Procedure for Convocation* (amendments to By-Law 8) on March 23, 2006.

Appointment

Bencher James Caskey was appointed to the LAWPRO Board of Directors. ■



James Caskey

April Highlights

Finance and Audit Committee Report adopted

Convocation adopted the Finance and Audit Committee report, which included three matters for decision:

- General Fund – Audited Financial Statements for the year ended December 31, 2005
- Lawyers Fund for Client Compensation – Audited Financial Statements for the year ended December 31, 2005
- Appointment of Law Society auditor for the 2006 financial year

Appointments

Convocation made a series of appointments during its meeting, including:

- Committee appointments
- Appointments to Committee to Monitor Human Rights Violations
- Appointments to Working Group of the Professional Development, Competence and Admissions Committee – Sole Practitioner and Small Firm Task Force's recommendations ■

Law Society and legal organizations to establish working group to facilitate recommendations of Sole Practitioner and Small Firm Task Force

Convocation agreed to form a working group of the Professional Development, Competence and Admissions Committee consisting of two representatives from the OBA, two representatives from CDLPA and two Law Society benchers. The working group's mandate is to bring forward strategies and priorities for Convocation's consideration based on the Sole Practitioner and Small Firm Task Force's recommendations – taking into consideration legal organizations' submissions to the Task Force.

The Task Force proposed the formation of the working group after receiving submissions from legal organizations and the profession on the recommendations in its Final Report, considered by Convocation in April, 2005.

Submissions on the report revealed a widely shared agreement that sole and small firm practitioners play an integral role in both the public's access to justice and the legal profession in Ontario. The submissions also reflected a need for the Law Society and legal organizations to address the issues faced by sole and small firm practitioners in a coordinated and collaborative way.

In addition, Convocation agreed to allocate \$220,000 to fund, among other things, the activities of a counsel and administrative supports within the Professional Development and Competence department to coordinate and facilitate the activities of the working group, prepare reports on the group's strategies and priorities, and prepare a proposed business plan for Convocation's consideration.

Funding approved for project to identify solutions to issue of retention of women in private practice

The Retention of Women in Private Practice Working Group is set to undertake a comprehensive consultation with law firms aimed at identifying successful tools, resources and practices to promote the retention of women in private practice. Convocation approved a budget of \$170,000 to fund the project.

The consultation will consist of three phases: In the first two phases, the working group will consult with law firms to identify

solutions and develop recommendations for Convocation's approval. In the third phase, the working group will work with law firms to implement the recommendations.

The retention of women in private practice was a core issue identified by the Law Society at a 2005 planning session. The Equity and Aboriginal Issues Committee created the Retention of Women in Private Practice Working Group in early 2006.

Law Society adopts policy to respond to human rights violations involving lawyers and judges

Convocation approved a policy to systematically respond to global human rights violations that target members of the legal profession and judiciary as a result of the performance of their legitimate professional duties. A group of benchers, whose membership and mandate will be determined by the Equity and Aboriginal Issues Committee, will be formed to monitor these events.

Finance and Audit Committee report adopted

Convocation adopted the Finance and Audit Committee report, which contained three matters for decision:

- the Annual Combined Financial Statements of the Errors and Omissions Insurance Fund for the year ended December 31, 2005;
- a recommendation to approve the allocation of funds for the Retention of Women in Private Practice project; and
- a recommendation to approve the allocation

March Highlights (continued)

of funds to fund the activities of a counsel within the Professional Development and Competence department to chair and coordinate the activities of the working group of the Professional Development, Competence and Admissions Committee charged with facilitating the Sole Practitioner and Small Firms Task Force's recommendations.

Rules of Procedure for Convocation adopted

Convocation adopted rules of procedure for the conduct of Convocation's business. The adopted rules will be brought back to Convocation in the form of by-law.

Rules of Practice and Procedure amended

Rule 1 (General Rules) and Rule 7 (Motions) of the *Rules of Practice and Procedure* were amended by Convocation:

Rule 1.11 was amended to provide that, upon request, the Senior Counsel and Manager, Tribunals Office shall sign and issue a blank summons to a witness.

Rule 7 was amended to include a prescribed form by which a party may abandon a motion.

Committee Appointments

Convocation approved a series of Committee appointments.

Convocation authorizes Treasurer to vote the proxy in favour of proposed LAWPRO shareholder resolutions

Convocation authorized the Treasurer to vote the proxy in favour of proposed LAWPRO shareholder resolutions at the Annual and General Meeting of Shareholders of the Lawyers' Professional Indemnity Company to be held April 26, 2006. ■

Roll-call votes

March 23, 2006

Re: Proposed Rules of Procedure for Convocation

Mr. Pattillo presented the Report.

It was moved by Mr. Aaron, seconded by Mr. Topp, that the report be tabled. Lost. Vote: Against – 36, For – 4.

It was moved by Mr. Pattillo, seconded by Mr. Cherniak, that Convocation approve the rules of procedure attached to the Report for the conduct of Convocation's business.

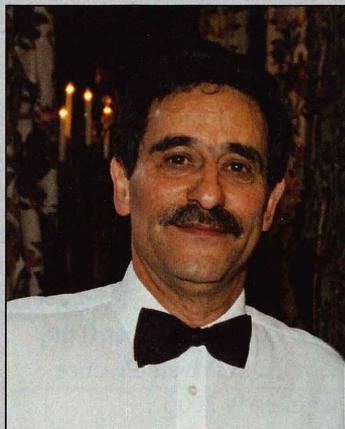
Carried. Vote: For – 38; Against – 2.

May 25, 2006

Re: Funding of Law Society Survey on the Impact of Law School Tuition Fee Increases in Ontario

It was moved by Mr. Copeland, seconded by Ms. Symes, that Convocation approve the allocation of \$45,000 from the 2006 contingency fund to enable the Equity & Aboriginal Issues Committee to conduct a survey of candidates in the 2006 Licensing Process and lawyers called to the bar in 2004 and 2005 to:

- determine the debt load of law school students;
- study the effectiveness of bursaries, financial support programs and back end debt relief programs;



IN MEMORIAM

Carlos Sousa

May 30, 1949 – August 9, 2006

The Law Society is deeply saddened by the sudden passing of its long-time wine steward Carlos Sousa on August 9, 2006. Mr. Sousa leaves behind his wife Natalia and two sons, Christopher and David. He was 57 and had been with the Law Society for 28 years.

"Carlos Sousa was a fixture at Osgoode Hall for the more than 25 years I have been going there regularly. He epitomized the Law Society's warm hospitality. He was not only conscientious and reliable, but he was genuinely interested in the people he served. He will be sadly missed and affectionately remembered."

– Treasurer Gavin MacKenzie

"Carlos Sousa was a dear friend, the type of man who is considered the 'salt of the earth.' When hosting dignitaries as treasurer, I could always be confident that Carlos would see to everything being absolutely right."

– Vern Krishna, former treasurer

"We have rarely seen such devotion to this institution as that shown by Carlos Sousa. Together we operated the wine cellar; he was indispensable. We have lost a great friend." – Clayton Ruby, bencher

- c. consider whether the increase in tuition fees has an impact on students' career choices;
- d. identify strategies to alleviate the burden of increasing tuition fees; and
- e. track changes over time.

Carried. Vote: For – 24; Against – 13;
1 Abstention.

Heritage Committee Report

Ms. Alexander presented the Heritage Committee Report.

It was moved by Ms. Alexander, seconded by Professor Backhouse, that Convocation approve the proposal set out at Appendix 1 to mark the 175th anniversary in 2007 of the first Convocation held in Osgoode Hall subject to the approval of Convocation on the recommendation of the Finance Committee insofar as the expenditures are to be included in the 2007 budget.

It was moved by Mr. Wright, but failed for want of a seconder, that the motion be tabled.

The Alexander/Backhouse motion was approved.

Vote: For – 32; Against – 6; 1 Abstention.

June 22, 2006

Professional Development, Competence & Admissions Committee Report – proposed Integrated Practice Review Program

It was moved by Ms. Pawlitza, seconded by Mr. Caskey, that the main motion (as amended) be approved. For the full motion please go to our website at <http://www.lsuc.on.ca/news/b/conv.>

Carried. Vote: For – 40; Against – 2;
2 Abstentions.

Professional Regulation Committee Report – Retired Lawyers as Estate Trustees

It was moved by Mr. Ruby, seconded by Ms. Ross, that Convocation approve the main motion (as amended). For the full motion please go to our website at <http://www.lsuc.on.ca/news/b/conv.>

Carried. Vote: For – 36; Against – 5;
1 Abstention. ■

CONVOCATION ATTENDANCE AND ROLL-CALL VOTES

	Attendance				Motions*					
	Mar 23	Apr 27	May 25	Jun 22	Mar 23		May 25		Jun 22	
					1	2	1	2	1	2
Aaron, Robert	✓	✓			F	A				
Alexander, Andrea	✓	✓	✓	✓	A	F	F	F	F	F
Backhouse, Constance	✓	✓	✓	✓	A	F	F	F	A	F
Banack, Larry		✓	✓	✓			F		F	
Bobesich, Gordon	✓	✓								
Campion, John	✓	✓	✓	✓	A	F			F	F
Carpenter-Gunn, Kim		✓	✓	✓			F	F	F	F
Caskey, James	✓	✓	✓	✓	A	F	A	A	F	F
Chahbar, Abdul Ali	✓	✓	✓	✓			Ab	F	F	F
Cherniak, Earl	✓		✓	✓	A	F	A	F	F	F
Chilcott, W. Dan			✓				F	F		
Coffey, Andrew	✓	✓	✓	✓	A	F	A	F	F	F
Copeland, Paul	✓	✓	✓				F	F		
Crowe, Marshall	✓	✓	✓	✓	A	F	F	F	F	A
Curtis, Carole	✓		✓	✓	A	F	F	F	F	F
Dickson, Mary Louise	✓		✓	✓	A	F	A	F	F	F
Doyle, Anne Marie	✓		✓	✓	A	F			F	F
Dray, Paul	✓	✓	✓	✓	A	F	F	F	F	F
Eber, Sy	✓	✓	✓		A	F	F	F		
Elliott, Susan				✓					F	
Feinstein, Abraham	✓	✓		✓	A	F			F	F
Filion, Richard	✓	✓	✓	✓	F	F	F	Ab	Ab	F
Finkelstein, Neil		✓	✓	✓					F	
Finlayson, George D.		✓	✓	✓				A		A
Gold, Alan	✓		✓		A	F	A	F		
Gotlib, Allan	✓	✓	✓	✓	A	F	A	F	F	F
Gottlieb, Gary L.	✓	✓	✓	✓	F	A	F	F	A	A
Harris, Holly	✓	✓	✓	✓	A	F	F	F	F	F
Heintzman, Thomas G.		✓		✓					F	F
Henderson, Paul	✓	✓	✓	✓	A	F	F	F	F	F
Hunter, George										
Krishna, Vern	✓			✓	A	F			F	F
Legge, Laura		✓	✓	✓			A	F	F	F
Manes, Ronald	✓		✓	✓	A	F	F	F	F	F
Martin, Robert			✓	✓			A	F	F	F
Millar, Derry	✓				A	F				
Minor, Janet	✓	✓	✓	✓	A	F	F	F	F	F
Murray, Ross	✓	✓		✓					F	
O'Brien, Brendan										
O'Donnell, Tracey	✓			✓	A	F			F	F
Pattillo, Laurie	✓	✓	✓	✓	A	F	A	F	F	F
Pawlitza, Laurie	✓	✓	✓	✓	A	F	F	F	F	F
Porter, Julian		✓	✓	✓			A	A		F
Potter, Judith	✓	✓	✓	✓	A	F	F	F	F	F
Robins, Sydney	✓	✓	✓		A	F				
Rock, Allan										
Ross, Heather	✓	✓	✓	✓	A	F	A	F	F	F
Ruby, Clayton	✓	✓	✓	✓	A	F	F	F	F	F
St. Lewis, Joanne	✓	✓	✓	✓	A	F	F	F	F	F
Sandler, Mark	✓	✓	✓	✓	A	F	F	F	F	F
Scace, Arthur										
Silverstein, Alan	✓	✓		✓	A	F			F	A
Simpson, William	✓	✓	✓	✓	A	F	F	F	F	F
Strosberg, Harvey										
Swaye, Gerald	✓	✓	✓	✓	A	F	A	A	F	F
Symes, Beth	✓	✓	✓	✓	A	F	F	F	F	F
Topp, Robert	✓		✓	✓	F	F	A	A	Ab	A
Warkentin, Bonnie	✓	✓		✓	A	F			F	F
Wright, Bradley	✓	✓	✓	✓	A	F	F	A	F	Ab
MacKenzie, Gavin (Treas.)	✓	✓	✓	✓						

Non-voting benchers in attendance:

March 23, 2006 –
M. Boyd, P. Furlong,
D. Murphy, J. Wardlaw.

April 27, 2006 –
P. Furlong, A. Lawrence,
J. Wardlaw.

May 25, 2006 –
A. Lawrence, J. Wardlaw.

June 22, 2006 –
M. Boyd, P. Furlong,
A. Lawrence, J. Wardlaw.

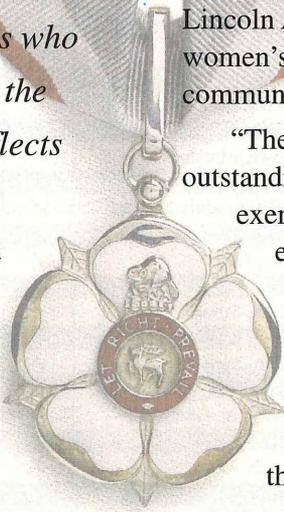
There were no motions in the April 27 Convocation requiring a roll-call vote.

*Motions A=against F=for Ab=abstain

TOP HONOURS AWARDED BY LAW SOCIETY

Law stars shine at the 2006 Law Society Medal and Lincoln Alexander Award ceremony

The Law Society Medal was struck in 1985 as the top honour to be awarded to lawyers who have made a significant contribution to the profession and whose stellar service reflects the highest ideals of the profession. The Lincoln Alexander Award recognizes an Ontario lawyer who has demonstrated a commitment to the public and its well being through community service.



This year's recipients of the Law Society Medal and Lincoln Alexander Award included equality and women's rights advocates and lawyers dedicated to community legal service and legal education.

"The Law Society is pleased to honour these outstanding members of the legal profession for their exemplary representation of the profession and estimable commitment to their Ontario communities," said Law Society Treasurer Gavin MacKenzie, who presented the medals and award at a special ceremony held at Osgoode Hall. "They are truly an inspiration for our profession. Each recipient demonstrates the character and values to which we all aspire."



The Law Society Medal was presented to: Back row, left to right: **Linda Silver Dranoff**, LSM (Toronto); **Benjamin Zarnett**, LSM (Toronto); **Neil Gold**, LSM (Windsor); **Elizabeth McIntyre**, LSM (Toronto); and **Stephen Grant**, LSM (Toronto) with **Treasurer Gavin MacKenzie**. Front row, left to right: **Leon Paroian**, Q.C., LSM, (Windsor); **Sheila Block**, LSM (Toronto); and **Eva E. Marszewski**, LSM (Toronto).

The Lincoln Alexander Award was presented to: Front row, far right: **Patricia DeGuire**, F.C.I.P., LL.M.



Sheila Block, LSM, senior trial and appellate counsel at Torys LLP in Toronto.

“For the past 32 years I have had the privilege of helping people and organizations in their dealings with the system of justice. No two days are alike. Practising law is a continual challenge, full of learning and insights into the human condition. Although this wonderful career has been reward enough, I am thrilled to receive this high honour for doing what I love—practising law.”



Stephen Grant, LSM, litigation partner at McCarthy Tétrault LLP in Toronto.

“I am privileged to be an advocate practising in Ontario and gratified to have been awarded the Law Society Medal and to have contributed to the development and use of plain language as the main communication tool of our profession, especially in pleadings and agreements.”



Linda Silver Dranoff, LSM, senior partner at Dranoff Huddart in Toronto.

“My legal training, belief in the rule of law, and passion for justice have inspired me to be a change agent in law, especially for women, as well as an educator and advisor to the public on the effect of laws on their daily lives. I am delighted to receive this high honour from my peers and to be recognized for my career as a family lawyer, activist and legal writer.”

Eva E. Marszewski, LSM, founder and executive director of Peacebuilders Inc. in Toronto.



“I have always been fascinated by the question of social order and the role played by social justice and the rule of law in promoting social and political stability. Membership in the legal profession has not only been a privilege in itself but has also helped shed light on answers to this personal quest. Exploration of the field of conflict resolution,

insofar as it supports both the rule of law and social order, has also proved fascinating and extremely personally fulfilling. It is therefore a great honour and my extreme good fortune to be rewarded further by being named a recipient of the Law Society Medal.”



Neil Gold, Windsor, LSM, Provost and Vice President of Academics, University of Windsor.

“Legal education, especially professional legal education, was a dry and mechanical business. I hope my efforts helped to breathe life into educating lawyers for the challenging and active roles they play in helping their clients achieve their goals and in ensuring we live in a just society.”



Elizabeth McIntyre, LSM, senior partner at Cavalluzzo Hayes Shilton McIntyre & Cornish LLP in Toronto.

“While in law school, a fortuitous summer job placement at the Ontario Nurses Association directed and focused me irrevocably toward social justice and professional and employment issues affecting the nursing profession in particular, and health professionals

and working people in general. My most significant accomplishment has been working with my colleagues to help these men and women achieve justice individually and as a group to gain increasing recognition of the very significant contribution they continue to make to our health care system under often difficult conditions. Much work remains to be done.”

Leon Paroian, Q.C., LSM, senior partner at Paroian Law Professional Corporation in Windsor.



“The proudest moment of my career was April 19, 1963 – the day I was called to the bar. From that moment on, the huge panorama of the practice of law opened for me. I am extraordinarily proud to be a lawyer and to have enjoyed the practice as much as I have for the last 43 years. I often cite a little poem by an author unknown: *‘A master in the art of living draws no sharp distinction between/his work and his*

play, his labour and his leisure/his mind and his body, his education and his recreation/he hardly knows which is which/he simply pursues his vision of excellence through whatever he is doing/and leaves others to determine whether he is working or playing/to himself he always seems to be doing both.’ No better words can describe my life and no better words can describe my passion for the law.”



Benjamin Zarnett, LSM, senior partner at Goodmans LLP in Toronto.

“I have been privileged to be part of a profession dedicated to resolving disputes by reason, logic and persuasion; I am grateful for having had the opportunity to work for a better system of justice; and I am honoured to receive the Law Society Medal and to share the occasion with such distinguished colleagues.”

Lincoln Alexander Award Recipient

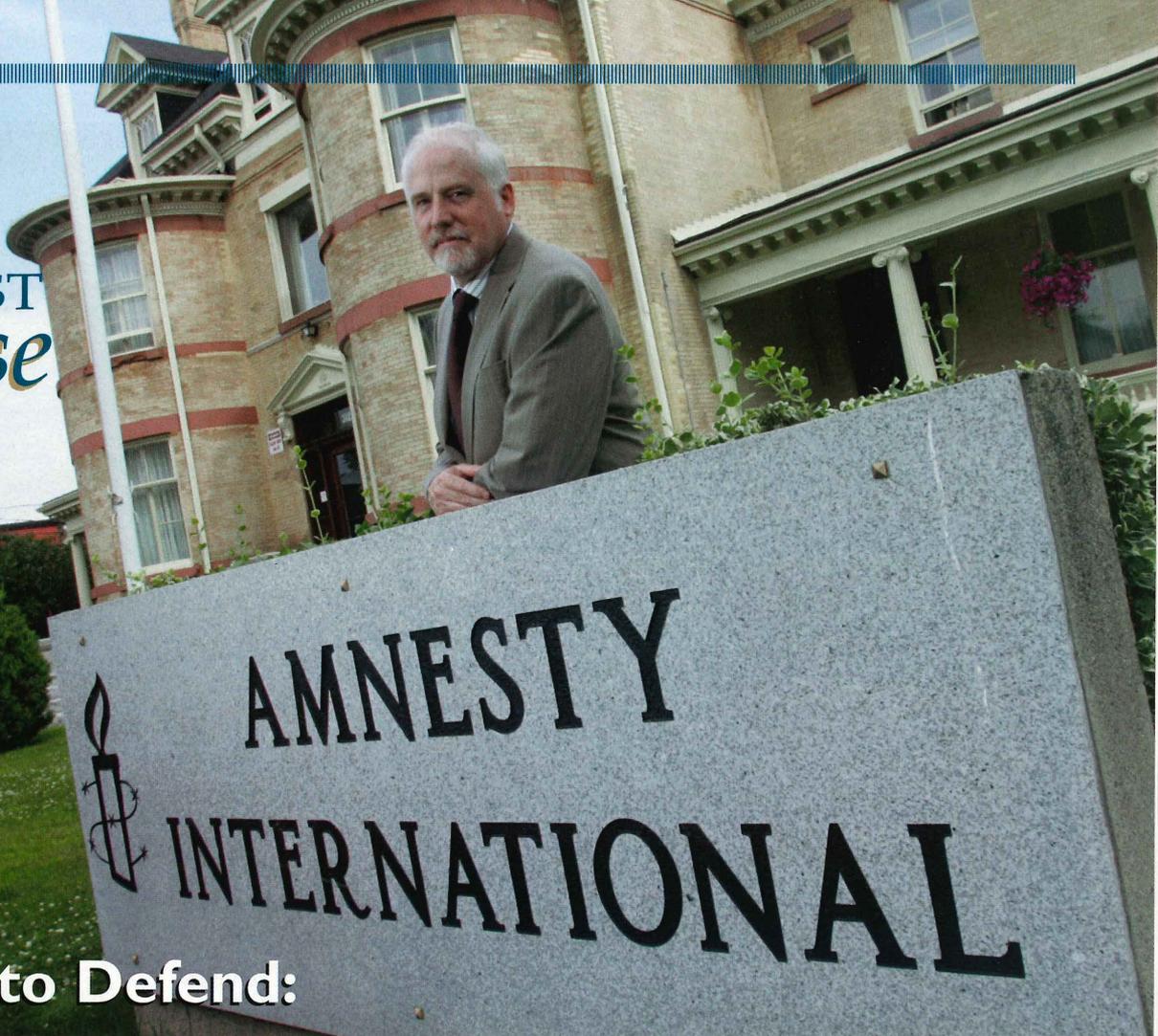


Patricia DeGuire, F.C.I.P., LL.M., Vice-Chair of the Human Rights Tribunal of Ontario and Pay Equity Hearings Tribunal in Toronto.

“A significant professional accomplishment I am proud of was establishing the Hon. Julius Alexander Isaac Scholarship at the Faculty of Law, University of Windsor under the aegis of the Canadian Association of Black

Lawyers, an association I co-founded in 1996. The Hon. Julius Alexander Isaac is the former Chief Justice of the Federal Court of Canada and the only Black jurist to ever serve on an appellate court in Canada. This scholarship honours his many significant contributions to the legal and larger communities in Canada and the Commonwealth Caribbean Union.” ■

JUST
Cause



Destined to Defend:

Human rights defender Alex Neve, Secretary General of Amnesty International Canada

As a young Dalhousie law student, Alex Neve attended an Amnesty International meeting one night and suddenly met his destiny.

ALEX NEVE, SECRETARY GENERAL OF Amnesty International Canada, is one of those people whose destiny – in his case as a human rights defender – seems to have been relatively clear to him early in life.

After his father, who was a lawyer, died young, Alex determined to follow in his footsteps and “use his education and knowledge as a tool for justice and social change, perhaps in poverty law or environmental law.”

Toward the end of his first year of law studies at Dalhousie, in 1985, his focus was suddenly and irrevocably sharpened when he attended an Amnesty International meeting in Halifax and “loved it... a flame started in me.” From then on,

“human rights, specifically the international dimension of human rights,” were his passion, and he “stayed close and connected” to Amnesty’s work.

Neve went on to do a masters degree in international human rights law in England, then to practise law, including refugee law. He worked at a community legal aid clinic in Toronto focusing on immigration law, spent time at York University’s Centre for Refugee Studies, and taught international human rights and refugee law at Osgoode Hall Law School. He also served as a member of Canada’s Immigration and Refugee Board, hearing and deciding refugee claims.

It was in the early ‘90s that Neve was hired by Amnesty International to oversee refugee programs in Canada. By the mid-‘90s he was working for Amnesty at the international level, researching refugee

concerns at the heart of a human rights crisis in Central Africa. In 2000, fifteen years after his first Amnesty meeting and subsequent decision to become a human rights advocate, Neve's years as a practitioner, activist, academic and decision maker culminated in his being appointed Secretary General for Amnesty International in Canada.

Although Neve's destiny was visible to him throughout much of his life, there is no end in sight of the actual work involved in carrying it out.

"In human rights work, the needs and the challenges are endless," he says. "While there have been exciting accomplishments in international justice, there have been times of great despair. The reality is that we live in a world where the basic human rights of the overwhelming majority of citizens are still nowhere near adequately protected."

The major challenge human rights advocates face, Neve believes, is to ensure that political will is behind them and not against them. He notes that this will changes from time to time, and that since 9/11, there has been an enormous amount of political will on the parts of governments – including our own – to adopt tough new counter-terrorism laws and to even reconsider the use of torture and launch wars in the name of global security.

"Yet these governments still do not demonstrate the necessary degree of robust commitment and political will to the global human rights agenda," he says. "Instead, we have seen many governments and influential public figures suggesting that maybe human rights are an obstacle to achieving security, when in fact, human rights are the essential key to security."

Neve stressed this position at a public conference this spring on the Canadian legal response to torture presented by the Law Society in partnership with the University of Ottawa, Faculty of Law, and the Human Rights Research and

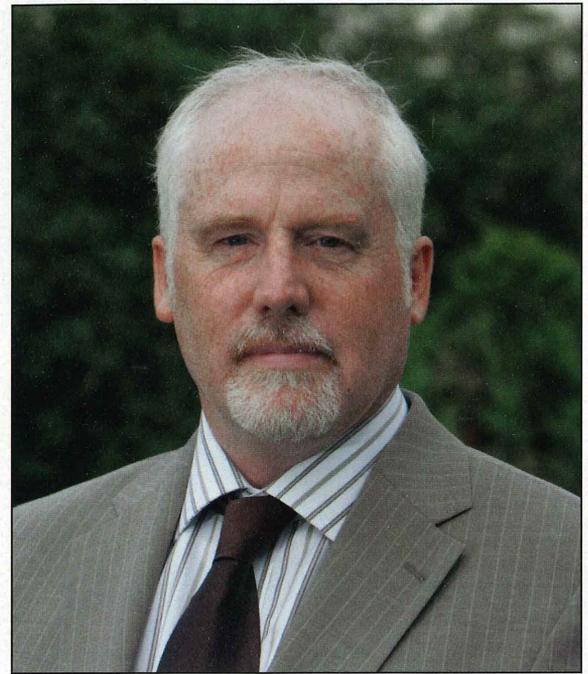
Education Centre. Speaking specifically about Amnesty's response to the issue of torture, Neve told the audience that using the terrorist threat as an excuse or justification for torture or arbitrary detention, or as a reason for pursuing policies that violate human rights, is not acceptable and does not create justice or real and sustainable security.

"It keeps this world trapped in the same circle of discrimination, violence, revenge and more violence that it has been trapped in for so long. The way forward is for governments to break this circle and in the face of terrorism to stand firmly and unequivocally for justice.

Government must be absolutely clear that the human rights agenda is the agenda they are going to pursue."

Amnesty International would certainly welcome more lawyers, Neve says. The demands are relentless in many different areas of Amnesty's work and often involve issues where they could benefit greatly from legal advice, legal research, legal analysis, legal representation, or assistance in looking at law reform initiatives. One of the ways that lawyers can become involved is by providing vital assistance in the cases that Amnesty does pursue within the court system.

"When we end up in court, we're always reliant upon pro bono assistance. Through this work there is the opportunity for lawyers to become involved in advancing critical human rights jurisprudence in the Canadian court system," he notes. A good example is the hearing by the Supreme Court of Canada of three crucial cases involving the immigration security certificate system, for which Amnesty was granted intervener status by the court. Amnesty has four lawyers on a pro bono basis who



Alex Neve

"have been working valiantly and tirelessly on the case. This is a very concrete and important way in which lawyers can be of assistance to Amnesty."

Neve is hopeful that recommendations about what needs to change to ensure that Canada's human rights record doesn't suffer as a result of counter-terrorism will be a result of the Arar Inquiry. He also hopes that Amnesty will be successful in obtaining reviews of the cases of other Canadian citizens who experienced arbitrary detention and torture abroad. Regarding the immigration security certificates, he says it's a matter of law reform, of taking steps to improve the proceedings so that they are fair and thus better protect people from the possibility of being sent to torture.

"With the law on deporting to torture, it's a question of some simple amendments to the *Immigration Act*," Neve says. "All of this comes back to political will. If it is there, the solutions for many of these human rights concerns are quite simple. What we need are politicians who are prepared to stand up for human rights in the global security debate." ■

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.

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

Cameila Anderson (1985, 48), of the City of Windsor, was found guilty of professional misconduct for: borrowing a total of \$56,000, more or less, from 3 clients; failing to satisfy or comply with 2 Default Judgments requiring her to pay to 2 clients \$30,150.56 plus costs and to a company the sum of \$26,672.87 plus costs; practising law while under administrative suspension during 3 different time periods; failing to satisfy or comply with a court judgment, requiring her to pay a total of \$907.24 to 2 clients; failing to fulfill 2 financial obligations, incurred in the course of her practice; failing to serve 7 clients in a conscientious, diligent and efficient manner; misleading 2 clients, a fellow solicitor and the Law Society; failing to fulfill an Undertaking given to the purchasers and their solicitors in a real estate transaction; failing to respond or to respond promptly to communications from 2 fellow solicitors; failing to cooperate in a Law Society investigation.

By Decision and Order dated May 31, 2006, the Hearing Panel ordered that:

- the Member is granted permission to resign her membership with the Law Society within 30 days of the date of the Order, or be subject to disbarment thereafter.

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

(The Member's resignation became effective May 31, 2006.)

Joseph Dannial Ernest Stewart Baker (1985, 52), of the City of Toronto, was found guilty of professional misconduct for: failing to respond promptly and substantively to communications from the Law Society and failing to cooperate with an investigation.

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

- the Member is suspended for one month, commencing on August 1, 2006.
- the Member shall pay costs to the Law Society in the amount of \$5,000 within 12 months of the date of the order.

*(Counsel for the Society, William Holder/
Member present, but not represented,
assisted by Duty Counsel)*

Daniel Alexander Barna (1979, 51) of the Town of Ajax ("Appellant").

By Notice of Appeal, the Appellant appealed the Order of the Hearing Panel, dated June 30, 2004*, which: found him guilty of professional misconduct for failing to maintain his books and records; misleading the Law Society; filing inaccurate annual filings; misappropriating \$8,496, more or less, misapplying \$4,271, more or less; pre-taking \$5,300, more or less; failing to maintain sufficient balances on deposit in his trust account and mishandling trust funds; and which ordered that he be disbarred and pay \$15,000 in costs.

By Decision and Order dated April 27, 2006, the Appeal Panel ordered that:

- the appeal is dismissed.

*(Counsel for the Society, Janice Duggan/
Counsel for the Member, Robert H. Burke,
Q.C.)*

**Previously summarized on the Law Society's website at www.lsuc.on.ca/regulation/a/discipline/oct04 and in the Ontario Lawyers Gazette, September/October 2004, Vol. 8, No. 5*

Michael Moses Bines (1978, 55), of the City of Vaughan, was found guilty of professional misconduct for failing to respond to written inquiries from the Law Society.

By Decision and Order dated May 24, 2006, the Hearing Panel ordered that:

- the Member's rights and privileges are suspended for 1 month, commencing on May 24, 2006 and continuing indefinitely until the Member:
- has produced a response to the satisfaction of the Secretary of the Law Society;
- satisfies the Secretary of the Law Society that he is both competent and has the capacity to practice law properly and to be accountable to the Law Society; and
- fulfills the terms of the Order of this Tribunal dated April 28, 2006 before the Bencher hearing this matter or another Bencher

- the Member shall pay costs in the amount of \$8,000 to the Law Society within 60 days.

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

Donald Eardley McEwen

Bodkin (1991, 46), of the City of Mississauga, was found guilty of professional misconduct for failing to respond to written inquiries from the Law Society.

By Decision and Order dated April 28, 2006, the Hearing Panel ordered that:

- the Member is suspended for 1 month commencing on April 28, 2006, and continuing indefinitely until he provides a response satisfactory to the Secretary of the Law Society.
- the Member shall pay costs to the Law Society in the amount of \$1,400 within 60 days of the Order.

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

(APPEALING)

David Buzaglo (1989, 46), of the City of Toronto, was found guilty of professional misconduct for: failing to serve 4 clients; failing to account to 4 clients for retainer monies; practicing law while administratively suspended on 2 separate occasions; failing to deposit retainer monies into trust; failing to turn over client files on 2 separate occasions despite requests made or authorizations received from his clients; failing to account for monies taken as legal fees; failing to respond to communications from 2 lawyers; failing to respond in a prompt and responsive manner to communications from Legal Aid Ontario; failing to cooperate with Law Society investigations; and failing to respond to a letter from a paralegal regarding a former client.

By Decision and Order dated June 28,

2006, the Hearing Panel ordered that:

- the Member is disbarred as of June 28, 2006.
- the Member shall pay \$25,000 in costs to the Law Society.

(Counsel for the Society, Janice Duggan/ Counsel for the Member, Marek Z. Tufman)

Robert Laurent Carrier (1982, 59), of the Town of Richmond Hill, was found guilty of professional misconduct for breaching an order of the Hearing Panel dated May 25, 2004* by engaging in the practice of law while his rights and privileges were suspended.

By Decision and Order dated June 20, 2006, the Hearing Panel ordered that:

- the Member's rights and privileges be suspended for a definite period of 3 months commencing at the termination of his current indefinite suspension made pursuant to the Order of the Hearing Panel dated May 25, 2004*.
- 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 6 months after the date of the first practice review.
- the Member shall pay \$500 in costs to the Law Society within 6 months of his return to practice.

(Counsel for the Society, Maureen Helt/ Member present, assisted by Duty Counsel)

*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

Stephen Morris Cheifetz (1982, 49), of the City of Windsor, was found guilty of conduct unbecoming a barrister and solicitor in that, having acted as the estate trustee of two estates, Flinn J. made the following findings in passing of accounts proceedings, which were upheld by the Court of Appeal: his actions during his term as estate trustee and during the litigation were reprehensible and scandalous; he provided excessive compensation to his own company for management services provided to companies controlled by the estates without obtaining the approval of the Board of Directors to do so; and his evidence was misleading, "half truths" and unreliable.

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

- The Member's rights and privileges are suspended for a period of 2 months commencing July 1, 2006.
- The Member shall not permit himself to be named as an executor or trustee of any will or inter vivos trust that is prepared for a period of 5 years commencing on May 17, 2006 and concluding on May 17, 2011, except where the testator is a family member.
- The Member shall provide to the Secretary of the Law Society a list of all wills or inter vivos trusts wherein he is currently named as executor or co-executor, trustee or co-trustee, on or before July 17, 2006.
- Until May 17, 2011, the Member shall provide notice to the Secretary of the Law Society immediately upon the commencement of his duties or appointment as the executor, trustee or inter vivos trustee.
- Until May 17, 2011, the Member shall permit the Law Society to audit any of his files or records with respect to executorship or trusteeship matters at any time during normal business hours subject to 3 days' notice.

- Prior to the end of 2006, the Member shall complete a mentoring program at his own expense, the terms of which are to be approved by the Secretary of the Law Society, and which will consist of not less than 6 hours of instruction and mentoring specifically on the issues of professional responsibility and ethics.
- The Member shall pay costs to the Law Society in the amount of \$7,500 on or before December 31, 2006.

(Counsel for the Society, Jane Anweiler and Deborah McPhadden/ Counsel for the Member, Jeffrey Larry and Chris G. Paliare)

Bryan Thomas Davies (1984, 47) of the Town of Whitby, was found guilty of professional misconduct and conduct unbecoming a barrister and solicitor for: on or about February 12, 2004, pleading guilty to and being convicted of 2 counts of fraud over \$5,000 and 2 counts of breach of trust by a public official.

By Decision and Order dated April 4, 2006, the Hearing Panel ordered that:

- the Member be given permission to resign his membership in the Law Society within 7 days of the date of the Order, failing which he is disbarred.
- the Member pay the Law Society \$7,500 in costs within 18 months of the date of the Order.

(Counsel for the Society, Lesley Cameron/ Member present, not represented)

(The Member's resignation became effective April 4, 2006.)

Wayne Valentine Colin De Landro (1992, 51) of the City of Toronto, was found guilty of professional misconduct for: participating in and/or facilitating dishonest, fraudulent, criminal or illegal schemes to obtain mortgage financing on 5 properties located in Toronto and Vaughan; failing

to serve his mortgagee clients in respect of 4 of the properties; acting for all parties in 2 real estate transactions where there was a conflicting interest; failing to serve a vendor client; misapplying funds entrusted to him to discharge an existing mortgage; failing to maintain a sufficient balance on deposit in his trust accounts; failing to maintain the books and records of his practice; breaching an undertaking to the Law Society; contravening co-signing controls on his trust account by depositing a trust cheque into his general account and issuing a certified cheque in the same amount immediately thereafter; and failing to promptly give notice of a claim to LPIC and to cooperate with LPIC, thereby defeating a claim made by a client.

By Decision and Order dated March 16, 2006, the Hearing Panel ordered that:

- the Member is disbarred.
- the Member is to pay costs to the Law Society in the amount of \$44,470.75.

(Counsel for the Society, Naomi Overend/ Member not present and not represented)

Renato Rosario Maurizio Fellin (1996, 39), of the City of Toronto, was found guilty of professional misconduct for: failing to produce all of the books and records of his law practice; failing to maintain sufficient balances in his trust account; continuing to practise law while under suspension; co-mingling personal funds in his mixed trust account; making a false report on his trust ledger statement in relation to a client; failing to fulfill undertakings given to a fellow solicitor; misleading a fellow solicitor; misleading the Law Society; failing to account to a client; failing to render a fee billing before taking monies from trust for fees; failing to honour trust obligations; failing to fulfill financial obligations of his practice; failing to respond to communications from 2 fellow

solicitors, a paralegal, and the Toronto Registry Office; misappropriating \$800, more or less, of trust monies held on behalf of a client; misapplying \$5,000, more or less, of trust monies held on behalf of a client; mishandling a total of \$207,000, more or less, of trust monies which were received from or to be held on behalf of 3 clients; failing to serve and misleading 2 clients; personally guaranteeing 2 mortgages where 2 of his clients were the lenders; failing to fully cooperate with the Law Society's investigation into his books and records and 6 complaints; and failing to respond to the Law Society's communications in a meaningful way in relation to 4 complaints.

By Decision and Order dated April 26, 2006, the Hearing Panel ordered that:

- the Member be disbarred as a barrister and solicitor, that his name be struck off the roll of solicitors, that his membership in the Law Society be revoked and that he be prohibited from acting or practicing as a barrister and solicitor and from holding himself out as a barrister and solicitor.
- the Member shall pay to the Law Society, for the Lawyers Fund for Client Compensation, any monies paid out respecting a grant from the Fund to 4 named individuals.
- the Member shall pay the Law Society's costs in the amount of \$20,000 within 1 year from the date of the Order.

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

Morton Greenglass (1962, 70) of the City of Toronto, was found guilty of professional misconduct for: mishandling a total of \$151,730, more or less; misappropriating a total of \$130,190, more or less; and misapplying a total of \$124,030, more or less, of Estate funds which he obtained from the Office of the Public Guardian and Trustee while acting under a total of 19

powers of attorney from Estate beneficiaries in relation to 3 Estates; misleading Estate beneficiaries in relation to the 3 Estates; failing to account to Estate beneficiaries for monies held on their behalf in relation to the 3 Estates; failing to maintain proper books and records in relation to the 3 Estates; misleading the Law Society in his 2001 Member's Annual Report; and failing to file completed Member's Annual Reports for 2002 and 2003.

By Decision and Order dated April 7, 2006, the Hearing Panel ordered that:

- the Member is disbarred and his name is struck off the roll of solicitors, effective as of April 7, 2006.
- the Member shall pay costs to the Society in the amount of \$7,500.

(Counsel for the Society, William Holder/ Counsel for the Member, Robert G. Schipper)

Harvey James Katz (1978, 52), of the City of Hamilton, was found guilty of professional misconduct for: charging a fee which was neither fair nor reasonable and which was contrary to the verbal agreement made with his client; improperly withdrawing money from trust; failing to honour a Report and Certificate of Assessment in favour of a client; misapplying \$15,000 of trust monies; and receiving a total of \$10,000 in trust when he was an undischarged bankrupt.

By Decision and Order dated June 2, 2006, the Hearing Panel ordered that:

- the Member shall be suspended for 21 consecutive days, with such suspension to be concluded by September 30, 2006. The parties are to agree upon a start date for the suspension, which in any case shall commence no later than September 10, 2006.
- the Member will co-operate in a review of his practice at his own

expense up to a maximum of \$1,500 pursuant to s. 42 of the *Law Society Act*. 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 six months after the date of the first practice review.

- the Member will be audited by the spot audit department within the first 12 months after he resumes practice.
- the Member will pay costs to the Law Society in the amount of \$1,000 by December 31, 2006.

(Counsel for the Society, Lisa Freeman/ Counsel for the Member, William Trudell)

Richard Roy Kennedy (1977, 55), of the Town of Pelham, was found guilty of conduct unbecoming a barrister and solicitor for: pleading guilty to and being convicted on March 7, 2003 in the United States District Court, Columbus, Ohio, of unlawfully and knowingly conspiring, combining, confederating, and agreeing with 4 named individuals and with others known and unknown, to defraud the creditors of one of the named individuals, (Schultz), and the United States by violating and attempting to violate the laws of the United States in support of a scheme to defraud through the concealment of the existence, nature, location, source, ownership and control of approximately \$4,500,000 such sum representing a portion of Schultz's proceeds from the 1994 sale of his stock in National Revenue Corporation.

By Decision and Order dated April 25, 2006, the Hearing Panel ordered that:

- the Member be disbarred as a barrister, that his name be struck off the roll of solicitors, that his membership in the Law Society of Upper Canada be revoked and that

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

(Counsel for the Society, Lisa Freeman/ Member not present and not represented)

Abdul Aziz Khalifa (1971, 71), of the Town of Vaughan, was found guilty of professional misconduct for: participating in a dishonest, fraudulent, criminal or illegal scheme to obtain mortgage financing based on inflated purchase prices concerning 30 properties; failing to serve his mortgagee clients; acting for all the parties, namely the vendors, purchasers/mortgagors and the lenders/mortgagees, to several real estate transactions, where there was a conflicting interest without providing adequate disclosure to or obtaining the consent of his mortgagee clients and without advising all his clients that no information received in connection with these transactions could be treated as confidential vis-à-vis the other parties; and failing to disclose to his mortgagee clients his ongoing relationship with 8 individuals/companies and recommend that they obtain independent legal advice.

By Decision and Order dated June 20, 2006, the Hearing Panel ordered that:

- the Member be granted permission to resign his membership in the Law Society within 30 days, failing which he is disbarred.
- the Member pay costs of \$1,000 within 30 days.

(Counsel for the Society, Naomi Overend/ Member not present and not represented)

(The Member's resignation became effective June 29, 2006.)

Michael Harold Kimberley (1999, 53), of the City of Toronto, was found guilty of professional misconduct for failing to act in good faith towards another solicitor.

By Decision and Order dated June 2, 2006, the Hearing Panel ordered that:

- the Member is reprimanded.
- the Member shall pay costs in the amount of \$3,500 to the Law Society.

*(Counsel for the Society, Louise Hurteau/
Counsel for the Member, Howard C. Cohen)*

Mark William Kushner (1984, 50), of the Town of Aurora, was found guilty of professional misconduct for: after consuming alcohol, attending a case conference in a state in which he was unable to properly represent the interests of his clients such that the presiding judge found it necessary to adjourn the case conference; providing his clients with a false explanation for the adjournment of the case conference; and engaging in sharp practice and/or failing to act in good faith towards a fellow solicitor.

By Decision and Order dated June 22, 2006, the Hearing Panel ordered that:

- the Member shall be suspended from practice for a period of 1 month. The commencement date of that suspension shall be agreed upon by the Law Society and the Member but is not to commence less than six months from the date of the order.
- the Member shall pay \$1,500 in costs to the Law Society.

*(Counsel for the Society, Louise Hurteau/
Member present and assisted by duty
counsel)*

Devindra Lalbeharry (1996, 35), of the City of Mississauga, was found guilty of professional misconduct for: failing to discharge duties owed to his clients in acting on the purchase and financing of 7 properties located in and around Toronto (the "transactions"); withholding information from 4 lender clients which provided mortgage financing for the transactions; failing to serve his lender clients and not being competent to perform the legal

services undertaken when acting on the transactions; with respect to his lender clients, failing to keep them reasonably informed of the status of the transactions, failing to make a prompt and complete report to them when his work was completed and failing to advise them of their true position where it was apparent that they had misunderstood or misconceived their positions; acting or continuing to act where there was or was likely to be a conflict between his lender clients and his purchaser clients without making adequate disclosure and obtaining informed or any consent, holding information received from his purchaser clients confidential from his lender clients, allowing his obligation of loyalty to his lender clients to be compromised and preferring the interests of his purchaser clients over the interests of his lender clients; and failing to handle property as a careful and prudent owner would.

By Decision and Order dated May 12, 2006, the Hearing Panel ordered that:

- the Member is given permission to resign his membership in the Law Society. If this resignation is not effected within 30 days, then this matter shall be brought back before the panel which will remain seized of the matter for that purpose.
- no order as to costs.

*(Counsel for the Society, Sean Dewart/
Counsel for the Member, Peter Walter S.
Copeland)*

*(The Member's resignation became
effective May 30, 2006)*

Colin Clive MacDonald (1968, 64) of the City of London, was found guilty of professional misconduct for: misappropriating a total of \$130,000, more or less, from 2 clients and from an estate for which he acted as trustee and executor; making representations and fabricating documents to mislead 2 clients in relation to monies they gave him on 2 separate occasions;

misapplying \$120,000, more or less, of client trust monies received from 2 clients; borrowing \$40,000, more or less, from 2 clients and a total of \$110,000, more or less, from another client; failing to give notice to LAWPRO about a possible claim; obtaining and registering a mortgage discharge which secured a loan from a client without the knowledge or consent of the client and without repaying the loan; failing to register a mortgage to secure a loan from a client; failing to complete the forms required under a Law Society regulation with respect to mortgages he gave to secure two loans from a client; failing to account for approximately \$36,300 of trust monies held on behalf of an estate for which he acted as trustee and executor; failing to comply with a court order to pass estate accounts; failing to cooperate with the Law Society's investigation; failing to maintain sufficient balances on deposit in his trust account; and failing to maintain the financial records required under the Law Society's by-laws.

By Decision and Order dated March 8, 2006, the Hearing Panel ordered that:

- the Member is disbarred effective March 8, 2006.
- the Member shall pay restitution to the Lawyers' Fund for Client Compensation in the sum of \$165,498.90.

*(Counsel for the Society, Deborah
McPhadden/
Counsel for the Member,
Louis Strezos)*

Allan George Maenza (1990, 43) of the Town of Courtice, was found guilty of professional misconduct for: misleading 3 clients and misappropriating a total of \$2,430 in client trust monies.

By Decision and Order dated April 4, 2006, the Hearing Panel ordered that:

- the Member is granted permission to resign his membership in the Law Society of Upper Canada within 30

days of the date of the Order, failing which he is disbarred.

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

(The Member's resignation became effective April 11, 2006.)

Vivek Nijhawan (1994, 45) of the City of Ottawa, was found guilty of professional misconduct for commissioning a Land Transfer Tax Affidavit for a client when he knew that the affidavit was false.

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

- the Member is reprimanded.
- the Member shall pay \$1,000 in costs, payable within 6 months of the date of the Order.

(Counsel for the Society, Janice Duggan/ Counsel for the Member, Douglas M. Baum)

Peter Poulakis (1995, 41) of the City of Oshawa, was found guilty of professional misconduct for: failing to serve 2 clients in a conscientious, diligent and efficient manner; misleading a client; failing to maintain the books and records of his practice; misleading the Law Society; mishandling \$1,500 in trust funds received from a client by depositing them directly into his general account; and failing to account to a client.

By Decision and Order dated March 7, 2006, the Hearing Panel ordered that:

- the Member is suspended for:
 - (i) a definite period of 12 months commencing on March 7, 2006; and
 - (ii) an indefinite period, to run concurrent with the 12-month definite suspension, until such time as his books and records are brought up-to-date to the satisfaction of the Secretary of the Law Society.
- for 3 years after the completion of the suspensions ordered above, the Member may only practice as an

employee of a member of the Law Society who has been approved by the Secretary of the Law Society prior to the Member's return to practice.

- the Member is to pay \$5,000 in costs to the Law Society within 24 months of the date of the Order.

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

Aaron M. Spektor (1997, 40), of the City of Thornhill, was found guilty of professional misconduct for: failing to keep the Law Society apprised with respect to his contact information; practicing law while under suspension; and misleading a Court.

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

- the Member is suspended for a definite period of 1 month, commencing on August 5, 2006 and continuing until September 5, 2006.
- the Member shall participate in a practice review in accordance with s. 42 of the *Law Society Act*. The Member shall arrange for a practice reviewer to attend at his office within 2 months of the termination of his suspension, cooperate with the practice reviewer, implement forthwith any recommendations and participate in a second practice review 6 months after the date of the first practice review.
- the Member shall pay \$1,000 in costs to the Law Society within 6 months.

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

Michael Laverne Telfer (1975, 57) of the Town of Wasaga Beach, was found guilty of professional misconduct for: failing to comply with an Undertaking to the Law Society in relation to an Estate client; failing to maintain books and records in general and in relation to the Estate; failing to respond promptly to communications from the Law Society in relation to the

Estate matter and his books and records; and failing to cooperate fully with the Law Society's investigations into the Estate matter and his books and records. He was also found guilty of professional misconduct as solicitor for the Estate and conduct unbecoming a barrister and solicitor as trustee of the Estate by failing to serve the Estate.

By Amended Decision and Order dated March 7, 2006, the Hearing Panel ordered that:

- the Member is suspended for 2 weeks, commencing on March 8, 2006.
- the Member shall pay \$1,000 in costs to the Law Society within 6 months of the Amended Decision and Order.
- Exhibit Number 5, received in the absence of the public, is not to be published or otherwise made public.

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

Mitchell Lewis Wolfe (1979, 54), of the City of Toronto, was found guilty of professional misconduct for: misappropriating \$47,713.36, more or less, from the law firm in which he was a partner; and misappropriating \$4,783.27, more or less, from clients of the law firm in which he was a partner.

By Decision and Order dated June 8, 2006, the Hearing Panel ordered that:

- the Member shall be suspended for a period of 12 months commencing on July 1, 2006.
- the Member shall pay costs fixed at \$1,000 within 60 days of July 1, 2006.

(Counsel for the Society, Deborah McPhadden/ Counsel for the Member, Rahul Shastri)

Gerald Bernie Yasskin (1975, 57), of the City of Toronto, was found guilty of professional misconduct for: failing to serve 2 clients; failing to account for cash retainer monies received from 2 clients; failing to cooperate in a Law

Society investigation; and breaching an undertaking to the Law Society.

By Decision and Order dated May 3, 2006, the Hearing Panel ordered that:

- the Member be suspended for 8 months, to commence no later than July 1, 2006;
- immediately upon resumption of his practice, the Member shall practice pursuant to a plan of supervision and under the supervision of another member of the Law Society, both supervisor and plan of supervision having been approved by the Director of Professional Regulation (the "Director") prior to his return to practice. The Member's suspension shall continue indefinitely until a supervisor and plan of supervision have been approved by the Director.
- an approved supervisor must act as co-signor on the Member's trust account, or, provide monthly trust comparisons to the Law Society for the 2-year period following the Member's resumption of private practice, all trust comparisons having been approved by a certified general accountant.
- the Member shall cooperate 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, cooperate with the practice reviewer, implement forthwith any recommendations made as a result of the practice review and also 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 will pay costs to the Law Society in the amount of \$3,000 within 12 months of the date he resumes practice.

(Counsel for the Society, Lisa Freeman/
Counsel for the Member, William Trudell) ■

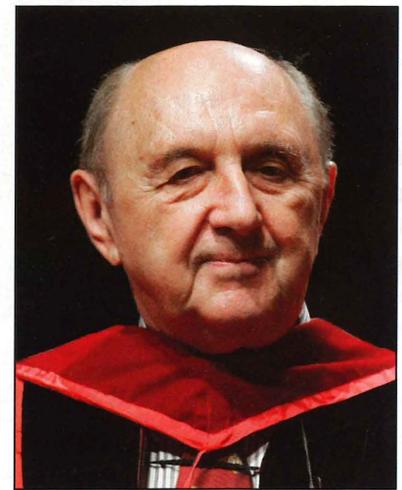
The Law Society awards LLDs along with LL.B.s at 2006 Toronto call to the bar ceremonies

Every year, as part of its call ceremonies, the Law Society of Upper Canada presents honorary degrees of Doctor of Laws (LLD) to distinguished people who exemplify the values held in esteem by the legal profession. Recipients then serve as inspirational keynote speakers for the graduates.

This year, the Law Society held five ceremonies between July 12 and 21 to call to the Ontario Bar the province's 1,000 new lawyers. The first ceremony was held in Ottawa, the second in Windsor, and the final three in Toronto.

Law Society Treasurer Gavin MacKenzie presented an honorary doctorate to each ceremony's keynote speaker, respectively: University of Ottawa Law Professor **Ed Ratushny**, C.M., Q.C., S.J.D., LLD; University of Windsor Law Professor **Dr. Emily Carasco**, LL.B., LL.M., S.J.D., LLD; the civil and human rights lawyer **Clayton C. Ruby**, C.M., LL.B., LL.M., LLD; Carleton University Associate Law Professor **Diana Margaret Majury**, LLD; and former Chief Justice of the Superior Court of Justice, **The Hon. Patrick J. LeSage**, Q.C., LLD.

Excerpts from their speeches follow; for full speeches and biographical information, or further coverage of the 2006 call to the bar ceremonies, please visit our website at www.lsuc.on.ca.



Ed Ratushny
C.M., Q.C., S.J.D., LLD

The message I want to convey to you is the importance of seeing beyond "our own workshop" over the course of our legal careers. [...] G.K. Chesterton said that "the horrible thing about legal officials, even the best, about all judges, magistrates, barristers, detectives and policemen, is not that they are wicked (some of them are good), not that they are stupid (several of them are quite intelligent), it is simply that they have got used to it. Strictly, they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment, they only see their own workshop." Our legal training teaches us to critically

analyze facts and to discard irrelevant facts and issues. We must avoid sentiment and be objective in our analysis. But there is a danger that this clinical approach, combined with workplace pressures, may affect our human relations in dealing with clients and others who enter our “workshop.” [...] In your legal careers, I encourage you to look beyond your “usual workshop” for simple opportunities to treat others with dignity, respect and kindness. If you do, you will have an excellent reputation and a successful and satisfying career.

We cannot always tell how much of an impact our actions and words will have in the quest for universal protection of human rights. Some battles against human rights violations take longer than others. They are still worth taking on.

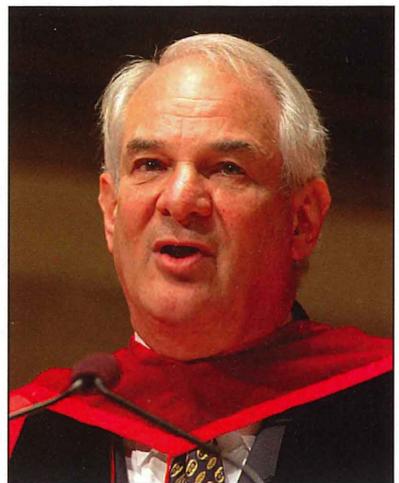


Dr. Emily Carasco
LL.B., LL.M., S.J.D., LLD

It took four decades to abolish apartheid. To paraphrase something my favourite fictional lawyer — Atticus Finch from Harper Lee’s *To Kill a Mockingbird* — said when asked about why he was taking on a case he knew he was going to lose: “Just because we were licked a hundred years before we began is no reason not to try and win the fight.” Speaking out against breaches of human rights becomes particularly important in times when fear of the unknown, the other, the foreigner, takes over. It is then that we are most likely to forget that the universality of fundamental and inalienable rights demands that our friends as well as our alleged enemies are deserving of respect and dignity. [...] So to all of you schooled in the principles and values of the Canadian Charter, I urge you to go forth with courage and become a part of that proud Canadian tradition of lawyers endeavouring to make this goal a reality.

Act without fear, determined to make this world a better place through your legal skills, whatever kind of law you practise, and whether that effort turns out to be hugely significant or utterly futile. Know what is right, and do that. You must struggle for the courage to take difficult and unpopular positions whether you are just beginning as a lawyer, or, like me, a part of the legal establishment. There is little

shortage of excuses for lost courage. Silence is easy. But quiet acceptance of injustice quickly becomes a way of life. As Albert Camus said: “Between freedom and justice there seems to exist a state of contradiction. How could there not be? Freedom for each also means freedom for the rich and ambitious; that invites injustice. Justice for all means the submission of the individual to the collective good.



Clayton C. Ruby
C.M., LL.B., LL.M., LLD

The question for all of us is how to reconcile justice with freedom. The goal we must pursue is to make life free for the individual but just for all.” I know that you will find the courage to carry on the traditions of our profession in refusing arbitrary measures, in refusing to accept discrimination impelled by fear. This is what makes our profession great.

Iwant to talk about equality because I can’t imagine a more appropriate or worthy topic for this special occasion. Today I am letting my law and literature self come to the fore by invoking the childhood classic of the Wizard of Oz. I think that story points to the qualities – brains, heart, courage and community – needed to pursue the equality path. Some of you will feel like you have just come through the tornado of law school and articling, transporting

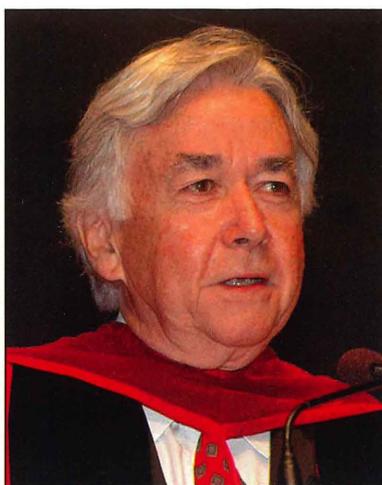


Diana Margaret Majury, LLD

you to the foreign land of law. Articling is/was for most of us a tornado time – a time of uncertainty, permeated by fear of failure... [...] But you have survived the articling tornado and, I hope, have learned the classic lesson of the tin man, the scarecrow and the lion – that what you need in order to do the job is already within you. [...] The equality path is not an easy one – like Dorothy’s yellow brick road, it is full of challenges and hurdles and complexity, uncertainty and fear – but it is an

exciting and rewarding path. So for you graduates, I wish you the following as you go forth in your legal careers: the adventurous and indomitable community spirit of Dorothy, the creative brain of the scarecrow, the open heart of the tin man and the risk-taking courage of the lion.

Our challenge is to continue to strive toward perfect justice within an imperfect system in order to provide the best justice we can to the public we have all sworn to serve. Perfect justice should be always within us as a great yearning. It may be unattainable, but it is a noble pursuit and calling and one worth nurturing throughout our professional lives. When you look for



The Hon. Patrick J. LeSage, Q.C., LL.D

role models for your professional lives, as surely you will – you can find no finer examples or role models than those surrounding me on this dais. Although all are luminaries, I must specially refer to my long-time friend Chief Justice McMurtry as one who has contributed so immensely to society – municipally, provincially, nationally and internationally – as a lawyer, a politician and a judge – truly a “man for all seasons.” [...] My most sincere hope for all of you is that you enjoy your career – and find it as satisfying and gratifying – as I have mine. As you embark on a career of service to others, may you do yourselves, your families, and the profession, proud – always maintaining

your faith in the rule of law by serving your clients with integrity, wisdom, skill and compassion. Enjoy the journey. ■



The Advocates' Society announces new executive

Michael E. Barrack, of McCarthy Tétrault LLP in Toronto, has been named President of The Advocates' Society for the 2006-07 term.

Joining Mr. Barrack on the Executive Committee are **Michael Eizenga**, of Siskind, Cromarty, Ivey & Dowler LLP in London (First Vice-president); **Peter J. E. Cronyn**, of Nelligan O'Brien Payne LLP in Ottawa (Second Vice-president); **Sandra A. Forbes**, of Davies Ward Phillips & Vineberg LLP in Toronto (Treasurer), and **Marie T. Henein**, of Henein and Associates in Toronto (Secretary).

The Advocates' Society is a professional association for advocates, with some 3,400 members throughout Ontario. The primary provider of advocacy skills training in the province, it plays a prominent role in justice reform initiatives and in preserving and strengthening the position of advocates and the rights of the public.

For more information about the Society, visit www.advocates.ca.

First National Pro Bono Conference
Building Bridges to Justice

NOVEMBER 16-17, 2006, METROPOLITAN HOTEL TORONTO

THIS FIRST NATIONAL PRO BONO CONFERENCE aims to bring together a broad group of stakeholders, mainly legal practitioners, with a commitment and interest in improving access to justice in Canada. We'll explore many aspects of pro bono lawyering – both nationally and locally – emerging and evolving issues, models in pro bono service delivery, the latest in courthouse pro bono schemes, and much more.

- ▶ November 15: **Pre-conference Sessions**
- ▶ November 16-17: **Conference**
- ▶ November 16, evening: **Dinner and Awards Ceremony**

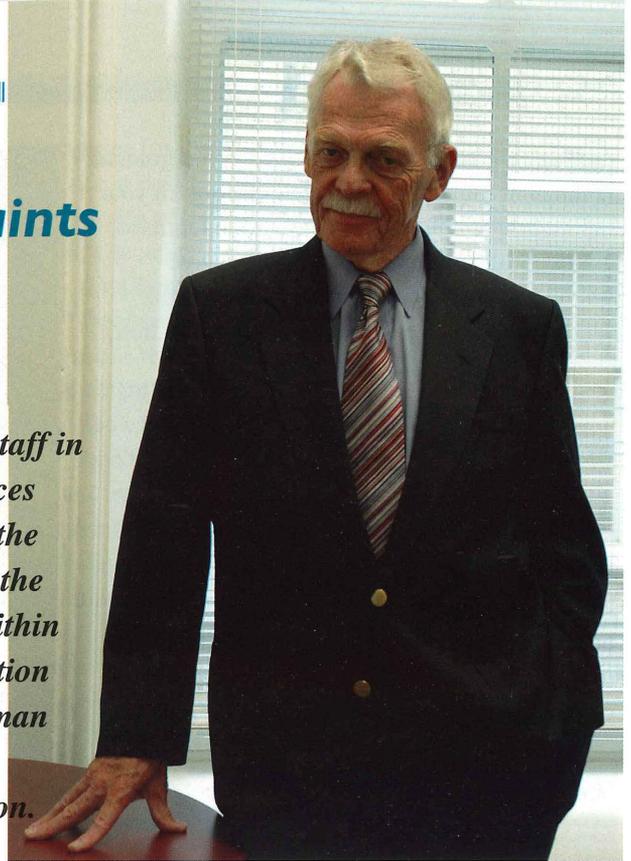
For more information or to register, go to: www.pblo.org.

<p>Conference Sponsors</p>	<p>Conference Funders</p>
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CLARE LEWIS'S NEWYEAR IN RESOLUTIONS

The Law Society's first Complaints Resolution Commissioner on his first year on the job.

All complaints to the Law Society are received first by staff in the Complaints Services department of the Client Services Centre, who either respond (if the complaint is outside the Law Society's jurisdiction) or forward the complaint to the Professional Regulation Division (if the complaint is within the Law Society's jurisdiction). The Complaints Resolution Commissioner is effectively the Law Society's Ombudsman for complaints that are within our jurisdiction and that have been closed by the Professional Regulation Division.



After an extensive career in resolving public complaints, and having retired, Clare Lewis might well have thought he'd seen and done it all in his chosen field.

As the Law Society's first Complaints Resolution Commissioner, however, he has found his new part-time position to be "distinctively challenging and interesting." The former Provincial Court judge, Ontario Police Complaints Commissioner and Ontario Ombudsman had been accustomed to dealing with the public largely through staff, but now he meets with complainants personally.

"Meeting with the complainants has, for me, been the single most significant difference," he says. "I get a direct sense of how important the issue is to the complainant."

Lewis hears and makes recommendations on complaints of professional misconduct dismissed by Law Society staff after they have conducted an investigation. His role was created to augment the complaints resolution process that already exists as one of many ways the Law Society fulfills its mandate to serve the public interest. The role's bottom-line purpose is

to assist the Law Society with ensuring transparency, fairness and accountability.

In the previous process, complainants could arrange to meet with lay benchers from Convocation, the Law Society's governing body, to determine whether the Law Society's decision to dismiss their complaint of professional misconduct was appropriate.

Now, complainants can request a review by the Complaints Resolution Commissioner, who will decide if the decision was reasonable. Complainants are always advised of this option at the time of the decision -- if the complaint raised issues within the Law Society's jurisdiction.

It is essential that the Law Society have an independent process that can provide an arms-length review of its decisions, says Lewis. "It demonstrates that the Law Society is very serious about fulfilling its public responsibility to regulate the members of the legal profession."

An office has been established to support Lewis's role; it comprises a Counsel to the Complaints Resolution Commissioner who advises, consults and briefs Lewis as required and a Complaints

Review Coordinator who ensures the efficiency of the complaints review process.

Having the office has resulted in a more systematic approach with greater continuity, even though they are still developing processes. From April 2005 when the Office of the Complaints Resolution Commissioner commenced operations, to December 2005 when it submitted its annual report to Convocation, 49 review meetings were conducted.

Meeting with the Complaints Resolution Commissioner may not result in a different conclusion, but there is always that possibility. "Of course, there have been times when I could not find evidence to support a complaint," says Lewis. "But on occasion, I have referred the complaint back to the Law Society for further action."

It's been a good first year, Lewis says, and he's pleased to be participating in such an important function. "I'm privileged and honoured to have been selected – it is certainly satisfying to me, at this late stage of my career, to be able to contribute my experience and knowledge." ■

The Equity Advisory Group

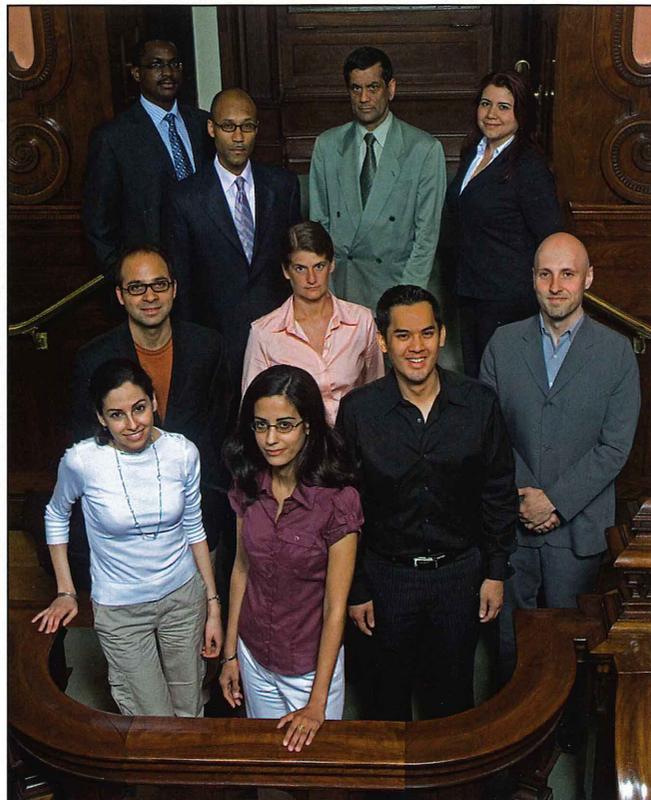
The Law Society's Equity Advisory Group (EAG) continues to assist the Law Society in the development of new policies and programs for a more inclusive legal profession, welcomes new EAG members, and extends its thanks to past members for their insight and advice.

Members of the Law Society's Equity Advisory Group (EAG) are a remarkably diverse group of lawyers, law students and legal organizations. They share a common goal, however: to achieve a more representative and inclusive legal profession.

The EAG was created in 2002 to assist the Law Society's Equity and Aboriginal Issues Committee (EAIC) in the development and promotion of policies and programs that advance equity and diversity. A volunteer group, it is made up of individual members and organizational representative members who have been selected from applications submitted by Ontario lawyers and law students with a professional or volunteer background in social justice work.

Newly reappointed EAG Chair Milé Komlen, a former human rights lawyer at a Bay Street firm who is now CIBC's senior diversity consultant, is pleased with the headway the EAG is making.

"We are working on many different issues surrounding access to justice for equality-seeking groups," he says. "We are having an impact on promoting diversity in the legal profession – the Law Society's public education events in particular have been very well-attended by the profession and the public. Of course, this is just a beginning, and much more work remains to be done."



Pictured left to right: (back row) Amandi Esonwanne, Frank Walwyn, Raj Anand, Victoria Romero; (middle row) Faisal Bhabha, Chantal Morton, Joseph Cheng, Milé Komlen; (front row) Dania Majid, Zahra Binbrek. Absent from photo: Anita Balakrisna, Jonathan Batty, Evelyn Baxter, Ritu Bhasin, Kelly Burke, Soma Choudhury, Michelle Dagnino, Nikki Gershain, Phyllis Gordon, Julie Ralhan.

Since its inception, the EAG has participated in a wide range of equity initiatives or processes, including the hiring of two Alternate Discrimination and Harassment Counsel (DHC) for the purpose of strengthening the DHC Program; the drafting of the model policy for law firms and other organizations, entitled Sexual Orientation and Gender Identity: Creating an Inclusive Work Environment; the faith based arbitration

consultations undertaken by Marion Boyd; the mentoring program of the Equity Initiatives Department; and the studies undertaken by Professor Fiona Kay on women in the legal profession and contemporary law practices.

The EAG has also participated in discussions regarding the issues facing internationally educated lawyers and has made detailed submissions to the Paralegal Task Force as well as to the Task Force on the Continuum of Legal Education. Further, the EAG has representatives on Law Society working groups exploring issues such as how to retain women in private practice and the improvement of access to the legal profession for law students and lawyers with disabilities.

"The EAG is one of many ways in which the Law Society promotes and supports equality and diversity both in the legal profession," notes Josée Bouchard, the Law Society's Equity Advisor. "The Law Society continues to lead the way as both a role model and as a resource by developing and offering best practices and model policies to guide lawyers in promoting equality and diversity in all areas of their practice, including in the workplace and in the provision of services."

Komlen and Bouchard extend their thanks and appreciation for the work done in 2005 and 2006 to reappointed members and outgoing members. They also extend a warm welcome to the newly appointed members for 2006 and 2007.

For more information about the Law Society of Upper Canada's equity and diversity initiatives, including the Equity Advisory Group, visit www.lsuc.on.ca. ■

www.CanLII.org Canadian Legal Information Institute (CanLII)

www.CanLII.org has done what many online legal searchers wish for – established itself as a must-use site with a comprehensive collection of Canadian legislation and caselaw. CanLII.org is the conception of the law societies of Canada, who have put the resources together to design and maintain an ever-growing and free virtual library that is fast, easy and 100% accessible to anyone with Internet access.



CanLII is a virtual law library that was created as a joint initiative with Canada's other legal regulators through the Federation of Law Societies of Canada to provide free legal information from the courts, government and other institutions to both lawyers and the public.

Courts, legislatures and administrative tribunals partner with CanLII by providing the documents (cases/legislation) that are published on the site.

Through the site, lawyers can access:

- 375,000 decisions, with 5,000 new decisions added each month.
- Canadian case law from the Supreme Court of Canada, all appellate and trial courts and tribunal, board and administrative rulings.
- Statutes and regulations from 13 out of 14 Canadian jurisdictions, which are updated monthly.

All versions of statutes are retained so that amendments can be tracked. Two hundred Supreme Court of Canada decisions prior to 1985 have also recently been digitized and published on CanLII.

In May 2005, CanLII won the *Hugh Lawford Award for Excellence in Legal Publishing* at the annual Conference of the Canadian Association of Law Libraries.

"CanLII has come a long way in only five years," says Janine Miller, Director of the Great Library at Osgoode Hall and CanLII Project Manager. "It is constantly improving its functionality and coverage."

"The site provides lawyers with an excellent alternative for locating recent case law and legislation," adds Miller. CanLII provides a superior search method and includes value-added features such as the ability to search using variant forms of search terms or by citation and style of cause. Results are ranked by relevancy, and you can refine your search by date, court level and jurisdiction.

You can also easily link to cited cases and legislation or generate a Noteup list showing cases that cite the document being viewed. As well, parallel citations to print reporters are included at the top of each case and a neutral citation or a CanLII citation is provided.

Visit www.canlii.org to learn more. ■

Law Society hosts reception for International Law Association delegates



Pictured left to right: (front row) Chief Justice R. Roy McMurtry, Ontario Court of Appeal; Lady Slynn and the Right Honourable Lord Slynn of Hadley, Chairman of the ILA Executive Council; Ontario Attorney General Michael Bryant; Law Society Treasurer Gavin MacKenzie; (back row) Law Society CEO Malcolm Heins, LSM; Lech Walesa, former president of Poland and Nobel Prize for Peace winner; Milos Barutciski, President of the Canadian branch of the ILA; and conference co-chairs Janet Walker and Barry Leon.

MORE THAN 700 PRACTITIONERS, judges and academics from 66 countries around the world attended the 72nd Biennial Conference of the International Law Association in Toronto to hear speakers discuss current and emerging issues of global significance in a wide range of areas of private and public international law.

As part of its support for the conference, the Law Society of Upper Canada hosted a reception for International Law Association delegates on June 6. Welcoming remarks were provided by Law Society Treasurer Gavin MacKenzie; Chief Justice R. Roy McMurtry of the Ontario Court of Appeal; the Right Honourable Lord Slynn of Hadley, Chairman of the International Law Association Executive Council; and Milos Barutciski, President of the Canadian branch of the International Law Association. Hundreds of delegates were provided tours of historic Osgoode Hall. ■

Colloquium on the Legal Profession



The Hon. Roy McMurtry, Chief Justice of Ontario, welcomed guests to the Sixth Colloquium on the Legal Profession, *Law and Lawyers in Literature and Film*, on March 10, 2006. The colloquia on professionalism were developed by the Chief Justice of Ontario's Advisory Committee on Professionalism in order to maintain and encourage those aspects of the practice of law that make it a learned and proud profession. The colloquia are a co-operative effort among the legal organizations in the province. Papers from this and past colloquia can be found at <http://www.lsuc.on.ca/news/al/hottopics/committee-on-professionalism/papers-from-past-colloquial>.

Upcoming Event

The Seventh Colloquium on the Legal Profession, *Polemics and Professionalism*, will be held at the Law Society of Upper Canada on Friday, October 20, 2006 from 9:00 a.m. to 3:30 p.m.

Featured speakers will include the Honourable Stephen Goudge, Court of Appeal for Ontario; the Honourable Robert P. Armstrong, Court of Appeal for Ontario; Earl A. Cherniak, Q.C., Lerner LLP; Sheila Block, LSM, Torys LLP; Alan D. Gold, Gold & Associates; and Law Society Treasurer Gavin MacKenzie.

Equity public education events commemorate dates of significance

EVERY YEAR THE LAW SOCIETY SPONSORS A SERIES OF EQUITY PUBLIC EDUCATION EVENTS TO ENCOURAGE THE EXCHANGE OF INFORMATION AND IDEAS ON EQUALITY AND HUMAN RIGHTS ISSUES AND CELEBRATE ACHIEVEMENTS IN DIVERSE COMMUNITIES TO HELP PROMOTE GREATER EQUITY AND DIVERSITY IN THE LEGAL PROFESSION.

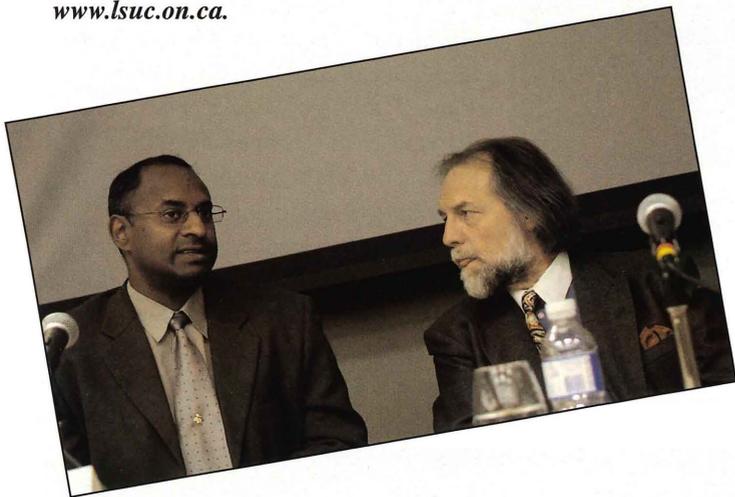
In the past few months, the Law Society has hosted events to commemorate International Women's Day, International Day for the Elimination of Racial Discrimination, National Holocaust Memorial Day, South Asian Heritage Month, National Aboriginal Day, and Pride Week.

For event coverage and webcasts, please go to www.lsuc.on.ca.



International Women's Day

Clara Ho of the Metro Toronto Chinese and Southeast Asian Legal Clinic spoke about the need to eliminate trafficking in women and children at a public forum to commemorate International Women's Day at the Law Society on March 8, 2006.

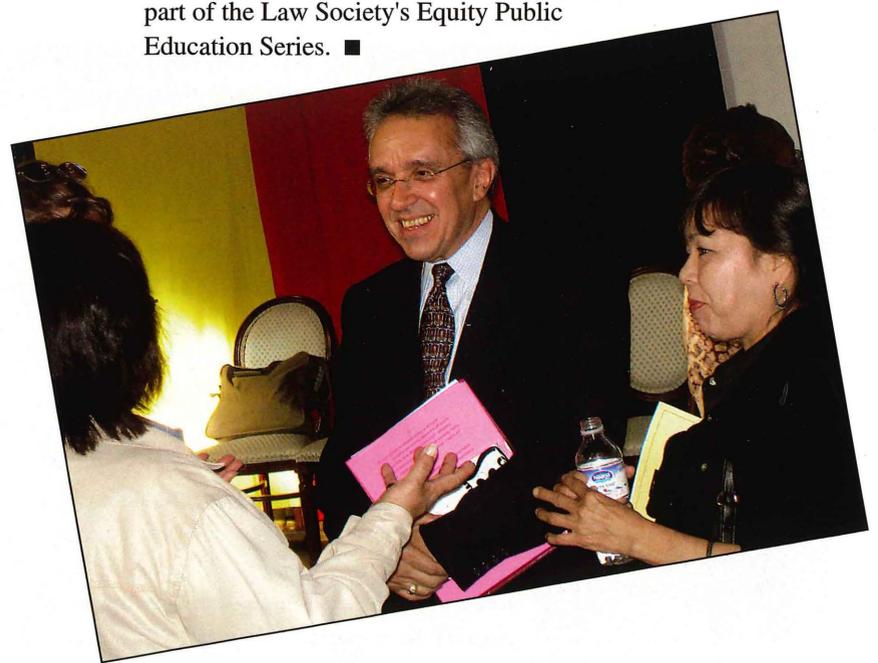


National Aboriginal Day

Justice Harry LaForme, the first Aboriginal person in Canada to sit on an appellate court, speaks with Toronto lawyer Delia Opekokew at the National Aboriginal Day reception held on June 19 at the Law Society. The reception was part of the celebrations around National Aboriginal Day, which is officially June 21. It was preceded by panel discussions on the subject of Aboriginal justice, presented as part of the Law Society's Equity Public Education Series. ■

Holocaust Memorial Day

Sergeant Ricky Veerappan of the York Regional Police and Mark Sandler of Cooper, Sandler & West participated in the panel discussion for Holocaust Memorial Day at the Law Society on April 26, 2006. The discussion focused on the connection between hate propaganda on the Internet and hate crimes.



Administrative Suspensions & Reinstatements

The list below, which is current as of July 28, 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 benchler, 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 benchler 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

ALBERTA

ATKINS DREW GORDON	1994	CALGARY AB
MERCURY JOHN MICHAEL	1998	CALGARY AB
ZEIFMAN LISA	2002	CALGARY AB

BRITISH COLUMBIA

MORTON CYNTHIA NAN	1983	ABBOTSFORD BC
TAYLOR DANIEL GORDON	1984	VANCOUVER BC

NOVA SCOTIA

MURPHY RONALDA MARIE	1989	HALIFAX NS
WHITTAKER LORIEANN	1998	TUSKET NS

ONTARIO

JOHNSON DEREK ALEXANDER	2004	AMHERSTVIEW ON
BUTCHER LEROY ROGERS	2000	BRAMPTON ON
LOON KENNIE	1996	GLOUCESTER ON
MCGEE JOHN LUKE	1993	LONDON ON
BELL TERESA MARIA	1983	MISSISSAUGA ON
SIMPSON THOMAS JOHN	1986	MISSISSAUGA ON
TIMPANO TIMOTHY GEOSPEH	2001	ORILLIA ON
FULTON BRENT ALEXANDER	2002	OSHAWA ON
BEAUDOIN JOHN MARK	2003	OTTAWA ON
BECKE PETER ALAN	1982	OTTAWA ON
CRAIG JOHN HENDERSON	1998	OTTAWA ON
EDIRIWEERA NELUSHA	1997	OTTAWA ON
IZZARD KAREN ANN	1990	OTTAWA ON
LEFEVRE ROBIN GEOFFREY	1983	OTTAWA ON
MCGARRY DESMOND EAMON	1980	OTTAWA ON
MOLINO TERESA ANASTASIA	2004	OTTAWA ON
ORTIZ STEFFI URSULA GOEHLICH	1990	OTTAWA ON
WHITZMAN STEPHEN AVRUM	1978	OTTAWA ON
KANHAI CAMILLE ALIA RAHAMUT	1986	RICHMOND HILL ON
BENEVIDES HUGH JOHN	1996	TORONTO ON
DEY RANDOLPH EDWARD	1986	TORONTO ON
JOHNSTON DARLENE MARY	1991	TORONTO ON
KLINE SANDRA LYNN	1990	TORONTO ON
MACINNES NORMAN JAMES	1982	TORONTO ON
RASBACH CELIA ANTONIA ELSE	1986	TORONTO ON
SHEPPARD CARRIE LYNN	2002	TORONTO ON
WHITE CHARLES STEPHEN	1992	TORONTO ON
FILE PATRICIA ANNE	1985	WYEBRIDGE ON

USA

KHATTAK NADIA NABI	2003	UNITED STATES
WEBB TENNESSEE	1979	UNITED STATES

INTERNATIONAL

JUMAN AZAZ KHAN	1999	BARBADOS
ADAMS STEPHEN PALMER	1995	BRITISH VIRGIN ISLANDS
MONTEITH DIANE DEBORAH STEPHANIE	1995	BRITISH VIRGIN ISLANDS
HARPER PAULINE MARIE	1998	FRANCE

SUSPENSIONS

ALBERTA

OMURA SHARON LYNN KEIKO	1989	CALGARY AB
KOSAK ALVIN RAY PAUL	1990	EDMONTON AB

SUSPENSIONS

BRITISH COLUMBIA

FISHER-FLEMING ANDREA	1993	ABBOTSFORD BC
ETHERIDGE ANGELA NORA	2004	FERNIE BC
BENT PENELOPE DALE	1989	NANAIMO BC
BURKE MARY KATHERINE	2003	VANCOUVER BC
DE PROPHETIS THOMAS STEVEN ANTHONY	2005	VANCOUVER BC
HUNDAL DEEPK	2004	VANCOUVER BC
MACFARLANE CRAIG BRYN	1976	VANCOUVER BC
PUNJABI TANYA NASEEM	1997	VANCOUVER BC
SEMPLA ALEXANDER JAMES	1990	VANCOUVER BC
WILLIAMS SUZANNE STRATHDEE	1995	VANCOUVER BC
CASSWELL DONALD GEORGE	1978	VICTORIA BC
NICHOLDS DAVID LEONARD	1975	VICTORIA BC
POORE DAVID ROBERT	1994	VICTORIA BC

MANITOBA

MILLER NICOLE DAWN STRACHAN	2003	BRANDON MB
MITCHELL SHELLEY GAY	1981	WINNIPEG MB

NEW BRUNSWICK

HOYT JEFFREY	2000	HALIFAX NB
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NORTHWEST TERRITORIES

BOND SADIE ANN	1996	YELLOWKNIFE NT
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NOVA SCOTIA

CROFTS PETER EDWIN	2003	CHESTER NS
STINSON ROBERT JOHN ROSS	1978	FALL RIVER NS
GASS RANDOLPH ALEXANDER	1990	KENTVILLE NS

ONTARIO

POWER GEORGE MAURICE	1979	AJAX ON
GALWAY PATRICK JAMES	1971	ALMONTE ON
MCKERROW ROBERT DONALD	1974	AMHERSTBURG ON
CURTIS WAYNE	2000	BARRIE ON
LUBON BUTCHER MAXIMA PATRICIA	2000	BRAMPTON ON
MALTAIS MARIE-LOLA SONIA	1997	BRAMPTON ON
STOCKEY ROBERT CHARLES	1974	BRAMPTON ON
EVANS LAUREL ANNE	1983	BURLINGTON ON
GREEN MOSHE	1988	BURLINGTON ON
LIVINGSTONE SHONA JANE	2004	BURLINGTON ON
KOSAR WILLIAM EDWARD	1984	CAMBRIDGE ON
MARSHALL ALBERT HAROLD	1992	CAYUGA ON
SALEHMOHAMED FIROZ GULAMALI	1980	DON MILLS ON
KUSZELEWSKI RAYMOND WALTER	1987	ETOBICOKE ON
MARTIN ALEXANDRA MARY	2003	ETOBICOKE ON
GOLDMAN ETHEL RHODA KECES	1978	GUELPH ON
IANNI PAUL	1995	HAMILTON ON
PETRINI GEORGE	1958	HAMILTON ON
CASSELLI ROBERT FREDRICK	1983	KITCHENER ON
JENKINS JOHN CRAIG	1985	KITCHENER ON
HOLMES CATHERINE IRENE	1993	LONDON ON
BURCHELL ALFRED GLEN	2004	MARKHAM ON
COETZEE ERNEST DAVID	1989	MISSISSAUGA ON

SUSPENSIONS

ELIOPOULOS PETER	2000	MISSISSAUGA ON
HUTCHINSON DAVID VICTOR	1973	MISSISSAUGA ON
MACEWEN ROBERT RANDALL	1997	MISSISSAUGA ON
SINGER DARRYL	1993	MISSISSAUGA ON
TRAYNOR MICHAEL HOWARD	1990	NEPEAN ON
DULLEGE ROY ANTHONY	1994	NEWMARKET ON
APSE JANIS	1974	OTTAWA ON
CLARK DOUGLAS ALEXANDER	1999	OTTAWA ON
GEDDES MARK THEODORE	1988	OTTAWA ON
GRANDBOIS DARRYL ALEXANDRE	1974	OTTAWA ON
HANSON DANIEL ARNOLD	1996	OTTAWA ON
HARTLEY BRADLEY GERALD	1987	OTTAWA ON
HUM PATRICIA TZE-WAN WONG	2005	OTTAWA ON
JANCZUR JACEK ADALBERT	1994	OTTAWA ON
KHITAB MARIE GINETTE MICHELE	2004	OTTAWA ON
KOVACS JEROME ALEXANDER FRANCIS	1988	OTTAWA ON
LEWIS CLARISSA MARY	2000	OTTAWA ON
MACLELLAN GEORGE CAREY	1989	OTTAWA ON
MALONGA OMER	2004	OTTAWA ON
MORRIS DAVID ALEXANDER	1993	OTTAWA ON
MURPHY MICHAEL JOSEPH	1989	OTTAWA ON
NDEMA MOUSSA SEVERIN NKOLLA	2003	OTTAWA ON
PANTHER NICHOLAS OWEN	2003	OTTAWA ON
ROY FRANKLIN CHARLES	1980	OTTAWA ON
ROY LISE MARIE-BLANCHE	2001	OTTAWA ON
HARRIES ALAN STANLEY	1974	PETERBOROUGH ON
LOCKETT PETER WESLEY	1971	PICKERING ON
BOULTBEE PAUL KEITH	2005	RICHMOND HILL ON
LULIC PETAR	2001	SCARBOROUGH ON
HELLINGA ELIZABETH	2002	ST CATHARINES ON
REYNOLDS SAMUEL SCRYMGEOUR	1994	ST CATHARINES ON
WOOD SHELDON LAWRENCE	1990	STRATFORD ON
HARVARD JOHN MILTON	1974	STRATHROY ON
JESSUP ANDREA MEREDITH	2002	STURGEON FALLS ON
KATZ RANDIE TAMAR	2003	THORNHILL ON
SOSKIN LANCE NATHAN	1999	THORNHILL ON
WEINSTEIN BEN	1957	THORNHILL ON
GRIFFIN CLARENCE JUSTIN ASHLEY VINCENT MOHAMMED	1995	THUNDER BAY ON
WOODS TYLER ALFRED JAMES	1995	THUNDER BAY ON
AGUIRRE RICARDO MAX	1999	TORONTO ON
ATLIN BRAM ALEXANDER	2002	TORONTO ON
BAGAMBIERE DAVIES	1995	TORONTO ON
BAJKIJAIE BENJAMIN FELIX	1999	TORONTO ON
BALABAN LISA	1999	TORONTO ON
BARRETT MARCIA ALEXIA	2002	TORONTO ON
BOISSONNEAULT JEAN MARC	1983	TORONTO ON
BRUNER DAVID ALLEN	1986	TORONTO ON
CADOGAN GIDRON MACDONALD O'CARROL	1997	TORONTO ON
CORREIA MARGARIDA	1993	TORONTO ON
DEMARAY JANE CAROLYN	1980	TORONTO ON
DOYLE RICHARD JOHN FRANCIS	1984	TORONTO ON
ERMACORA JAMES ANTHONY	1979	TORONTO ON
FALLIS RONALD THOMAS	1985	TORONTO ON
FORTIER PENELOPE ANN	2003	TORONTO ON
HARTE CELIA JEWEL	1999	TORONTO ON
JINDAL SANDEEP KUMAR	2003	TORONTO ON
JOHNSTON JULIA KATHLEEN	1999	TORONTO ON
JONES KEVIN ARTHUR	1966	TORONTO ON
KATCHEN BERNARD DAVID	1979	TORONTO ON
KELLY ARNOLD FITZ GERALD	1997	TORONTO ON
LEWIS JOSEPH EARL	1965	TORONTO ON
LOKASH PAUL EUGENE	1968	TORONTO ON
LUTTER INGRID	1982	TORONTO ON
MANN MICHELLE MARIE	1996	TORONTO ON
MARINICH STEFANIE	2002	TORONTO ON
MCQUAID KENNETH GERARD	1981	TORONTO ON
MITCHINSON JAMES THOMAS	1979	TORONTO ON
NEWTON-SMITH APPLE CASEY	1999	TORONTO ON
NORDHOLM EDWIN BLISS	1987	TORONTO ON
OPOKA-OKUMU CHRISTOPHER	1991	TORONTO ON
PARK JULIANE	2000	TORONTO ON
PETERSON EDMUND	1987	TORONTO ON
POLLACK ARTHUR SIDNEY	1967	TORONTO ON

SUSPENSIONS

RICKWOOD ROGER RONSON	1985	TORONTO ON
RILEY PAUL ANTHONY	2004	TORONTO ON
SCHUETZ CARL HEINRICH	1998	TORONTO ON
SCIUK DAVID GEORGE	1987	TORONTO ON
SIERRA BALJIT	1997	TORONTO ON
STERN ARTHUR DAVID	1983	TORONTO ON
STRATTON JAMES BLACKWELL	1972	TORONTO ON
SWAN MICHAEL PHILIP ALBERT	2000	TORONTO ON
TOWNEND GORDON MANTON	1980	TORONTO ON
WOLCH JONATHAN DAVID MORRIS	1995	TORONTO ON
WORTSMAN ROBINS JILLIAN BETH	1997	TORONTO ON
STURM ELLIOT AVRAHAM	2005	VAUGHAN ON
JOSIC MICHELLE MARIE	1995	WINDSOR ON
MCGLAUN PAULA ELEANORE ALEXANDER	1999	WINDSOR ON
SCULLION JOAN DIANNA	1982	WINDSOR ON
BRUZIO PATRIZIA IDA	2004	WOODBIDGE ON

QUEBEC

NEAMTZ SARA ELIZABETH	1997	GATINEAU QC
IANNUZZI PIETRO	2002	MONTREAL QC
RUCCOLO LIA SARA STELLA	2005	MOUNT-ROYAL QC

SASKATCHEWAN

DECKER CAROLYN RUTH	1999	REGINA SK
MITCHELL GRAEME GEORGE	1982	REGINA SK

U.S.A

DICKEY MICHAEL JAMES	1990	UNITED STATES
DONOSO IGNACIO ALBERTO	1995	UNITED STATES
DUBOWITZ MARK	1997	UNITED STATES
GARBALIAUSKAS ROMAS PETRAS	1994	UNITED STATES
GREENWOOD BARBARA JESSUP	1982	UNITED STATES
JACOBSON DARRYL MORGAN	1996	UNITED STATES
KLEIN ALANA MICHELLE SHARON	2003	UNITED STATES
MOORE KEVIN ALAN	2003	UNITED STATES
PEACOCK ANTHONY ARTHUR	1989	UNITED STATES
RADOMSKI CHRISTOPHER VINCENT	1993	UNITED STATES
ROSENBERG HOWARD STEPHEN	1991	UNITED STATES
SACKS RUSSELL DAVID	2000	UNITED STATES
SATUSKY ELTON	2000	UNITED STATES
SIRKIS PAUL JACOB	2002	UNITED STATES
THOMPSON REGINALD SHAWN	1997	UNITED STATES
ZHU JIN	2005	UNITED STATES

INTERNATIONAL

FRIDMAN SAUL BENJAMIN DAVID	1986	AUSTRALIA
BOARDI AJAMU NAWVENA KAZEMBE	1998	BARBADOS
BERNSTEIN JOHANNA RUTH	1989	BELGIUM
CAVE NEVILLE MARK MA	2001	BERMUDA
BARRIE THOMAS SHEARER	1985	CHINA
FLOOD CHRISTOPHER JOHN	2001	CHINA
CHAN CHEE YEN SUZANE	1993	HONG KONG
CHIK PUI HONG	1993	HONG KONG
FONG PIK YEE	1995	HONG KONG
JOHNSON IAN DOUGLAS	1986	HONG KONG
LAU LOUISA YUEN PING	1990	HONG KONG
LEE QUEN TAI	1994	HONG KONG
JAMES OSWALD PAUL DAVID	1997	JAMAICA
ARTHUR JAMES A	2000	JAPAN
SIMPSON RICHARD BRADLEY	2003	MEXICO
TRAYNOR MICHAEL HOWARD	1990	NEPEAN ON
GARDNER HARTLEY WAYNE	1997	RUSSIAN FEDERATION
SAGORSKY TAL SHIRA	1999	SWITZERLAND
TACKABERRY JAMES ARNOLD	1980	THAILAND
CAROE LAURENCE CHARLES	1971	TURKS & CAICOS ISLANDS
KAKONGE LYVIA	1995	UGANDA
KUMAR PRIYADARSHINI	2003	UNITED ARAB EMIRATES
BROOKS JASON CHALMERS	2003	UNITED KINGDOM
CADSBY TAMMY SHARON	1999	UNITED KINGDOM
DUFAYS PAUL ARTHUR	1999	UNITED KINGDOM
HILLS CHARMIAN	1991	UNITED KINGDOM
INGRAM TREVOR DOUGLAS	2002	UNITED KINGDOM
JOLY CAMILLE MICHELINE MARIE	1997	UNITED KINGDOM
MCARDLE WAYNE PATRICK JOSEPH	1984	UNITED KINGDOM
TRAYNOR KATHLEEN ANNE	1996	UNITED KINGDOM ■

A level “legal” playing field – myth or reality?

IS IT POSSIBLE TO CREATE A LEVEL “LEGAL” PLAYING FIELD FOR THE POOR AND DISADVANTAGED? A RECENT SUPREME COURT DECISION PROVIDES A RESOUNDING YES, YET EQUAL ACCESS TO JUSTICE IS STILL A LONG WAY FROM BEING REALIZED.

This spring the Supreme Court of Canada in *Tranchemontagne v. Ontario (Director, Disability Support Program)* ruled in favour of tribunals exercising jurisdiction over human rights issues. The majority wrote, “In general, encouraging administrative tribunals to exercise their jurisdiction to decide human rights issues fulfils the laudable goal of bringing justice closer to the people.”

Grace Kurke, staff lawyer at the Sudbury Community Legal Clinic and one of the counsel on the case, described it as a huge victory for disadvantaged people across Canada. Ms Kurke explained the impact of the Supreme Court decision as “bringing human rights considerations to the forefront in ways that have not previously been the case in this country.” Sudbury Community Legal Clinic was one of three legal aid clinics that appeared in the matter (along with Advocacy Centre for Tenants Ontario and the African Canadian Legal Clinic).

It is not unusual for legal aid community clinics, lawyers acting on legal aid certificates or legal aid staff lawyers to appear at all levels of court to argue the law. Legal Aid Ontario’s mandate to provide high quality legal aid services is met each day in Ontario’s communities by these dedicated and experienced lawyers.

Yet it is often frustrating for many that work in the legal aid industry to view the headway these exemplary professionals have made in creating a level “legal” playing field.

Why? We have some of the best lawyers in the country undertaking legal aid cases, setting legal precedent and providing best practice services. However, unrealistic legal aid financial eligibility thresholds mean an increasing number of low-income people are being turned away from these lawyers’ services.

Legal aid financial eligibility guidelines are set by the provincial government and have not been revised since 1996 when they were actually cut by 22 percent. Every year, the gap between inflation and eligibility increases and currently the guidelines require a 23 percent increase to bring them into line with 10 years of inflation.

Our immediate goal in the year ahead is to have the financial eligibility thresholds increased to match inflation. Longer term we want to undertake a comprehensive review of the eligibility guidelines so they reflect the economic and social reality of low-income people.

If the financial eligibility guidelines remain unchanged the human and social repercussions will be far reaching. These repercussions will be realized through possible outcomes such as more people who are charged with criminal offences self-representing and families in breakdown, facing some of the toughest times of their lives but being forced to negotiate the family law system alone.

The issue of financial eligibility for legal aid services is one with which



by Janet Leiper,
Chair, Legal Aid Ontario

Ontario and many other provinces are familiar. The eligibility policies were put in place to ensure legal aid is delivered within certain budgetary constraints and to reserve these services for those in need. However, we need to be responsive to changing economic conditions and the growing number of people who are not eligible for legal aid but unable to afford their own lawyer.

In 2005, the United Nations working group on Arbitrary Detention noted that in all ten provinces of Canada, the threshold for financial eligibility is below the Statistics Canada low-income cut-off. Canada is recognized for having a justice system committed to fair trials, an independent judiciary and the rule of law. It is important that our country continues to provide access to these foundations of our democracy for which we have come to enjoy an international reputation.

At the Advocates’ Society Spring Symposium, David Boies, well-known American trial lawyer and counsel on *Bush v. Gore* and *U.S. v. Microsoft*, spoke of his experience on these major cases. In reference to the teams of counsel in the antitrust litigation in *U.S. v. Microsoft*, Boies noted the potential for unfair results in an adversarial system where one party has disproportionately greater resources than the other, and specifically mentioned the inequities at play for low-income Americans. The point is equally well made in Canada, where our adversarial system has the potential for similar inequities when litigants are unequally equipped or advised.

It is now time to reach a greater number of those in need – real rights demand real representation. ■

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