

ONTARIO LAWYERS GAZETTE

LA REVUE DES JURISTES DE L'ONTARIO

Succession Planning



LET RIGHT PREVAIL

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

FOCUS

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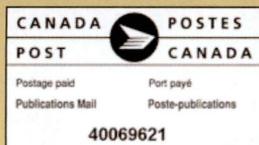
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Notice

Annual General Meeting

Notice is hereby given that the Annual General Meeting of The Law Society of Upper Canada will be held at Osgoode Hall, 130 Queen Street West, Toronto, on Wednesday, May 13, 2009 beginning at 5:15 in the afternoon. All members and paralegal members of the Society are invited to attend.

Osgoode Hall
February 27, 2009

Katherine Corrick
Secretary

Avis

Assemblée générale annuelle

La prochaine assemblée générale annuelle se tiendra à Osgoode Hall, 130, rue Queen Ouest, à Toronto le mercredi 13 mai 2009 à 17 h 15. Tous les membres et membres parajuristes du Barreau sont invités à y participer.

Osgoode Hall
Le 27 février 2009

Katherine Corrick
Secrétaire

Parental Leave Assistance Program

The Law Society announces the launch of the **Parental Leave Assistance Program**. Effective March 12, 2009, the program provides financial benefits to practising lawyers in firms of five lawyers or fewer who do not have access to other maternity, parental or adoption financial benefits under public or private plans and who meet the eligibility criteria.

Full details of the Parental Leave Assistance Program, including guidelines, the application form and frequently asked questions, are available on the Law Society's website at www.lsuc.on.ca under the Parental Leave Assistance Program section. See also report pages 34-35.

TREASURER'S MESSAGE

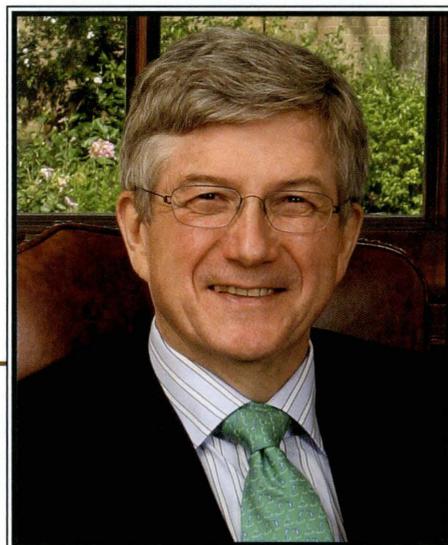
● The vital role of sole practitioners and small firms

SIXTY-THREE PER CENT OF ONTARIO LAWYERS IN private practice are either sole practitioners or in firms of two to ten lawyers. These members play a vital role in furthering the Law Society's mandate to promote access to justice. Indeed, for most Ontarians, this is the only segment of the bar with whom they will interact whether buying or selling a home, writing a will, or in relation to their small businesses. Sole or small firm practitioners also handle the vast majority of legal aid cases and provide the majority of services in languages other than English, French and Italian.

It is essential that this segment of the profession remain healthy and vibrant to ensure that Ontarians can access the justice system effectively when they need it.

An issue that affects all lawyers is succession planning. Our statistics show that 41 per cent of practising lawyers are over 50 years of age. The graying of the bar is being felt most profoundly in smaller centres served by sole practitioners and small firms.

As professionals, it is our responsibility to ensure that we have made proper plans to guarantee that our obligations to our clients can be met. Succession planning is not something that



Treasurer W. A. Derry Millar

MESSAGE DU TRÉSORIER

● Le rôle intégral des juristes autonomes et petits cabinets

SOIXANTE-TROIS POUR CENT DES AVOCATS ET avocates de l'Ontario qui travaillent en pratique privée exercent seuls ou dans des cabinets de deux à dix avocats. Ces membres jouent un rôle intégral dans la réalisation du mandat du Barreau qui vise à promouvoir l'accès à la justice. De fait, ces avocats et avocates sont les seuls que la plupart des consommateurs de services juridiques en Ontario rencontrent pour exécuter des opérations juridiques de particuliers, comme l'achat ou la vente d'une maison, pour rédiger un testament, ou encore, pour leurs petites entreprises. Les avocats et avocates exerçant seuls et en petits cabinets s'occupent également de la grande majorité des dossiers d'aide juridique et fournissent la

majeure partie de leurs services juridiques dans d'autres langues que le français et l'anglais, ou l'italien.

Il est essentiel que ce segment de la profession soit en bonne position pour assurer aux Ontariens et Ontariennes un accès à l'appareil judiciaire lorsqu'ils en ont besoin.

La planification de la relève constitue l'un des problèmes qui touchent tous les avocats. Nos statistiques démontrent que 41 pour cent des avocats en exercice ont plus de 50 ans. Le barreau vieillit et ce sont les plus petits centres, desservis par des juristes autonomes et des petits cabinets, qui s'en ressentent le plus.

can be ignored. Planning for unforeseen circumstances is part of being a competent lawyer. Failing to have a carefully considered plan can have unpleasant consequences not only for our clients, but our partners, employees and families, as well.

The Law Society is working with the County & District Law Presidents' Association and the Ontario Bar Association to provide support for sole and small firm practitioners in a coordinated and collaborative way. Together we are working to devise strategies that will provide practical support. For example, on the Law Society website there is now a section in the Resource Centre that is devoted to providing practical resources and tips for sole and small firm practitioners. We are also working on strategies to encourage younger members of the profession to consider working in non-urban centres, such as the Licensing and Accreditation Task Force's articling registry.

Next month, the Law Society will be holding its Fourth Annual Solo and Small Firm Conference and Expo. I will be hosting a dinner for delegates of that conference on May 6 and I am looking forward to having the opportunity to hear directly about issues that are affecting this segment of the bar. ■



En tant que professionnels, il nous incombe de prévoir comment satisfaire nos obligations envers nos clients. Il nous faut assurer la relève, et tenir compte des imprévus fait partie des tâches d'un avocat compétent. Si nous n'avons pas de plan bien réfléchi, nous risquons des conséquences désagréables non seulement pour nos clients, mais pour nos associés, nos employés et nos familles.

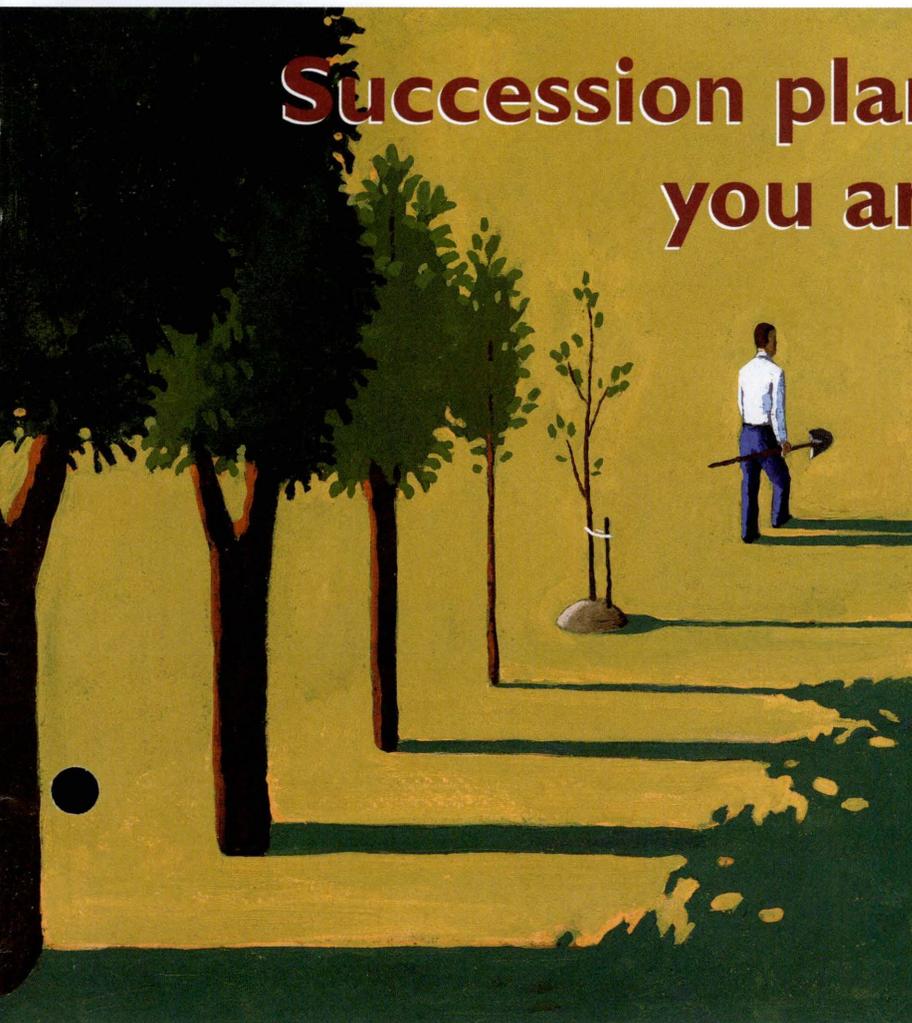
Le Barreau travaille en collaboration avec l'Association des bâtonniers de comtés et districts et l'Association du Barreau de l'Ontario pour appuyer les praticiens autonomes et les petits cabinets. Ensemble, nous mettons au point des stratégies qui fourniront le soutien voulu. Par exemple, le site web du Barreau contient une section, dans le Centre de ressources, qui donne des conseils pratiques aux juristes exerçant seuls ou en petits cabinets. Nous recherchons également des moyens pour encourager les membres plus jeunes de la profession à envisager le travail à l'extérieur des

centres urbains, par le biais du registre de stagiaires du Groupe d'étude sur l'accès à la profession et l'agrément par exemple.

Le mois prochain, le Barreau tiendra son quatrième congrès annuel des praticiens autonomes et des petits cabinets. Je présiderai le dîner des délégués à ce congrès le 6 mai et j'aurai le plaisir de vous entendre parler directement des questions qui touchent cette partie de la profession. ■



Succession planning protects you and your clients



THE NUMBER OF AGING LAWYERS WITH NO SUCCESSION PLAN IS A LOOMING CRISIS FOR THE LEGAL PROFESSION. GIVEN THAT THE LIKELIHOOD OF DISABILITY OR DEATH INCREASES WITH AGE, THOSE WHO HAVE NOT PLANNED FOR SUCCESSION, ARE SITTING ON POTENTIAL TIME BOMBS. MOST HAVE LITTLE IN THE WAY OF A CONTINGENCY PLAN TO COVER AN UNTIMELY DEATH OR DISABILITY, AND DO NOT REALIZE THAT TRANSFERRING THE DAY-TO-DAY MANAGEMENT OF THE BUSINESS CAN TAKE FIVE TO 10 YEARS TO COMPLETE.

Law Society statistics show that 32 per cent of lawyers are aged 50 to 65 and a further nine per cent are over 65, totalling 41 per cent of all members. Of the 20,345 lawyers working in law firms, 34 per cent are sole practitioners and another 29 per cent work in firms of two to 10 solicitors. The exodus of baby boomers and the expected labour shortage will impact the profession in general, but will be a greater challenge for retiring sole practitioners and partners in small firms looking to transfer their assets.

A 2006 survey by the Oregon Attorney Assistance Programⁱ found that 80 per cent of sole practitioners do not have a contingency plan detailing who would service their clients in the event something happened to them. Those who are reactive rather than proactive in planning for the future are putting their financial security, their families, their colleagues and their clients at risk.

The inertia stage

“These lawyers are sitting in what we call the inertia stage of their transition process (see *Figure 1*),” explains Daphne McGuffin, program manager for The SuccessCare[®] Program, a national organization that provides support for the transition of entrepreneurial and family businesses and developer of the Law Society’s *Succession Planning Toolkit*. “They don’t know what they don’t know, so can’t get started on planning their inevitable exit from their practice. For some, it is fear that is holding them back: fear that retirement will result in a loss of income or purpose in life. It is not surprising that people are reluctant to spend time contemplating death or disability. For others, it is a perceived lack of time or knowledge that is preventing them from planning for the future.”

There are many sole practitioners who envision that they will just wind down their practice one day, closing files in an orderly fashion as they are completed. What this plan fails to take into account, however, are two things: the need for financial compensation for the work that they have invested in their practice as the basis of a retirement plan, and the fact that disability or even death may catch them unawares, leaving their clients without representation.

Other practitioners would like to exit with some return on their investment in their practice, yet do not have a concrete plan that will first enhance their maintainable earnings, and then either groom a successor or find a purchaser for their practice. Small firms often ignore the fact that a senior partner is aging, mainly because the issue of succession is considered too “personal,” then are forced into crisis mode when he or she announces plans to retire. Whatever the reason for the inertia, failure to plan increases the likelihood of an involuntary sale – an exit from the practice that is outside their control.

The succession plan

Although financial considerations may underlie the decision to work beyond 65, lawyers must plan for the eventuality that this may not be possible due to age-related decline. A good succession plan will ensure that clients’ interests are not compromised, and retirement planning should include personal financial planning.

Failure to plan

Under the provisions of the *Law Society Act*, the Trustee Services department of the Law Society may obtain a variety of orders to enable the winding up of practices where a lawyer or paralegal becomes incapacitated for any number of reasons.

A typical example will involve the sudden death of a sole practitioner with a large real estate practice, where there are

The Line of Confidence™

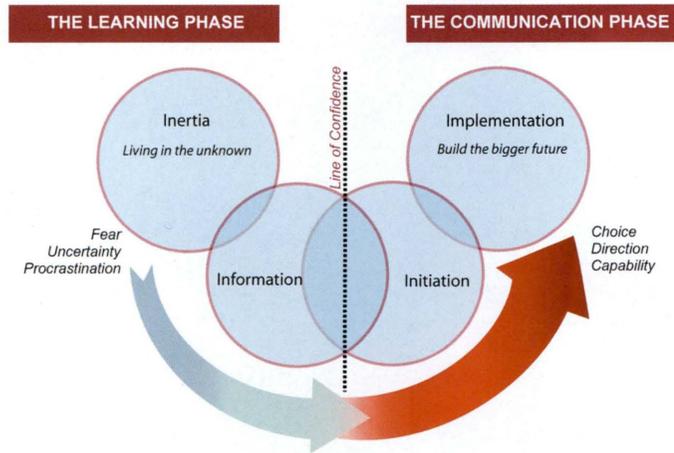


Figure 1 © The SuccessCare® Program

a number of transactions with imminent closing dates. “Unfortunately, this type of incident occurs about six times a year,” says Margaret Cowtan, manager of Trustee Services. “What is required is immediate access to the lawyer’s trust account so that client funds can be released for the closing dates. In 99 per cent of cases where no provisions are in place for a transition, we will have to obtain a court order to be able to access the trust fund.”

Alternate signing authority

She suggests that as a minimum, every sole practitioner should have another lawyer who has alternative signing authority on the trust account in the event of an emergency. Only licensed lawyers or paralegals are permitted to deal with trust accounts; therefore a trustee, employee or family member who is not licensed will not be able to access the trust account – the only exception being that the Law Society will generally permit one cheque to transfer the full balance of the account to a licensee. For clarity, practitioners can also lodge a letter with their bank confirming this authority.

It can be a very intrusive and often expensive undertaking if Trustee Services is required to resort to an order to enable a practice to be wound up. As an alternative,

practitioners can name a licensed lawyer as a limited trustee in their wills for the sole purpose of winding up the practice. By appointing another lawyer as a trustee for the purposes of the practice, on death, that lawyer can not only take professional responsibility for the trust account and make appropriate distributions to clients, he or she can review client files, continue matters should clients elect to engage them, or return files to clients as appropriate.

Communication

“An essential part of this process is to communicate your plans to your family, partners, employees and the appointed trustee so that any transition can be as smooth as possible in the circumstances,” says Cowtan. “We often see family members grappling with these responsibilities at a time when they are grieving and undergoing enormous emotional upheaval. Making these prior arrangements can take a large burden from them.”

Maintain clear records and files

“Lawyers should ensure that they shred files at the appropriate time so that only active files and those that are required to be stored are in their offices. Clear

labelling and clear records of files will enable your family and/or successors to manage the winding down process more quickly and efficiently. We have had instances where we have had to spend three or four days going through old files to determine what has to be kept and what has to be shredded, which is an expense for the estate.” Clear financial records, as well as records of active files and relevant limitation periods for litigation practices, should also be maintained and readily available.

Many sole practitioners or small firms will have a “will bank”, that is a large collection of wills that have been written for clients over the course of a practice. Again, it is important that records for these are kept up-to-date so that a trustee knows which are current and does not have to review old or superseded wills. If a lawyer has been named as a trustee for the purposes of the practice, he or she can at least advertise that the wills are in his/her possession so that clients can contact the office to retrieve them, as well as inform the Law Society of their location.

Another wrinkle is the fact that many firms now operate as LLPs. For a sole practitioner, this means that the shares are normally held by them. The practitioner’s will can provide that on death, the shares are transferred to another lawyer to hold in trust for the estate so that lawyer can wind up the practice and pass any assets to the proper beneficiaries.

Power of attorney

“Practitioners should take their own legal advice on what provisions to include in their wills, but they should be aware that a non-lawyer trustee may not be able to deal with some of these issues easily or efficiently,” says Cowtan. “It is also advisable that lawyers consider these types of issues for powers of attorney in the event that they become temporarily incapacitated through illness or an

accident. That way, they can help ensure that they have a viable practice to return to.”

Voluntary sale

Whether you are a sole practitioner or work in a small or large firm, a good succession plan will allow the retiring partner to realize the value of the business that he or she has built, allow successors to take over a viable business, and ensure that clients’ interests are served.

“The better option by far is the opportunity to create a **voluntary** sale where you choose how and when you want to exit,” says McGuffin. “The key words here are choice and control: planning allows you to control the timing of any change, as well as whether you make an internal sale to someone inside the practice – an existing partner or prospective partner — or an external sale to someone outside the practice – likely a larger firm – who will pay some percentage of the value of your practice. In a worst case scenario, an external sale would be a decision to wind down your practice and voluntarily transfer your clients to someone outside your firm.”

Three kinds of capital

Selling a sustainable practice involves the transition of three distinct types of capital, each of which is essential to the success of the firm:

- the physical capital which resides in the ownership circle in Figure 2
- the intellectual capital which is the basis of the management area
- the social capital which is nurtured in the personal / family area.

Addressing the ownership circle by transferring the physical or tangible assets is tactical and therefore easier to understand. This includes things like premises, office equipment, accounts receivable and work in progress. A potential buyer will also want to see how the other, more intangible, assets which

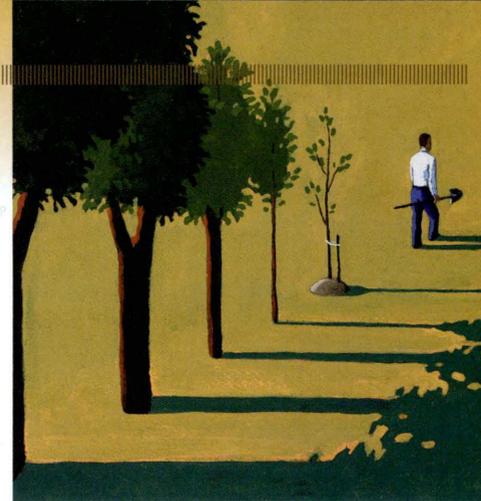
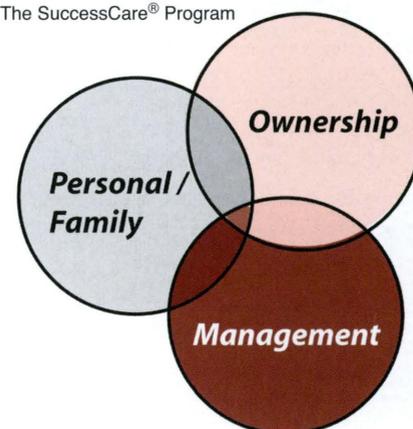


Figure 2

© The SuccessCare® Program



Adapted from the 3-circle Model by Tagiuri & Davis

are probably more critical to the ongoing sustainability of the firm, will be transferred. “The social capital defines the culture of the firm and is equally important to its continuity. It impacts not only how the individual team members and their families feel about the organization, but also the impressions received by clients, lenders and referral sources,” says McGuffin. The reputation and integrity of the firm must be protected by transitioning competencies, wisdom, experience and business connections.

Five years to plan

Preparing for an internal sale generally takes longer than an external sale, especially for a sole practitioner who needs to first identify, recruit and then groom a junior lawyer or a prospective buyer. In a small firm, it can take time to develop junior partners to a point where you can ensure that your firm has all

these capabilities. An effective succession plan will develop the leadership capabilities of junior partners, which will mean that the firm will survive and will engender confidence in your clients that their interests are being served.

Preparing for an exit begins with gathering information. Information allows the practitioner to plan with confidence to ensure they have maximum choice around how and when they exit.

“You need to start early and be committed to the process. Above all, you need to have confidence that it is worth the effort and that the changes you will make will enhance your success,” says McGuffin. “Transition planning is not an event, but a process. The earlier you begin, the greater the choice you will create for your future.” ■

ⁱ Oregon Attorney Assistance Program, “Speaking of Retirement”, *In Sight*, Issue No. 63, September 2006.

Thanks to co-author Daphne McGuffin of The SuccessCare® Program for her contribution to this article.

Got a Plan?

The sustainability of a law firm after the departure of a senior partner depends on the following factors:

- ❖ **Legal expertise:** What was the retiring partner’s area of expertise? Does another partner have that expertise? Is it an important part of the practice?
- ❖ **Client retention:** Clients have to understand the reason for the change, as well as have confidence in the new partner taking on their work.
- ❖ **New business development:** Was the retiring partner the rainmaker? Is someone else groomed for that role? Can business relationships be carried on?
- ❖ **Firm management and leadership:** What role did the partner have in the management of the firm? Financial control? Strategic planning? Does someone else have the requisite skills to take those roles?
- ❖ **Profitability and cash flow:** What is the impact of the departure on cash flow?

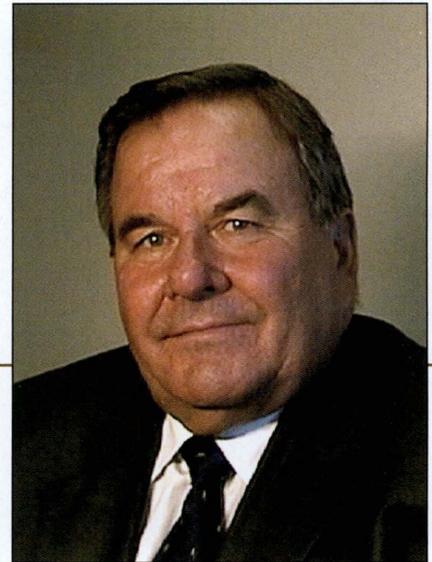
Formal plan integral to all involved

ROD FERGUSON KNOWS FIRST-HAND THE PERILS OF FAILING TO CAREFULLY THINK THROUGH A SUCCESSION PLAN.

Called to the Bar in 1970, Rod Ferguson moved from Toronto to Midland to join a law firm led by Gord Teskey. In 1990, he established his own firm Ferguson and Boeckle. He specializes in litigation, primarily personal injury work, and built his firm on an interesting business model: realizing that many general practitioners in small towns eschew litigation work, he began taking on a “counsel” role for firms across Ontario. “We expanded geographically without having to open

offices by seeing clients in the offices of the referring solicitors.”

In the late 1990s, he began thinking of succession, and entered into a venture with three younger lawyers in his office in a phased buy-out that he hoped would fund his retirement. “I didn’t think that I should work past 65, and wanted to realize the value of the business that I had built.” The four formed a partnership that unfortunately unravelled in about three years. “It was a very difficult experience,” he says, “and I certainly



Rod Ferguson

hadn’t planned on having to start a new firm at the age of 58. But I think that I learned some important lessons from the first attempt at succession planning that have made me more aware of potential pitfalls this second time around.”

Formal planning

One of the factors Ferguson emphasizes is the importance of having a formal plan. "It's vital for all parties to articulate two things: their vision of the firm and their expectations of the relationship. You cannot assume that the other parties will agree with you on either of these things." Moving forward without agreed goals and operational plans can quickly lead to disillusionment on both sides of the relationship.

For the sole practitioner/senior partner, there are psychological factors to consider. "Having been responsible for directing the strategy of the firm for so many years, it is difficult to let go of the reins of power," says Ferguson. "But again, you can't assume that just because you've done something successfully for years, your junior partners will accede to continuing that strategy without their explicit buy in."

For Ferguson, this meant that the new firm took a drastically different shape from his former firm. Previously, he had taken on work from referring counsel across a broad geographic area. His partners launched a plan to open offices in other towns. This resulted in increased overheads, but also meant that the firm was effectively competing for business with the firms that had previously given them business. "Whether that strategy was the right one or not is not the issue," says Ferguson. "What I learned was that I had made assumptions about how the business would operate going forward, and my partners had a very different vision. We voted by share of capital, and when their aggregate total was greater than my share, I was out-voted. In some respects, I felt that little value was placed on my experience, and that demotivated me going forward."

Planning for succession necessarily means planning for giving up control. It doesn't have to mean, however, that the transition cannot be a gradual one which values the experiences and wisdom that

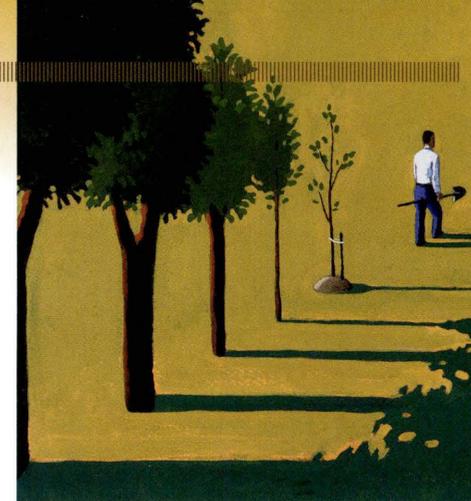
the owner/entrepreneur has gained. Sharing the history of the evolution of the firm, and the reasons certain decisions were made enables junior partners to understand the retiring partner's values and to commit to a strategic plan. "I gave up the managing partner position, which meant I didn't deal with the bank, didn't control the intake of files, and didn't control the distribution of the files."

Generational differences

"Our differences were also compounded by generational differences," comments Ferguson. "That doesn't have to be fatal, and it doesn't mean that you can expect a different generation to want the same things out of their work or for their lives as you do. It is important to recognize and acknowledge those differences, and how they will affect how you work together. For example, our attitudes toward debt were different. Every business needs a certain amount of working capital, and sometimes that involves borrowing. We quickly, however, got to levels that I personally wasn't comfortable with, though my partners were."

Another vital aspect to succession planning is that all parties should get independent legal and accounting advice. "Again, with hindsight, we should have done that. Instead, we all relied on one accountant, who unfortunately gave us bad advice, and we drew up our own partnership agreement that proved almost impossible to unwind."

"Why did I enter into this agreement? Looking back, I'm not sure. I think I felt the pressure of work, and had started to count down to the point I would be able to retire. I wanted to ensure that I had a reasonable lifestyle on retirement, and could realize a fair return on the years I had invested in building the business. I was worried that the younger people in my office were getting impatient and needed the incentive of being partners to

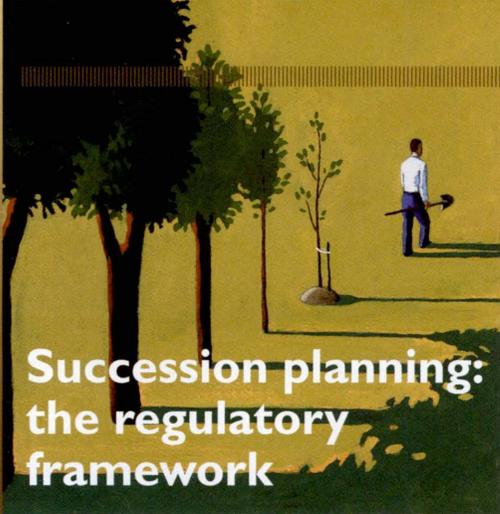


continue working at the firm. All of that was probably true, but as it turned out, I didn't have to give equal partnerships immediately, relinquishing control."

The new plan

Now, his former partners operate as sole practitioners in three locations, and Rod has launched a new firm, Ferguson Barristers LLP, to which he admitted partners in 2007. Ferguson Barristers LLP is a partnership between Ferguson's own company and his three new partners' company. "The details of our specific arrangement probably aren't important because every situation will have different priorities and strategies," he says. "What is important is that we drew up a formal plan and operating strategy, and discussed everyone's expectations of the relationship. We each took independent legal and accounting advice so that we each feel secure with our positions and our responsibilities, but we also have simplified termination and escape clauses in case it doesn't work out."

"What's important," he continues, "is that I have an opportunity to pass on my firm to associates I am comfortable with. I have learned that they are going to operate their firm differently than I did, but I also feel that my experience of building the business is respected and valued. I have an opportunity to have a comfortable retirement, and I know that when I do retire, any ongoing files or long-term clients will be taken care of." ■



Succession planning: the regulatory framework

Rule 2.01 (1) defines a “competent lawyer” as “a lawyer who has and applies relevant skills, attributes, and values in a manner appropriate to each matter undertaken on behalf of a client” and explicitly includes:

- (e) performing all functions conscientiously, diligently, and in a timely and cost-effective manner
- (i) managing one’s practice effectively

Rule 2.01 (2) provides that a lawyer shall perform any legal services undertaken on a client’s behalf to the standard of a competent lawyer.

The commentary to Rule 2.09 (1) says that “having undertaken the representation of a client, the lawyer should complete the task as ably as possible unless there is justifiable cause for terminating the relationship.” A succession and/or retirement plan should ensure that all outstanding client matters are either completed or passed on to another lawyer acceptable to the client before retirement, so that no client is left without legal representation.

Rule 2.09 (7) provides that withdrawal from a file is mandatory if a lawyer becomes incompetent due to sudden illness, disability or impairment. An appropriate succession plan should set in place procedures that minimize expense, avoid prejudice to your clients, and facilitate the orderly transfer of client matters to another lawyer if unforeseen events occur.

Rule 6.01 (3) provides that lawyers have an obligation to report the mental instability of a lawyer or any other situation where a lawyer’s clients are likely to be severely prejudiced.

Succession Planning Resources

The Succession Planning Toolkit reviews the process to plan for the voluntary sale of your practice. The toolkit shows how to initiate a progressive transition that will ensure you:

- control the process
- plan for continued financial independence
- meet professional obligations to facilitate an orderly transfer of client matters
- treat your partners and staff with respect
- reduce stress for your loved ones in the event of your untimely death or disability.

The Succession Planning Toolkit is available free from the Law Society website.

An upcoming CLE program entitled *Succession Planning for Your Practice* will be held May 20. This will be a Teleseminar Plus program.

The Law Society has prepared a *Guide to Closing Your Practice* which is available free-of-charge and is downloadable from the website. This contains a series of checklists and guidance on how to deal with active as well as closed files, as well as sample letters to clients and file transfer directions. It also contains sample **Law Firm Inventory Checklist** and **Law Office List of Contacts** which should be kept current by all law firms, setting out information like computer and telephone passwords, banking information, insurance policies, important contacts and other information that will be essential for anyone taking over a practice in the event of untimely death or disability.

Past CLE programs and materials available from www.lsuc.on.ca include:

Buying and Selling a Law Practice: this program is designed for lawyers who are either considering or in the process of buying or selling their law practice.

Sunsetting Your Practice: A Guide to Closing Your Practice: proactive succession planning for a practitioner in the event of illness or sudden death.

The Canadian Bar Association has prepared a document entitled *Planning Ahead for Partner Retirement*. This includes advice on developing transition plans, compensation, transitioning clients and firm management, and sample retirement provisions and is downloadable from the CBA website at <http://www.cba.org/CBA/PracticeLink/MF/partnerretirements.aspx>.

LAWPRO has prepared a document entitled *Managing Practice Interruptions*, which provides a comprehensive review of the steps you can take to prepare for unexpected minor and major practice interruptions, and how you should respond to them. This is downloadable at <http://www.practicepro.ca/disasterbooklet>.

Support for sole practitioners and small firms

“Sole practitioners and small firms are an essential part of the bar,” said Treasurer W.A. Derry Millar. “For the average resident of Ontario, they are the face of the profession. Our mandate to ensure access to justice means that we have to work to ensure the continued vitality of this segment of the Bar.”

Some 34 per cent of lawyers working in private practice are sole practitioners, and a further 29 per cent work in firms of two to 10 lawyers. Research shows that 77 per cent of the work undertaken by sole and small practitioners is for individuals. Research also confirms that sole and small practices undertake more legal aid work than larger practices, supporting the most vulnerable in society, and they also provide more services in languages other than English, French and Italian.

Support for sole practitioners and small firms is one of Convocation’s eight priorities for its work over the

2007-2011 term. A number of potential initiatives have been identified, including a study of the risk factors that affect sole practitioners; incentives to encourage young people to work in non-urban

centres; creation of networking opportunities for sole and small firm practitioners; assistance in managing life cycles through a parental leave program and locum registry; and succession planning.

In February, Convocation received a report from the Working Group on Sole Practitioner and

Small Firm Lawyers which detailed the

supports that have been put in place by the Law Society, the Ontario Bar Association (OBA) and the County and District Law Presidents’ Association (CDLPA) since

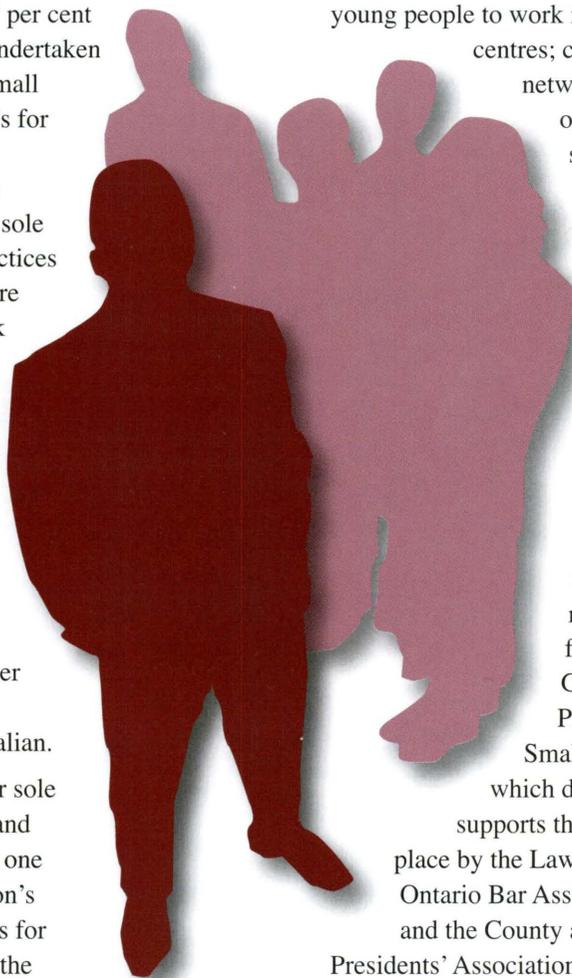
the 2005 Final Report of the Sole Practitioner and Small Firm Task Force.

In introducing the report, Benchers Judith Potter said, “The original task force’s mandate was to examine the nature of sole and small firm practice, including the challenges and pressures that these lawyers face. The task force’s recommendations focused on facilitating the ability of sole and small firm lawyers to continue to provide their unique services to the public of Ontario.”

The working group was established in 2006 to continue work raised by the task force report. The working group is made up of two benchers, two representatives of the OBA, and two representatives of CDLPA. The working group report comprises a compendium of resources from each of the organizations, which Ms. Potter described as a report “that speaks to our common desire and commitment to ensuring that sole practitioners and small firm lawyers, the backbone of the profession, continue to serve the public and will continue to survive and thrive.”

Some of the highlights of the Law Society’s activities include:

- The development of a home page for sole and small firm practitioners on the Resource Centre section of the Law Society website.
- The publication of *The Guide to Opening Your Practice*, which outlines the steps involved in opening a law practice and includes a self-assessment checklist to enable lawyers to consider whether they have the personal competencies to be a sole practitioner.
- The development of the *Succession Planning Toolkit*.
- The development of a locum registry for sole and small firm lawyers looking for short-term contract work or for someone to take over their practice.



- The development of an articling registry to match law graduates with principals.
- A series of visits to law schools, talking to students about the challenges and rewards of small practice.
- The appointment of a Lawyer Liaison Counsel to develop networks among law firms, law associations and law schools around the province.

These initiatives complement the existing continuing legal education and practice management programs that the Law Society pursues on an ongoing basis. ■

Solo and Small Firm Conference and Exhibition

The Solo and Small Firm Conference and Exhibition is a program that is undertaken annually. Last year, over 200 participants heard speakers on a variety of subjects of interest to sole and small firms. This year, the conference is held on May 7 at Osgoode Hall.

The session opens with the popular *60 Tips in 60 Minutes: What's New in 2009?* Panellists share practical ideas for getting things done on a wide variety of issues, such as client service, gadgets, using the Internet, ethics, HR issues and billing.

One highlight of this year's program is *The Top Ten Legal Technologies*. The session gives information on the most basic to the most advanced legal technologies that small firms need to know about. Related programs include *Moving to a Paperless Office*, *Adobe Acrobat and PDF Files for Sharing Information*, *Microsoft Office Word* and *Mobile Lawyers and the Remote Office*.

Participants can also opt to attend sessions on succession planning, work-life balance and surviving and thriving in tough economic times.

Practice Locum Registry

As of April 2009, lawyers can access the Practice Locum Registry through the Law Society website at www.lsuc.on.ca.

A locum is a lawyer who stands in for another practitioner while the practitioner is away from his or her practice, whether for a short period, such as a vacation, or for an extended leave. Generally, the locum will be retained to work in the contracting law firm/lawyer's office and deal with every type of file handled by the practice. However, the locum may also be brought in to handle specific matters or a special project. The locum could work full-time or part-time, depending on the arrangement made between the parties.

Lawyers who are interested in offering their services as a locum will find information on the process and will be able to register their profile, with details about number of years of practice, availability and areas of interest/expertise.

Law firms seeking to retain a locum will also be able to register a profile giving information about the firm and setting out their requirements.

The website will also provide hypothetical locum scenarios and guidance on drafting the locum contract, including sample clauses; and information on dealing with conflicts of interest. Other ethical considerations will also be provided.

A practice locum registry was one of the recommendations put forward by the Retention of Women in Private Practice Working Group to support women in sole practice and small firms to take maternity leaves. Practice locums will be of great benefit to all sole practitioners and small firm lawyers, giving them an opportunity for a break, secure in the knowledge that their practice is being looked after.

There are many reasons why a lawyer might retain a locum, including a maternity leave, a vacation or medical leave, caring for an ill or elderly family member, or a sabbatical to pursue other interests. Sole and small firm practitioners have difficulty taking breaks from their practice and the locum program is designed to address this need. A positive professional life depends on a healthy lifestyle, and periodic breaks from work are essential for maintaining work-life balance.

New Rules of Practice and Procedure for Hearing Panels

NEW RULES OF PRACTICE AND PROCEDURE FOR HEARING PANELS WILL IMPROVE AND CLARIFY THE LAW SOCIETY HEARING PROCESS. CONVOCATION APPROVED THE NEW RULES AT ITS FEBRUARY MEETING FOLLOWING A TWO-PHASE CONSULTATION WITH THE PROFESSION.

The new rules continue the Law Society's commitment to an open and transparent adjudicative process, addressing limitations with the previous rules, while preserving effective procedures.

The proposed new rules are an amalgam of the existing rules of practice and procedure, provisions contained in the *Statutory Powers Procedure Act*, model rules produced by the Society of Ontario Adjudicators and Regulators (SOAR Rules), the Ontario Rules of Civil Procedure and unwritten rules of practice currently followed by the Hearing Panel and the Tribunals Office.

The new Rules of Practice and Procedure for Hearing Panels (new rules) will come into effect July 1, 2009 and will apply to proceedings that commence on or after that date. The current rules will continue to apply to other proceedings.

The following is a summary of the more significant changes between the two sets of rules:

1. Rule 7 [Joinder or Severance of Proceedings]

Under the new rules, it will be possible for the merits of two or more proceedings, in certain circumstances, to be heard together, in whole or in part, or to be heard one immediately after the other. This would only be permitted by the order of the Hearing Panel. It will also be possible for the Hearing Panel, by order, to divide a single proceeding into two or more proceedings.

2. Rule 9 [Commencement, Amendment and Abandonment of Proceedings]

Under the current rules, the Law Society commences every proceeding before the Hearing Panel, whether the Law Society is an applicant (as in a conduct proceeding) or a respondent (as in a reinstatement proceeding). Under the new rules, the Law Society will only commence proceedings in which it is an

applicant (conduct, capacity, competence or non-compliance proceedings) or which have been brought about because the *Law Society Act* requires a hearing to be held if the Law Society is not prepared to grant an individual something (licensing and restoration proceedings). Licensees will be required to commence and "drive" proceedings in which they have a principal interest (reinstatement and terms dispute proceedings).

The new rules describe in greater detail how proceedings are commenced (chiefly, by describing the process by which an originating process is issued).

Given that, under the new rules, licensees will be commencing proceedings, the new rules also create a consequence for failure to serve an issued originating process: If proof of service of an issued originating process is not filed with the Tribunals Office within a specified time, the proceeding is deemed to have been abandoned.

The new rules set out a process for amending an originating process. This process is based on the amendment process contained in the Ontario Rules of Civil Procedure and unwritten rules of practice currently followed by the Hearing Panel and the Tribunals Office.

3. Rule 12 [Proceedings Management]

Rule 12 of the new rules deals with the proceeding management conference, including the scheduling of the conference, the format of the conference, the consequences of a party failing to attend at or participate in a conference, the matters that may be dealt with at a conference and the recording of the results of the conference.

The proceeding management conference is intended to replace attendance before the Hearings Management Tribunal (HMT). Rule 12 of the new rules is based on the unwritten rules of practice currently followed by the HMT and the Tribunals Office.

4. Rule 14 [Adjournments]

Under the current rules, only the HMT or the Hearing Panel may adjourn a hearing. Under the new rules, a panellist at a proceeding management conference, the Hearing Panel or, in certain circumstances, the Tribunals Office, is able to grant adjournments.

5. Rule 15 [Language of Hearing]

The *Law Society Act* entitles a party to a proceeding before the Hearing Panel to require that any hearing in the proceeding be heard by panelists who speak French (see subsection 49.24 (1) of the Act). Rule 15 of the new rules sets out the process whereby a party may exercise this right.

6. Rule 20 [Admissions]

New Rule 20 permits any party to a proceeding to request another party to the proceeding to admit the truth of facts or the authenticity of documents. If a party does not respond to a request to admit or, in its response, fails to specifically admit or deny with reasons the truth of a fact or the authenticity of a document, the party will be deemed to have admitted the truth of facts or the authenticity of documents for the purposes of the proceeding. Regardless of whether and how a party responds to a request to admit, if that party does not attend at or participate in the hearing on the merits of the proceeding, the party will also be deemed to have admitted the truth of facts or the authenticity of documents for the purposes of the proceeding. On the motion of a party who has admitted or who has been deemed to have admitted the truth of facts or the authenticity of documents, the Hearing Panel may make an order withdrawing any admission.

Rule 20 is based on Rule 51 [Admissions] of the Ontario Rules of Civil Procedure.

7. Rule 22 [Pre-Hearing Conferences]

The new rules clarify the practice around pre-hearing conferences.

Under both the current and new rules, a pre-hearing conference may be conducted when the parties to a proceeding consent to one or when one is ordered. Under the new rules, a pre-hearing conference is mandatory whenever a party to a proceeding estimates that the hearing on the merits of the proceeding will be longer than two days.

Also under the new rules, a person other than a member of the Hearing Panel may conduct a pre-hearing conference. Such persons will be assigned by the chair of the Hearing Panel.

Under the current rules, without an order, only one pre-hearing conference may be conducted in a proceeding. The new

rules allow for multiple pre-hearing conferences in a proceeding without an order.

The new rules clarify the practice of the scheduling of pre-hearing conferences. Pre-hearing conferences will be scheduled by a panellist at a proceeding management conference. The Tribunals Office may schedule a pre-hearing conference where the parties agree on the date and time of the conference.

The new rules require the person conducting the pre-hearing conference to endorse on the originating process the names of all persons who attended at or participated in the conference and any agreement reached at the conference. Presently, no endorsements are made at the conclusion of a pre-hearing conference. Any agreements reached or undertakings given at a pre-hearing conference are recorded in a memorandum prepared by the person conducting the pre-hearing conference. This memorandum is then distributed to the parties. The existing rules of practice and procedure provide that agreements and undertakings included in the memorandum are binding on the parties. The new rules are silent as to whether any agreement reached at a pre-hearing conference and endorsed on the record is binding on the parties.

8. Rule 24 [Evidence]

The new rules confirm the practice of the Hearing Panel receiving and acting on an agreed statement of facts without further proof or evidence of the facts contained therein.

The new rules also permit the practice of admitting in evidence in a proceeding evidence that was previously admitted in a proceeding before another tribunal or court in any jurisdiction. Consent of the parties is required or specified circumstances must be established.

The new rules also permit a certificate of a finding (by an adjudicative body in Canada) that a person has committed an offence to be admitted as *prima facie* evidence that the offence was committed. And, specific findings of fact contained in the reasons for decision of any adjudicative body in Canada are also admissible as *prima facie* proof of those facts.

The new rules also permit the Hearing Panel to take notice of facts that may be judicially noticed and to take notice of any generally accepted technical facts, information or opinions within its specialized knowledge.

All of these new rules are based on the SOAR Rules.

The new rules also provide that any proof that must be given or any requirement that must be met prior to a bank record or a business record being received or admitted in evidence may be given or met, not only by oral testimony, but also by the affidavit of an individual given to the best of the individual's knowledge and belief.

9. Rule 26 [Decisions, Orders and Reasons]

The majority of Rule 26 is new, but it codifies current practices of the Hearing Panel and the Tribunals Office. Of particular note are the following provisions of Rule 26:

- i. Subrules 26.01 (1) and (2) and subrules 26.02 (4) and (5). These subrules specify that a decision and an order are effective from the date on which they are made (an order may specify that it takes effect on another date). These subrules also require that an endorsement be made (on the appropriate document) of every decision and every order made.
- ii. Subrules 26.02 (2) and (3). These subrules specify the content of an order for a fine or costs. Each such order is to specify the principal sum to be paid, the rate of interest payable and the date from which the interest is payable.
- iii. Rule 26.03. This rule sets out the process whereby a formal order or a formal decision and order is prepared and signed. Any party affected by an order or a decision and order has the option of preparing the formal order or formal decision and order. Where no party opts to prepare the formal order or formal decision and order, it will be prepared by the

Tribunals Office. The formal order or formal decision and order is signed by the chair of the panel that made the order or the decision and order.

- iv. Rule 26.06. This rule sets out the obligation of the Tribunals Office to send copies of formal orders, formal decisions and orders and reasons to parties. The rule specifies to whom copies of documents are to be sent (the party or the party's representative), the method by which the documents may be sent (regular lettermail, fax and e-mail) and when a document is deemed to have been received by the recipient.

10. Rule 27 [Record of Proceeding]

Rule 27 is new, but it codifies the current practice of the Tribunals Office. The rule requires the Tribunals Office to compile a record of every proceeding before the Hearing Panel. Further, the rule specifies the contents of that record. ■

Powers of attorney in real estate transactions

With the prevalence of real estate fraud in the marketplace, it is important that real estate lawyers implement practices and procedures in their firms to recognize and fight fraud. In recent years, powers of attorney have been used in real estate transactions to perpetrate fraud.

Forged powers of attorney have been used to fraudulently mortgage properties or transfer title out of the true registered owner's name. An example of this situation is contained in the recent case of *Reviczky v. Meleknia*, 2007 CanLII 56494 (ON S.C.).

These *Guidelines on Powers of Attorney in Real Estate Transactions* (the guidelines) have been prepared to assist lawyers to avoid becoming the tool or dupe of unscrupulous persons when dealing

with real estate transactions involving powers of attorney.

These guidelines are not intended to replace a lawyer's professional judgment or to establish a rigid approach to the practice of law or the conduct of a real estate transaction. Subject to those provisions of the guidelines that incorporate legal, by-law or *Rules of Professional Conduct* requirements, a lawyer should consider the circumstances of the individual transaction and choose and recommend to the client the practice and procedure that best suits the transaction.

In appropriate circumstances, the lawyer may deviate from the guidelines. Whether a lawyer has provided quality service will depend upon the circumstances of each individual transaction.

The Guidelines:

1. To the extent that lawyers are able, they should avoid the use of Powers of Attorney. The use of Powers of Attorney should be the exception and not the rule.

2. When a Power of Attorney is required for a transaction and there is no pre-existing Power of Attorney, the lawyer should:

- prepare the Power of Attorney himself or herself,
- meet with the donor to review and sign the Power of Attorney, and
- establish in a diligent manner that the donor is the person he or she claims to be.

3. Where a Power of Attorney is required for a transaction, lawyers for all parties should:

- review the Power of Attorney to ensure that it was drawn and executed in accordance with the governing legislation, and
- note any restrictions on the powers granted.

4. If the transaction is title insured, the lawyer should ensure that the title insurer

will permit the use of the Power of Attorney. If the transaction includes a charge/mortgage or other encumbrance, the lawyer for the borrower should ensure well before closing that the lender will accept documents signed under the authority of a Power of Attorney.

5. Prior to submitting a document for registration signed under the authority of a Power of Attorney, lawyers should:

- review the contents of the document with the donee,
- obtain the donee's written approval of the contents of the document,
- obtain the donee's written authority to register the document, and
- establish in a diligent manner that the donee is the person he or she claims to be.

6. Lawyers should use their best efforts to register the Power of Attorney on title and to provide a copy of the registered Power of Attorney to the other side well in advance of the closing date.

7. Lawyers must also comply with the client identification and verification requirements of the Law Society of Upper Canada, By-Law 7.1.

8. Absent notice of fraud or other suspicious circumstances, lawyers may rely on Powers of Attorney that have been drawn and executed in accordance with the governing legislation.

9. Absent adverse knowledge, lawyers may rely on the law statements made by another lawyer in any document executed under the authority of a Power of Attorney.

10. Before accepting a retainer or during a retainer, if a lawyer has suspicions or doubts about whether the lawyer would be assisting the client in dishonesty, fraud, crime or illegal conduct, the lawyer should make reasonable inquiries to obtain information about the client and about the subject matter and objectives of the retainer, and should make a record of the results of these inquiries. If a lawyer reasonably suspects that he or she would be assisting the client in dishonesty, fraud, crime or illegal conduct, the lawyer must immediately cease to engage in activities that would assist the client in such conduct and, depending on the circumstances, may have to withdraw completely from representing the client. ■

Other Resources

1. **File Form** – Tips when registering documents signed under the authority of a Power of Attorney when the lawyer has not prepared the Power of Attorney – http://www.lsuc.on.ca/media/power_of_authority_ap1.pdf
2. **File Form** – Tips when receiving documents signed under the authority of a Power of Attorney http://www.lsuc.on.ca/media/power_of_authority_ap2.pdf
3. **Ontario Regulation 19/99, Land Registration Reform Act** http://www.e-laws.gov.on.ca/html/regsl/english/elaws_regs_990019_e.htm
4. **Ministry of Government and Consumer Services, Bulletin 2009-01** http://www.teraview.ca/mcbs/downloads/Bulletin_2009-01.pdf
5. Article entitled "Powers of Attorney and Solicitors' Liability: The Case Law", **LAWPRO Practice Pro Magazine, Volume 7, Issue 2 - Summer 2008, pages 9-11** – http://www.practicepro.ca/Lawpromag/Rolph_POA_Liability.pdf
6. **Reviczky v. Meleknia, 2007 CanLII 56494 (ON S.C.)** <http://www.canlii.org/en/on/onsc/doc/2007/2007canlii56494/2007canlii56494.html>
7. **Substitute Decision Act, 1992** – http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_92s30_e.htm
8. **Powers of Attorney Act** – http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90p20_e.htm

Lifelong Learning in Professionalism

THE ISSUE OF DECLINING PROFESSIONALISM IS AT THE TOP OF THE AGENDA FOR ALL STAKEHOLDERS TO THE JUSTICE SYSTEM.

How it can be addressed was the subject of a symposium held at the Centre for the Legal Profession at the University of Toronto, Faculty of Law on February 20.

Entitled *Lifelong Learning in Professionalism*, the program featured a distinguished panel of judges, legal academics, regulators and practitioners discussing the issue from their respective perspectives.

Mr Justice Stephen Goudge of the Ontario Court of Appeal, delivering the annual Goodman lecture at the close of the day, argued that lifelong learning is essential to achieving a justice system which both serves the public interest and holds the public's confidence. While recognizing that all stakeholders, the bar, the judiciary, the law schools and law societies, have a part to play, he said, "As regulator, the Law Society has a critical role. It must continue its commitment to lifelong learning in professionalism in order to protect its brand."

Continuing Education

As of January 1, the Law Society of British Columbia became the first regulator to require attendance at 12 hours of continuing professional development each year, two hours of which must relate to "ethics, professional responsibility, client care and relations and practice management." The Law Society of Saskatchewan will follow suit in 2010. The Law Society of Upper Canada, like the societies in Alberta and Manitoba, has mandatory reporting of professional development activities, and in September, Convocation approved a continuing professional development

"As regulator, the Law Society has a critical role"

requirement of 24 hours of activity in the first two years of practice.

Justice Goudge believes the Law Society of Upper Canada may have to go further. "I think this will mean continuing to enhance its emphasis on professionalism as the gatekeeper stage of professional life. It also will mean continuing to evolve mandatory continuing legal education beyond the early years of a lawyer's career in ways that embed professionalism in the process for lawyers at all stages of their career."

If professionalism is defined by words like scholarship, integrity, independence, civility and service, how can it be taught, especially to the diverse group that the legal bar has now become?

Professor Brent Cotter, dean of the College of Law, University of Saskatchewan, argued that the teaching of ethics and professionalism has to start at law schools. He presented statistics showing a huge growth in the teaching of legal ethics in Canadian law schools over the past 20 years. Estimates of the percentage of students who have taken a course in legal ethics grew from 25 per cent in 1985 to 80.5 per cent in 2008.

The more interesting question under consideration now in law schools is not whether to include legal ethics and professionalism in the curriculum, but rather, when in the program it should be taught and how it can be taught more pervasively as part of substantive legal courses.

Professor Alice Woolley of the University of Calgary agreed that the teaching of ethics can be started at law schools. "Fostering ethical decision-making requires building on what should be happening in law schools," said Woolley, "namely teaching ethical reasoning as a skill, one strongly correlated to legal reasoning but distinct in some important ways, which creates unique challenges for getting those decisions right. Effective legal ethics teaching encourages the ability to identify ethical issues when they arise, to be able to think properly about how to resolve those issues, and to be motivated and emboldened to do so appropriately."

Professor Bradley Wendell of the Faculty of Law at Cornell University compared the difference between knowledge of substantive law and ethical judgment to the case of a civil engineer building a road. On one level, the engineer can consider the technical requirements of the project in terms of soil conditions, stability and drainage. The decision of whether to build the road, however, is a more complex mix of financial, economic, environmental and political factors. "Similarly, lawyers who appeal only to their technical expertise as the ground for professional authority are missing the fact that the core ethical problems for lawyers are like the decision whether to build the road... calling for the exercise of something other than technical rationality."

Lifelong learning implies that this is a process that does not stop when the law student receives their diploma. Once a legal career is launched, professional competence becomes a largely self-directed process. Regulation is an essential component in ensuring minimal standards of conduct and competence, and in some ways the role of the regulator is well-defined in terms of complaints resolution and disciplinary

processes when behaviour is well out of bounds.

Current continuing legal education programs tend to focus on delivering updates on developments in substantive law areas, with some now including an element of professionalism as part of the program. Marketing courses like this to the profession is relatively easy because the incentive to master the material is directly relevant to the ability to earn a living. Developing professionalism and heightening awareness of professionalism over the course of a career are different, however, and must be inculcated.

One success presented was the work of the National Judiciary Institute ((NJI) which runs courses for approximately 2,300 judges across the country. Founded in 1988, the NJI presents career-based programming with a constantly evolving template. Programs are developed and led by judges using a wide palette of formats ranging from discussion groups to simulation and role play. Content has shifted from jurisprudence to judicial ethics, including how to recognize ethical

problems, how to make critical choices, how to identify options, and how to judge the preferred option.

The Advocates' Society presented information on coaching and mentoring, as well as the value of simulation exercises. Their continuing education program includes a professionalism workshop focusing on the advocate's duties to society, the profession and the courts.

Professor Woolley strongly advised that the teaching of professionalism has to be situational, and should focus on specific issues, or that affect a defined sector of the bar. She says, "The emphasis should be on problem-solving, on the processes of reasoning through ethical challenges. This can – and should – include the imparting of information about what principles and guidelines are applicable to the resolution of different ethical problems, but it should not stop at that point. It should also look at the factors that may undermine ethical decision-making by lawyers such as, for example, the tendency for individuals to continue with courses of action that lead

to unethical results rather than admit that, previously, they had made a mistake."

Bencher Laurie Pawlitza, chair of the Law Society's Professional Development and Competence Committee, raised the issue of how to reach those who need professionalism training the most. Implementing a regime of mandatory continuing professional development raises a host of issues, including those highlighted by John Hunter of the Law Society of British Columbia, such as what courses should receive accreditation, how to reach remote areas where formal training may not be readily available, and how to assess whether the learning is effective.

Mr. Hunter acknowledged that there was little empirical evidence that mandatory CLE increases lawyer competence, but the Law Society of British Columbia felt that mandating CLE was a "means of adopting best practices in professional regulation as well as building public confidence in lawyers and their self-regulatory structure." ■

Further amendments made to client ID and verification requirements in response to profession's input

CONVOCATION MADE A NUMBER OF AMENDMENTS TO THE CLIENT ID AND VERIFICATION REQUIREMENTS CONTAINED IN BY-LAW 7.1, AT ITS JANUARY MEETING.

The amendments, which reflect changes made to the Federation of Law Societies of Canada's Model Rule on Client Identification and Verification Requirements, address a number of issues raised by lawyers in Ontario and other provinces and by paralegals.

The following highlight the major amendments:

- Definition of "reporting issuer" replaces the definition of "private company," which was used to define a public company for the purpose of certain exemptions. Prior to the most recent amendments, a public company

was defined as "not a private company." However, under this definition many non-Canadian, private companies would be deemed to be public companies. To address the issue, the Federation chose to use and define the term "reporting issuer" as it captures publicly traded entities such as real estate investment trusts (REITS) and not just corporations.

- Exemption from the client ID and verification requirements of duty counsel under the *Legal Aid Services Act 1998* or providing legal services through a duty counsel program of a non-profit organization, and providers of summary legal services under the *Legal Aid Services Act 1998*, unless a financial transaction is involved.
- Exemption from the client ID requirement to obtain an incorporation/

business identification number where the client is a financial institution, public body or reporting issuer.

- Exemption from the verification requirements where funds are transferred by electronic funds transfer, as defined.

- Exemption from the verification requirements where the client is a financial institution, public body or reporting issuer, as defined.
- Addition of police officers, nurses and school principals to the list of those authorized to provide an attestation for

non face-to-face verification of identity.

Lawyers are encouraged to visit the Law Society website to review the amended by-law, updated resources and the Professional Regulation Committee report to January Convocation.

Definitions under By-Law 7.1 – Part III Client Identification and Verification, section 20

Electronic Funds Transfer

“electronic funds transfer” means the transfer of funds from one financial institution or financial entity to another initiated by the transmission, through any electronic, magnetic or optical device, telephone instrument or computer, of instructions for the transfer of funds, where the record of the transfer includes a reference number, the name of the financial institution or financial entity sending the funds, the name of the financial institution or financial entity receiving the funds, the date of the transfer of the funds, the amount of funds transferred, the currency of the funds transferred, the name of the holder of the account from which the funds transferred are drawn and the name of the holder of the account to which the funds transferred are deposited.

Financial Entity

“financial entity” means a financial entity headquartered and operating in a country that is a member of the Financial Action Task Force on Money Laundering.

Financial Institution

“financial institution” means,

- (a) a bank to which the *Bank Act* (Canada) applies,
- (b) an authorized foreign bank within the meaning of section 2 of the *Bank Act* (Canada) in respect of its business in Canada,
- (c) a cooperative credit society, savings and credit union, credit union or *caisse populaire* that is regulated by an Act of a province or territory of Canada,
- (d) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),
- (e) a company to which the *Trust and Loan Companies Act* (Canada) applies,
- (f) a loan or trust corporation regulated by an Act of a province or territory of Canada,
- (g) a ministry, department or agent of the government of Canada or of a province or territory of Canada if the ministry, department or agent accepts deposit liabilities in the course of providing financial services to the public, or
- (h) a subsidiary of an entity mentioned in clauses (a) to (g) where the financial statements of the subsidiary are consolidated with the financial statements of the entity.

Public Body

“public body” means,

- (a) a ministry, department or agent of the government of Canada or of a province or territory of Canada,
- (b) a municipality incorporated by or under an Act of a province or territory of Canada, including a city, town, village, metropolitan or regional municipality, township, district, county, rural municipality, any other incorporated municipal body and an agent of any of them,
- (c) a local board of a municipality incorporated by or under an Act of a province or territory of Canada, including any local board as defined in the *Municipal Act* and any similar body incorporated under the law of another province or territory,
- (d) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital authority under the *Excise Tax Act* (Canada) or an agent of the organization,
- (e) a body incorporated by or under an Act of Canada or of a province or territory of Canada for a public purpose, or
- (f) a subsidiary of an entity mentioned in clauses (a) to (e) where the financial statements of the subsidiary are consolidated with the financial statements of the entity.

Reporting Issuer

“reporting issuer” means,

- (a) a reporting issuer within the meaning of an Act of a province or territory of Canada in respect of the securities law of the province or territory,
- (b) a corporation whose shares are traded on a stock exchange designated under section 262 of the *Income Tax Act* (Canada) and that operates in a country that is a member of the Financial Action Task Force on Money Laundering, or
- (c) a subsidiary of an entity mentioned in clause (a) or (b) where the financial statements of the subsidiary are consolidated with the financial statements of the entity.

Additional information about the client identification and verification rules is available on the Law Society website and is being updated with practical resources for practitioners.

La philosophie de l'accès à la justice avec Guy Pratte

CHEZ LES PRATTE, LE DROIT A TOUJOURS ÉTÉ UNE AFFAIRE DE FAMILLE. L'ARRIÈRE-GRAND-PÈRE ET LE GRAND-PÈRE DE GUY PRATTE ÉTAIENT JUGES, AINSI QUE SON ONCLE ET SON PÈRE.

Guy Pratte, lui, est allé étudier l'histoire et la philosophie. Au cours de sa maîtrise en philosophie cependant, et plus précisément en analysant la philosophie du droit, la tradition familiale l'a rattrapé.

L'accès à la justice tient au cœur de Guy Pratte. Il a toujours ressenti de l'empathie pour les gens qui ne bénéficient pas d'un accès à la justice, que ce soit par l'aide juridique ou par les cabinets d'avocats. Il voit le manque d'accès à la justice comme un problème qui grandit et dont les tentacules barrent les roues de la justice. M^e Pratte, qui sait très bien qu'il est privilégié par sa profession, partage depuis longtemps ses privilèges à sa façon et met à profit l'ascendant qu'il exerce pour motiver les autres à contribuer à la société. Lui-même s'est fait connaître avec l'affaire *Finney c. Barreau du Québec* alors qu'il agissait comme conseiller juridique de Mme Finney sur la responsabilité des associations professionnelles, affaire qui s'est rendue jusqu'en Cour suprême. Aujourd'hui, il est tellement sollicité qu'il a toujours deux ou trois dossiers pro bono en cours.

M^e Guy Pratte est membre du Barreau de l'Ontario et de celui du Québec. Il plaide en français aussi bien qu'en

anglais. Il est associé au cabinet Borden Ladner Gervais où il est à la tête de la section Litige du bureau de Montréal et il partage son temps entre les bureaux de Montréal, Ottawa et Toronto. Son travail pro bono de longue date et sa présence au Québec ont fait germer en lui l'idée d'établir un organisme de travail pro bono organisé au Québec, puisqu'il n'en existait pas.

M^e Pratte a donc convoqué une réunion des grands cabinets et des juges en chef du Québec, ainsi que d'autres parties intervenantes, pour mettre sur pied un tel organisme qui aurait les mêmes objectifs que Pro Bono Ontario. Cette grande réunion de cabinets et de juges a eu lieu à l'été 2006 et le Centre Pro Bono Québec a vu le jour à l'automne 2008, obtenant l'aval du Barreau du Québec qui le finance. L'appui du Barreau du Québec était nécessaire pour faire entrer en jeu toute la province et non seulement quelques cabinets montréalais.

M^e Pratte explique que Pro Bono Québec, dont il assure la présidence,



M^e Guy Pratte

se démarque des autres organismes du genre en ce qu'il permet aux cabinets d'accumuler des heures dans une banque virtuelle. Le centre a pour mission de fournir des services juridiques gratuits ou dont les frais sont considérablement réduits dans certains dossiers sélectionnés selon des critères précis. Un des critères est évidemment de ne pas se qualifier pour l'aide juridique. Les causes acceptées seront celles qui présentent un caractère exceptionnel ou d'intérêt public ou qui entraînent un tort irréparable à l'égard d'un justiciable ou d'un groupe qui ne peut pas économiquement défendre ses droits, et les causes doivent pouvoir améliorer les lois ou le système de justice. L'impact de ces causes doit transcender l'intérêt personnel. Par exemple, s'il s'agit d'un locataire, la décision doit non seulement aider le

locataire, mais aider tous les locataires dans l'avenir. Le Centre Pro Bono Québec agit par entente contractuelle avec les cabinets ou avec des avocats individuels qui acceptent de donner des heures. Pro Bono Québec gère cette banque en fonction des champs de pratique et du territoire. Une fois examiné par un comité, chaque dossier

accepté sera transmis à un avocat, après quoi le centre se retirera puisque sa mission est de faire le jumelage et non de défendre la cause.

M^e Guy Pratte ne manque pas une occasion de dire aux avocats et avocates nouvellement assermentés que le travail pro bono est ce qui l'a rendu le plus heureux depuis le début de sa pratique.

« La satisfaction indicible et incomparable que j'en tire m'a permis de m'épanouir en participant aux valeurs fondamentales de la profession du droit, qui est d'aider les gens à obtenir justice. Prenez toujours au moins un dossier pro bono. On ne sait jamais tout et c'est une formidable façon d'apprendre constamment », conclut-il. ■

Une voix francophone pour AIDWYC

Assermentée au Barreau en 1989, Élisabeth Widner exerce au cabinet Falconer Charney s.r.l. depuis 1995 dans les domaines du droit civil, constitutionnel et criminel. Malgré une pratique bien chargée, elle consacre au bénévolat une place privilégiée. M^e Widner est en effet membre du conseil d'administration d'AIDWYC (Association pour la défense des personnes condamnées injustement) dont elle est aussi la porte-parole auprès des médias francophones, et prend d'autres dossiers qui touchent la communauté francophone en droit criminel.

AIDWYC vient en aide aux personnes qui clament leur innocence et qui ont épuisé tous les recours. Les avocats et avocates qui en sont membres donnent leur temps bénévolement et les opérations sont principalement financées par la Fondation du droit de l'Ontario et certains dons de particuliers. Récemment d'ailleurs, AIDWYC a reçu un don privé de 1 M\$ du juge à la retraite Ian Cartwright. Cet argent est le bienvenu, car le processus est coûteux. En effet, il peut durer longtemps, voire des années, sans qu'on sache même s'il va aboutir. Il faut payer les enquêteurs, les analyses scientifiques et les demandes d'accès à l'information. Il y a aussi les déplacements : il faut rencontrer des gens, trouver d'éventuels nouveaux témoins, faire des recherches aux archives.



M^e Élisabeth Widner

C'est après le deuxième procès de Guy-Paul Morin, dont elle était avocate adjointe, que M^e Widner a décidé de se lancer dans le travail bénévole. À l'époque, des membres de la communauté juridique avaient formé un groupe de soutien pour M. Morin et, après sa condamnation, ils ont fondé AIDWYC dont la mission a interpellé M^e Widner, convaincue elle aussi de son innocence.

Depuis, M^e Widner s'occupe principalement des dossiers en français

d'AIDWYC. Ceux-ci lui arrivent surtout du Québec. Elle examine les transcriptions, la preuve, les rapports des témoins experts, etc. pour voir si l'organisme peut aider à faire réviser le dossier à Ottawa. En effet, l'article 696.1 du *Code criminel* prévoit qu'une demande de révision auprès du ministre au motif qu'une erreur judiciaire aurait été commise peut être présentée au ministre de la Justice par ou pour une personne qui a été condamnée pour une infraction à une loi fédérale ou à ses règlements si toutes les voies de recours ont été épuisées.

Parmi un des importants dossiers de M^e Widner figure l'affaire Wilbert Coffin. Wilbert Coffin avait été pendu le 10 février 1956 pour le meurtre de trois chasseurs américains en Gaspésie, malgré de nombreuses irrégularités dans le processus judiciaire et plusieurs pistes négligées. Le ministère de la Justice a décidé de rouvrir l'enquête et le Groupe de la révision des condamnations criminelles analyse la possibilité d'infirmer la décision de 1954.

Par ailleurs, Élisabeth Widner a récemment aidé des gens qui, faute d'avoir accès à des interprètes francophones devant un tribunal criminel, se sont retrouvés en prison. M^e Widner s'interroge sur la difficulté d'accès à la justice en français à Toronto. Selon elle, vu le nombre croissant

d'immigrants de pays francophones à Toronto, la situation semble s'aggraver.

Les causes qu'elle accepte à titre bénévole et qui ne sont pas liées à AIDWYC lui arrivent souvent par hasard et de bouche à oreille dans la communauté francophone de Toronto. On peut certes constater que le hasard fait bien les choses, mais on peut surtout se réjouir que des gens comme Élisabeth Widner s'engagent ainsi dans la lutte pour l'accès à la justice. ■

AIDWYC a une certaine capacité bilingue par le biais de M^e Widner et du vice-président du conseil d'administration, M^e Ralph Steinberg. Cependant, comme l'offre excède la demande, les services bénévoles d'autres avocats et avocates bilingues seraient grandement appréciés par l'organisme ainsi que par la population en bénéficiant. Il arrive qu'AIDWYC travaille avec des étudiants et étudiantes de la faculté de droit de l'Université de Montréal ainsi qu'avec quelques avocats et avocates à Montréal, mais M^e Widner affirme qu'il serait utile d'avoir une liste de bénévoles plus longue pour améliorer leurs services.

Pour s'engager dans AIDWYC, il suffit d'entrer en communication avec Win Wahrer, directrice des services aux clients au 416-504-7500.



ajefo

Association des juristes
d'expression française
de l'Ontario

Congrès de l'AJEFO : 30 jalons à célébrer

Sous le thème « Célébrons nos jalons », le 30^e congrès de l'Association des juristes d'expression française de l'Ontario aura lieu à Kingston du 25 au 27 juin 2009. Cette année, l'AJEFO profitera également de l'occasion pour célébrer le 40^e anniversaire de la *Loi sur les langues officielles* et la désignation de Kingston comme 25^e région bilingue en Ontario. En effet, la région de Kingston est devenue officiellement bilingue en vertu de la *Loi sur les services en français* en 2006, et les services gouvernementaux avaient jusqu'au 1^{er} mai 2009 pour organiser leur offre de services en français. Kingston sera la ville-hôte de ce congrès où juristes francophones et francophiles saisiront l'occasion de se rencontrer et de faire de la formation juridique permanente en français. L'AJEFO offre un programme prometteur.

Le Barreau du Haut-Canada, partenaire fidèle de l'AJEFO, sera au rendez-vous pour parler de son projet sur la rétention des femmes en pratique privée. Le sujet sera abordé dans le contexte de l'accès à la justice et c'est l'ancienne présidente de l'AJEFO, M^e Louise Hurteau, qui présidera cette séance. M^e Raj Anand, conseiller élu du

Barreau et M^e Stéphanie Spiers représenteront le Barreau avec M^e Hurteau. De plus, le trésorier du Barreau, M^e Derry Millar, sera aussi de la partie puisqu'il sera l'invité d'honneur au dîner gala de clôture.

Un congrès de l'AJEFO ne serait pas digne de ce nom s'il ne comportait pas un divertissement de qualité. Cette année, on nous promet une conférence-spectacle sur le thème du 40^e anniversaire de la *Loi sur les langues officielles du Canada* où se mêleront sketches, humour et réflexions percutantes pour parler de la dualité linguistique au Canada, des enjeux que cela comporte et des conséquences de ne pas s'en prévaloir.

Kingston est une belle ville et a été brièvement la capitale du Canada de 1841 à 1844. Le congrès est le moment idéal pour en faire la visite et l'AJEFO facilite la tâche des participants et participantes en tenant deux de ses conférences au Fort Henry dont on pourra faire la visite et assister à la relève de la garde.

Pour vous inscrire, allez au site de l'AJEFO à www.ajefo.ca et profitez de l'occasion qui vous est offerte de faire du perfectionnement professionnel en français!

Pro bono : Le rouet de la justice

M^e MARTIN THOMPSON EST ASSOCIÉ AU CABINET LANG MICHENER S.R.L. À OTTAWA DEPUIS LE 1^{er} JANVIER 2009. IL FAIT DU LITIGE CIVIL, COMMERCIAL ET MUNICIPAL ET RÉSERVE UNE PARTIE DE SES LONGUES HEURES DE TRAVAIL AU BÉNÉVOLAT.

Après avoir étudié les sciences politiques et l'administration publique, M^e Thompson a bifurqué vers le droit, se destinant d'abord au droit linguistique. Cependant, il s'est rendu compte en cours de route que le litige l'attirait fortement. Il pouvait du coup conjuguer le plaisir de plaider en français et celui de desservir la communauté franco-ontarienne.

Martin Thompson est depuis longtemps engagé envers la communauté, comme représentant et organisateur de la campagne Centraide et comme membre du conseil d'administration de la Société Saint-Vincent de Paul et de Rideauwood Addiction and Family Services, par exemple. Aujourd'hui, il poursuit ses activités pro bono et ce, malgré la lourde charge de travail associée à un grand cabinet.

Ces jours-ci, avec un collègue devenu ami, M^e Keith Cameron, il s'active au dossier de l'incorporation d'un nouvel organisme de bienfaisance. Il s'agit de l'Institut canadien pour l'éducation sur les génocides (ICESG), qui propose de mener des études en français sur les droits de la personne. L'organisme formera les intervenants (surtout des enseignants et enseignantes) qui travailleront eux dans les écoles directement auprès des élèves pour sensibiliser la jeune population aux génocides et à leurs effets pervers. Pour en savoir plus long sur cet organisme, consultez le site au www.educationgenocide.ca.

Le hasard a joué un grand rôle dans cette aventure pro bono. Un collègue de Vancouver cherchait des avocats désirant participer au projet de constitution de l'Institut, projet dont une partie touche l'Afrique où M^e Thompson était allé peu de temps auparavant et où il avoue avoir été sensibilisé à la situation des populations du Tiers-Monde. Par ailleurs, Maître Thompson venait de terminer la lecture du récit tragique du Général Roméo Dallaire, *J'ai serré la main du diable*, lorsqu'il a reçu l'appel à participer au



M^e Martin Thompson

projet de l'Institut. Cet appel tombait à point pour lui permettre de faire sa part pour lutter contre les abus des droits de la personne et des peuples. En outre, son collègue M^e Keith Cameron, du même cabinet, était lui aussi allé en Afrique et avait suivi le même itinéraire que M^e Thompson, avant même que ces deux avocats ne se connaissent.

M^e Cameron est membre à la fois du Barreau du Haut-Canada et de celui du Québec depuis 2005. Anglophone, il exerce le droit dans les deux langues officielles au sein du département des relations avec le gouvernement, du droit des affaires et des organismes de commerce international. Sa connaissance profonde des questions d'application des règlements et son expérience dans le domaine des organismes à but non lucratif contribuent grandement au projet de l'Institut.

En équipe, M^{es} Cameron et Thompson ont consacré plus de soixante heures au projet depuis septembre 2008 et ont encore plusieurs heures de travail en perspective : en effet, l'Institut canadien pour l'éducation sur les génocides compte offrir sa première conférence cet été, sous réserve des approbations ministérielles.

Martin Thompson et Keith Cameron sont de ceux et celles qui font tourner le rouet de la justice. Ils profitent de ce que leur a donné la vie en expériences et en habiletés pour être généreux à leur tour envers la société. ■

CONVOCATION February 2009 Highlights

More support for sole practitioners and small firms

The Working Group on Sole Practitioner and Small Firm Lawyers released a report that details the actions that have been taken by the Law Society, the Ontario Bar Association (OBA) and the County and District Law Presidents' Association (CDLPA) to expand support for sole and small firm lawyers. The comprehensive list of completed and planned activities illustrates that ongoing support is a top priority for all three organizations.

The working group report lists each organization's activities in reference to the recommendations of the 2005 *Final Report of the Sole Practitioner and Small Firm Task Force*. The working group was established in 2006 to continue work on issues related to sole practitioners and small firms, based on the task force report's recommendations. The working group is made up of two benchers, two representatives of the OBA and two representatives of CDLPA.

New Rules of Practice and Procedure for Hearing Panels

New Rules of Practice and Procedure for Hearing Panels will improve and clarify the Law Society hearing process.

The Tribunals Committee presented the new rules to Convocation for approval following a two-phase consultation with the profession. In the first phase, representatives of the defence bar who frequently appear as counsel before Hearing Panels were consulted. In the second phase, the profession as a whole was consulted.

The new rules continue the Law Society's commitment to an open and transparent adjudicative process. They address limitations with the previous rules while preserving effective procedures. They are flexible and comprehensive, avoiding the need for guidelines or practice directives and integrating the Society of Ontario Adjudicators and Regulators (SOAR) provisions where applicable.

The new rules will come into effect July 1, 2009 and will apply to proceedings that

commence on or after that date. The current rules will continue to apply to other proceedings.

The Tribunals Committee will now develop new Appeal Panel Rules for Convocation's consideration at a future date.

Governance Task Force begins second phase of consultation

The Governance Task Force is set to begin discussions with lawyers, paralegals and legal organizations on governance issues.

The Task Force will hold approximately 10 meetings with small groups of lawyers and paralegals in a number of locations across Ontario. Two meetings will be arranged in Toronto with leaders of legal organizations. Lawyers and paralegals invited to the remaining meetings will include those in a variety of practice areas in sole practices and small to large firms, corporate counsel and academics.

This consultation follows a governance workshop with benchers in November 2008. Benchers identified some broad areas for discussion, including the bencher electoral

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.

system and the size of Convocation, that will form the basis for the second phase of the consultation.

The meetings will be scheduled during the spring of 2009. The Task Force will report the results of the consultation to Convocation together with its recommendations on whether changes to governance at the Law Society should be considered.

Foreign Legal Consultant requirements revised

Convocation revised the provisions for Foreign Legal Consultants (FLCs). Lawyers licensed in foreign jurisdictions may apply to the Law Society for a Foreign Legal Consultant permit that allows them to provide advice on the law of a foreign jurisdiction in Ontario. There

are a number of criteria that must be met including membership in good standing in the foreign jurisdiction.

FLCs are no longer required to have defalcation insurance or to be residents of Ontario. The removal of the residency requirement is consistent with the deletion of the residency requirement for lawyers and paralegals from the *Law Society Act* in 2007.

The defalcation coverage requirement proved to be a barrier to individual lawyers seeking to become FLCs in Ontario. Since FLCs are prohibited from receiving or handling money or other property in trust, the risk of defalcation among FLCs is low.

Amendments to By-Law 14 reflecting the revised requirements will be brought to a future Convocation for approval.

Policy for investigations of benchers, staff and paralegal members of the Paralegal Standing Committee amended

A policy for the investigation of complaints against lawyer and paralegal benchers, lawyer and paralegal Law Society staff and paralegal members of the Paralegal Standing Committee was amended to clarify the policy if the Treasurer, CEO, or Director of Professional Regulation is the subject of a complaint. The policy was first approved at January 2009 Convocation.

Appointments

Diana Miles was appointed as the Law Society's representative on the CanLII Board of Directors for a term of three years. ■

January 2009 Highlights

Further amendments made to Client ID and verification requirements

Convocation made a number of amendments to the Client ID and verification requirements contained in By-Law 7.1.

The amendments, which reflect changes made to the Federation of Law Societies of Canada's Model Rule on Client Identification and Verification Requirements, address a number of issues raised by lawyers in Ontario and other provinces and paralegals.

Highlights of the major amendments include:

- A new definition of "reporting issuer" to replace the definition of "private company" which was used to define a public company for the purpose of certain exemptions.
- Exemption from the client ID and verification requirements of duty counsel under the *Legal Aid Services Act 1998* or providing legal services through a duty counsel program of a non-profit organization, and providers of summary legal services under the *Legal Aid Services Act 1998*, unless a financial transaction is involved.
- Exemption from the verification requirements where funds are transferred by electronic funds transfer, as defined.
- Exemption from the verification requirements where the client is a financial institution, public body or reporting issuer, as defined.
- Addition of police officers, nurses and school principals to the list of those authorized to provide an attestation for non face-to-face verification of identity.

Law Society priority work plan approved

Convocation approved a work plan to achieve the priorities it established for the 2007-2011 benchers term. The work plan sets out in detail the Law Society's priorities, the initiatives to be undertaken to support those priorities and the status of those initiatives. Convocation also approved a process for adding new issues to the work plan.

The eight priority areas are:

- Maintain high standards and ensure effective competence
- Discipline
- Access to justice
- Diversity within the profession
- Small firms and sole practitioners
- Paralegal regulation
- Strategic communications
- Governance structure.

Aboriginal bar consultation report released

Convocation received the final report of the Aboriginal Bar Consultation which was initiated in 2004. The consultation collected information about Aboriginal lawyers, and identified what Law Society services Aboriginal lawyers use, as well as potential programs and initiatives to support Aboriginal lawyers and students.

Findings show that despite the implementation of many initiatives and programs designed for Aboriginal lawyers and the Aboriginal community since 2000, there are still needs to be addressed to enhance access for and retention of Aboriginal lawyers within the Ontario bar.

Four proposals were made for consideration:

- Include Aboriginal law as a recognized practice category in the Law Society's Members' Annual Report.

- Enhance the Law Society's Mentoring and Networking Program for Aboriginal licensing candidates and lawyers.
- Create continuing legal education programs in Aboriginal law.
- Continue to work with Aboriginal lawyers to develop an area of specialization in Aboriginal law.

Expansion of the summary hearing process approved

The summary hearing process permits hearings that are time sensitive or straightforward to be heard quickly by a single benchers Hearing Panel. The summary hearing process was first approved in 2005 for three case types: failure to maintain financial records; failure to respond to the Law Society; and failure to co-operate with the Law Society.

Matters which may result in the revocation of licence are not heard at summary hearings.

The summary hearing process has now been expanded to include the following case types:

- the practice of law by a lawyer whose licence is suspended
- the provision of legal services by a paralegal whose licence is suspended
- breach of an undertaking to the Law Society
- failure to pay costs awarded to the Law Society
- failure to comply with an order of the Hearing Panel.

Law Commission of Ontario Budget

Convocation approved the Law Commission of Ontario's budget as required by the founding agreement. The Law Society is a founding partner and contributes \$100,000 annually to the Commission.

Human Rights Monitoring Group

Convocation approved the Human Rights Monitoring Group recommended interventions in the following cases:

- lawyers Nyi Nyi Htwe, Saw Kyaw Kyaw Min, U Aung Thein and U Khin Maung Shein (Myanmar)
- Guo Feixiong (also known as Yang Maodong) (China).

Authority to require a public accountant's report extended to paralegals

Convocation approved the extension to paralegals of the Law Society's authority to require the submission of a public accountant's report. By-Law 8 currently provides that the Law Society can require lawyers to submit a public accountant's report on their practice in addition to the annual filing of the MAR. Amendments to By-Law 8 reflecting Convocation's decision to extend the policy to paralegals will be brought to Convocation for approval at a future date.

Policy for investigations of benchers, staff and paralegal members of the Paralegal Standing Committee

A policy for the investigation of complaints against lawyer and paralegal benchers, lawyer and paralegal Law Society staff and paralegal members of the Paralegal Standing Committee was approved. The policy formalizes procedures that have been followed since the *Law Society Act* was amended in 2006.

Lawyers no longer required to notify Law Society re: fiscal year end

Convocation ended a requirement that lawyers provide the Law Society with certain information about the lawyer's fiscal year as the information is no longer required for regulatory purposes. An amendment to By-Law 8 reflecting Convocation's decision will be brought to a future Convocation.

Appointments

Benchers Larry Banack, Marion Boyd, Carol Hartman and William Simpson were appointed to the Law Society Medal/Lincoln Alexander/Laura Legge Award Committees.

Benchers Larry Banack, Marion Boyd, Carol Hartman, William Simpson and Bonnie Tough were appointed to the LL.D. Advisory Committee.

Benchers Raj Anand was appointed to the Finance Committee and ceased to be a member of the Human Rights Monitoring Working Group.

Benchers Carol Hartman was appointed Chair and Christopher Bredt was appointed Vice-Chair of the Finance Committee.

Adriana Doyle and Carolyn Anne Gray were reappointed and Lorne Wolfson and Christine Torry were appointed to the Family Rules Committee pursuant to s. 67(2)(k) of the *Courts of Justice Act* for a term of three years.

Ron Slaght and Kristopher Knutsen were reappointed and Susan Vella and Mark Lerner were appointed to the Civil Rules Committee in accordance with s. 65(2)(h) of the *Courts of Justice Act* for a term of three years. ■

Roll-Call Votes

February 26, 2009

Governance Task Force Report

Mr. Heintzman presented the report for information.

It was moved by Mr. Swaye, seconded by Ms. Hare, that Convocation should debate the report before it goes out for consultation. Lost. Vote: For – 24, Against – 25.

Tribunals Committee Report

Mr. Sandler presented the report.

Re: New Rules of Practice and Procedure (For Hearing Panels)

It was moved by Mr. Sandler, seconded by Mr. Gold, that pursuant to section 61.2 of the *Law Society Act* Convocation make the Rules of Practice and Procedure set out in Appendix 1 as amended by the memorandum distributed under separate cover. Carried.

It was moved by Ms. Halajian, seconded by Mr. Aaron, that Rule 20 be deleted. Lost. Vote: For – 3, Against – 41, 1 Abstention. ■

CONVOCATION ATTENDANCE AND ROLL-CALL VOTES

	Attendance		Motions*	
	Jan 29	Feb 26	Feb 26 1	Feb 26 2
Aaron, Robert		✓	F	F
Aitken, Melanie	✓			
Anand, Raj	✓	✓	A	A
Backhouse, Constance	✓	✓	F	A
Banack, Larry	✓	✓	A	A
Boyd, Marion	✓	✓	F	A
Braithwaite, Jack	✓	✓	F	A
Bredt, Christopher	✓	✓	A	A
Campion, John	✓	✓	A	A
Caskey, James	✓	✓	A	
Chahbar, Abdul Ali	✓	✓	F	A
Chilcott, W. Dan				
Conway, Thomas	✓	✓	A	A
Crowe, Marshall	✓	✓	F	A
Daud, Aslam		✓	F	
Dickson, Mary Louise	✓	✓	F	A
Dray, Paul	✓	✓	A	A
Elliott, Susan	✓	✓	F	A
Epstein, Seymour	✓	✓	F	A
Go, Avvy	✓	✓	F	A
Gold, Alan	✓	✓		A
Gottlieb, Gary L.		✓	F	A
Hainey, Glenn	✓	✓	A	A
Halajian, Jennifer		✓	F	F
Hare, Susan	✓	✓	F	
Hartman, Carol	✓			
Heintzman, Thomas G.		✓	A	
Henderson, Paul	✓	✓	A	A
Hunter, George				
Krishna, Vern		✓	F	A
Lawrie, Brian	✓	✓	A	A
Legge, Laura	✓			
Lewis, Doug		✓	F	A
MacKenzie, Gavin		✓	A	A
Marmur, Dow	✓	✓	A	A
McGrath, Susan	✓	✓	F	A
Minor, Janet	✓	✓	A	A
Pawlitza, Laurie	✓	✓	A	A
Porter, Julian	✓	✓	A	A
Potter, Judith	✓	✓	F	Ab
Pustina, Nicholas J.	✓	✓	F	A
Rabinovitch, Jack	✓	✓	A	A
Robins, Sydney	✓	✓	A	A
Rock, Allan				
Ross, Heather	✓			
Rothstein, Linda	✓	✓	A	A
Ruby, Clayton	✓			
St. Lewis, Joanne	✓			
Sandler, Mark		✓	A	A
Scace, Arthur				
Schabas, Paul		✓	A	
Sikand, Baljit	✓	✓	A	A
Silverstein, Alan		✓	A	A
Simpson, William	✓	✓	F	A
Strosberg, Catherine		✓	F	A
Strosberg, Harvey				
Swaye, Gerald	✓	✓	F	A
Symes, Beth	✓	✓	F	A
Tough, Bonnie		✓	A	A
Wright, Bradley	✓	✓	F	F
Millar, Derry (Treas.)	✓	✓	A	

Non-voting benchers in attendance:

Jan. 29, 2009 – P. Furlong, J. Ground, D. Murphy, R. Murray.
Feb. 26, 2009 – P. Furlong, D. Murphy, R. Murray, J. Wardlaw.

*Motions A=against F=for Ab=abstain

Law Society priority work plan approved

In the fall of 2007, benchers set certain priorities for the 2007-11 term. In February, Convocation approved a work plan that details the initiatives that have and will be undertaken to support the priorities. The majority of the priorities reflect ongoing work of the Law Society; below are some highlights of work going forward.

Priority 1: Maintain high standards and ensure effective competence

i) Entry level competence

The Licensing and Accreditation Task Force recommended certain changes to the licensing process which are now being implemented. Reviews of the accreditation of the Canadian common law degree and the National Committee on Accreditation are being undertaken.

ii) Quality assurance

To use resources effectively, the practice management review program will be focused on sole and small firm practitioners who are within the first eight years of practice, and on referrals from Professional Regulation.

iii) Quality improvement

The Law Society will continue to support lawyers to maintain their competence through CLE programs and practice management resources. A new mandatory professional development requirement for new calls to the bar requires accreditation of providers.

Priority 2: Discipline

i) General

There are a number of activities in the work program including the creation of a database of decisions; new rules on file retention; development of standard documents, submissions and orders for tribunals; and training sessions for prosecutors. Also under consideration are new rules regarding the responsibilities of lawyers in real estate transactions.

ii) Efficiency of the discipline process

Work to be undertaken includes streamlining admission and readmission hearings; a review of the process for obtaining interlocutory suspensions; and the development of internal templates for mortgage fraud cases.

iii) Transparency of the discipline process

An improved website directory of licensed lawyers and paralegals to include detailed current status information and discipline history is being developed.

iv) Quality assurance

Work will address the risk factors in sole practices.

v) Law Society tribunals

Ongoing adjudicator education sessions will be delivered, and adjudicator resources will be provided. We will consider

establishing a dedicated hearing panel for mortgage fraud cases. Development of the current hearings and tribunal decisions section of the website will continue.

Priority 3: Access to justice

The Ontario Civil Legal Needs project will be implemented and we will work with the Attorney General to implement the Osborne and Trebilcock Reports. We will review the issue of how the justice system deals with family matters, and examine possible means of attracting lawyers to smaller centres.

Priority 4: Diversity within the legal profession

Implementation of the recommendations of the *Report on the Retention of Women in Private Practice* will continue. Supports for internationally trained lawyers will be developed. Demographic information will be gathered about lawyers and paralegals.

Priority 5: Small firms and sole practitioners

Many of the initiatives noted under other priorities will impact small firms and sole practitioners. Other work includes policies to encourage young people to move to regional areas to practise; creating opportunities for networking; means of reducing costs and assisting in transition through life cycles; succession planning; locum registry; and parental leave.

Priority 6: Paralegal regulation

Work includes the accreditation of diploma-granting college programs; good character hearings for licensing; and ongoing consideration of policy issues as they arise.

Priority 7: Strategic communications

We will continue to monitor media coverage, challenge media errors and deliver consistent key messages. We will measure public opinion and attitudes. Information pieces for community press will be developed. We will collaborate with other legal organizations to continue positive messaging around the work of lawyers to improve access to justice.

Priority 8: Governance structure

The Governance Task Force is undertaking a review of the governance structure of the Law Society and is planning a consultation involving discussions with small groups of lawyers and paralegals. ■



Mary Louise Dickson, Order of Ontario

The Law Society is pleased to congratulate benchler Mary Louise Dickson, Q.C. who was awarded the Order of Ontario. The Order of Ontario is the province's highest official honour and is bestowed on those who have demonstrated excellence in various fields of endeavour – in Ms. Dickson's case as a lawyer, educator and advocate for people with disabilities.

A benchler since 2003, Mary Louise Dickson is a partner of Dickson, MacGregor, Appell LLP, and practises

in the areas of will and trust planning, estate administration and income tax planning, and charities. She serves on the Investment Advisory Committee of the Office of the Public Guardian and Trustee, and is a former member of the Canadian Human Rights Commission. She is the recipient of numerous awards, including the Distinguished Service Award of the Canadian Bar Association of Ontario and the President's Award from the Women's Law Association of Ontario.

UPDATE



The Law Society of Upper Canada

Barreau du Haut-Canada

PRO BONO LAW ONTARIO



LEGAL AID ONTARIO AIDE JURIDIQUE ONTARIO

Ontario Civil Legal Needs Project

Hon. R. Roy McMurtry chairing project steering committee

The Honourable R. Roy McMurtry, former Chief Justice of Ontario, is chairing the Steering Committee of the Ontario Civil Legal Needs Project, a comprehensive study of the Ontario public's civil legal needs.

"Today, more people are appearing in courtrooms throughout the province without the support of a lawyer or licensed paralegal," says McMurtry. "The costs of legal services are rising, and it is taking longer to resolve legal problems. We, as a legal community, want to address these issues."

Other members of the steering committee are Marion Boyd, former

Attorney General of Ontario and Law Society benchler; John McCamus, Chair, Legal Aid Ontario Board of Directors and Professor of Law and University Professor, Osgoode Hall Law School of York University; and Lorne Sossin, Vice Chair, Pro Bono Law Ontario Board of Directors and Professor of Law, University of Toronto.

The Ontario Civil Legal Needs Project is the result of a partnership between the Law Society of Upper Canada, Legal Aid Ontario and Pro Bono Law Ontario. Additional support for the initiative is provided by the Law Foundation of Ontario.

There are three main research components to the project:

- an extensive telephone survey of the public
- a series of comprehensive focus groups with front-line legal and social service providers
- an environmental scan of existing services that promote access to justice.

The goal of the project is to improve access to justice by identifying innovative and cost-effective ways for legal service providers to better serve the public's civil legal needs. The research phases will be undertaken throughout 2009 and the final report will be released in early 2010.

OBA provides large firm advantages to small firm lawyers

What counts is not necessarily the size of the dog in the fight – it's the size of the fight in the dog.

Dwight D. Eisenhower (1890 - 1969)



James Morton

As a past president of the Ontario Bar Association, and partner in a small law firm, I was delighted when I was asked to write a brief piece on the work the OBA does for sole and small firm lawyers.

My own story is fairly typical. I had started a small firm, focused on litigation matters, and realized that I needed to find lawyers outside my office to discuss the many issues that besiege the young small firm lawyer. The Law Society has, and had, excellent practice resources but there was the fear of speaking to the regulator and appearing unlearned. I had friends at large firms, but did not want to trouble them or incur the cost of hiring them for counsel work. Then I went to an OBA dinner meeting, with a view to learning a bit about some area of law, receiverships I think, and found a table of people happy to chat and share their experience and wisdom. I had found the resource I needed!

Perhaps the most important role that the OBA provides relates to networking. Of course, all voluntary legal associations have the advantage of providing a support network but only the OBA provides a network of colleagues of all practice areas across the province. Because the OBA is part of the broader Canadian Bar Association, membership in the OBA gives lawyers the ability to draw upon the experiences and expertise of colleagues across Canada. More generally, there is a certain camaraderie that comes from OBA meetings and an informal networking where lawyers learn from their colleagues a whole manner of things, whether it be client relations, substantive legal points or just general tips on conducting business.

This camaraderie particularly carries over in the sections of the OBA which

allow all lawyers, but perhaps especially sole and small firm lawyers, to stay on top of their primary practice areas through practice specific programs, newsletters and list-serves. Being a member of the OBA allows the smaller firm lawyer many of the benefits of being in a large firm.

More generally, continuing legal education provided by the OBA, often in conjunction with the Law Society and other organizations, allows sole and small firm lawyers access to the same resources as large firm colleagues. The OBA particularly targets some of its CLE towards solo and small firm practitioners.

Finally, the OBA is driven in terms of advocacy for the profession. As the only province-wide organization encompassing all lawyers, the OBA is able to pursue issues critical to the long-term viability of sole and small firm practices including, for example, tax fairness for private corporations, legal aid funding and family law reform. Additionally, the OBA works with and advises the Law Society and others on matters related to the regulation and oversight of sole and small firm practitioners.

The OBA has a proud tradition of representing the bar and solo and small firm practitioners. ■

UPDATE

Unclaimed Trust Fund Application Form revised

The form to apply to transfer unclaimed trust funds to the Law Society has been revised and is available for download in the Resource Centre of the Law Society website.

If you have held money in trust for at least two years, you may apply for permission to transfer the money to the Law Society if,

1. You have been unable to locate the person entitled to the money despite having made reasonable efforts throughout a period of at least two years; or
2. You are unable to determine who is entitled to the money.

Please download the latest form if you plan to apply to transfer funds.

NOTICE TO THE PROFESSION

Recent Rule and By-Law Amendments

Convocation made a number of amendments to Law Society Rules and By-Laws at its January and February meetings.

February, 2009

New Rules of Practice and Procedure for Hearing Panels

Convocation approved new Rules of Practice and Procedure for Hearing Panels. The new rules will come into effect July 1, 2009 and will apply to proceedings that commence on or after that date. The current rules will continue to apply to other proceedings.

January, 2009

Further amendments made to Client ID and verification requirements

Convocation made a number of amendments to the Client ID and verification requirements, contained in By-Law 7.1. The amendments, which reflect changes made to the Federation of Law Societies of Canada's Model Rule, address a number of issues raised by the profession.

By-Law amendments

By-Law 7.1 [Operational Obligations and Responsibilities] was amended to provide that lawyers handling claims that involve catastrophic impairment at the Financial Services Commission of Ontario may delegate the mediation of subsidiary issues to licensed paralegals employed by their firm. The by-law amendments reflect policy approved by Convocation at its November 2008 meeting.

By-Law 4 [Licensing] was amended to implement the following paralegal regulation policy changes previously approved by Convocation:

- In section 10.01, the policy that a person with a P1 licence applying for an L1 licence must forfeit the P1 licence at the time that an L1 licence is issued
- In section 12, the policy that a person who has previously surrendered a P1 licence may apply for a new licence without repeating the educational and examination requirements
- In sections 23 to 26, that a paralegal may apply to surrender a licence in the same manner as a lawyer
- In section 30, the addition of the exemption for members of the Canadian Society of Professionals in Disability Management
- Also in section 30, the repeal of the subsection regarding the FSCO regulations, which have now been repealed
- In section 32, the addition of the exemption for trade union representatives to enforce collective agreement benefits in Small Claims Court.

By-law 4 [Licensing] was further amended to reflect certain policies approved with the adoption of the Licensing and Accreditation Task Force Report in September 2008. Articling requirements for experienced, internationally trained lawyers were streamlined and the licensing process was enhanced to include a new professional responsibility and practice course integrated with the articling program. Successful completion of that course, the articling requirement and the licensing examinations are the requirements for call to the bar.

By-Law 6.1 [Continuing Legal Education] was made to implement the continuing legal education requirement for newly called lawyers approved at

September Convocation. Beginning in 2010, all new lawyers called to the Ontario Bar will be required to complete 24 hours of compulsory professional development during their first two years of practice.

By-Law 11 [Regulation of Conduct, Capacity and Professional Competence] was amended to reflect previously approved policies regarding practice management reviews.

Rule amendments

Rule 8 of the *Paralegal Rules of Conduct* and Rule 6 of the lawyer's *Rules of Professional Conduct* regarding financial obligations were amended. The amendments clarify the application of the rule to non-payment of financial obligations incurred in the course of practice on behalf of clients, and maintain the ability of the Law Society to respond where there are serious allegations of non-payment.

The Paralegal Standing Committee brought to Convocation, for information purposes, amendments to the Paralegal Professional Conduct Guidelines. The amendments reflect recently approved changes to the *Paralegal Rules of Conduct*.

Amendments were made to the commentary to Rules 5.03 and 5.04 of the lawyer's *Rules of Professional Conduct* to more appropriately reflect current human rights legislation and case law.

Housekeeping amendments were made to Rule 6.08 of the lawyer's *Rules of Professional Conduct*. ■

More information and printable versions of the Rules and By-Laws are available on the Law Society website at www.lsuc.on.ca.

A STRONGER VOICE FOR PRACTISING LAWYERS

Announcing the Information Exchange Platform

The County & District Law Presidents' Association ("CDLPA") is pleased to announce a new interactive information exchange forum and website called the Information Exchange Platform (IEP). "We at CDLPA are very excited about this project and believe it will improve communication between local law associations, the CDLPA executive and, most importantly, among practising lawyers in Ontario," says Randall Bocock, CDLPA chair.

In May, all practising lawyers will receive an e-mail inviting them to join the IEP and be part of this novel resource. "We believe that this will provide a useful means of networking, especially for sole practitioners and small firms, linking them to their colleagues across the province," he adds. "The executive has completed the planning stages and reviewed initial page designs for the IEP, and we expect to be in a position to launch before the summer."

Some features and how it works

The IEP will have two components: the first is a public section providing general information about CDLPA and access to helpful links. This section will also provide information to law students, articling candidates and others on the numerous opportunities that exist in counties and districts across Ontario for articling and/or establishing a practice.

The second part of IEP is a registered user-only section available to practising lawyers. Practising lawyers in Ontario who register on the site will have full access to the IEP. To subscribe, lawyers will have to provide basic information like name, e-mail address, office address, and proof of status as a practising lawyer. The service itself is free.

Communications forum

This feature is a forum for the exchange of questions, comments and ideas. The forum will be secure and accessible only by lawyers who are registered to the site, and will be monitored.

Survey facility

The IEP will also give CDLPA the ability to survey registered lawyers on a wide variety of issues and initiatives, considerably reducing response time, as well as the time required to analyze results.

Interactive map of Ontario

An important part of the IEP will be an interactive map of the province. By clicking on a specific county, registered users will be able to pull up vital information about the local legal infrastructure, including the local law association, court dates, and locations of court houses, correctional services offices and jails.

Local law association websites

Where a local law association already has a website, the IEP will provide a direct link to that site. As an added service for associations that do not have a website, CDLPA will provide a basic template which can be linked to the IEP and which will be easy to update for the association.

Major CDLPA initiatives

The IEP will house information on various initiatives that CDLPA has undertaken over the past few years on behalf of practising lawyers. Within each topic area, a document library will be created which will contain historical and current papers, submissions and general information. Topic areas will include:

- Libraries
- Various practice areas, such as real estate, criminal and civil rules, etc.

- Sole and small firm practitioners
- Succession planning
- Lawyer recruitment and articling placement support
- Local association development and support tools
- Retention of women in private practice
- Court services administration and facilities
- Regulatory information and compliance notes
- CLE opportunities.

Ongoing development

One of CDLPA's critical criteria is to ensure that the IEP is flexible so that it may be modified in response to the needs of the profession as they evolve. "With the participation of lawyers across Ontario, we anticipate that the IEP will become an important resource that will link us together and ensure that the voice of practising lawyers is heard," says Bocock. ■

LICENSING Process

UPDATE

CONVOCATION APPROVED CHANGES TO THE LICENSING PROCESS WHICH WILL AFFECT THOSE CANDIDATES WHO ARE REGISTERED IN THE 2009/10 PROCESS.

Articling will remain an integral part of legal training, but candidates are no longer required to complete a mandatory attendance Skills and Professional Responsibility Program at a specified location.

Instead, candidates will undertake a modular online course designed for self-directed learning. The online course, which is currently in development, will provide training on competencies related to professional responsibility, ethical issues and practice management. The course is designed to be more flexible, allowing candidates to take their training at any time during the 10-month articling period.

Candidates will be able to apply the learning to their day-to-day practice training and seek guidance from their articling principals.

When candidates commence articling, they will receive access to the online course. Principals do not require

access to the course but may be provided access on request.

Articling principals will complete an assessment of the Professional Responsibility and Practice course with the candidate prior to the end of the articling term. Principals will confirm that the articling student has completed the assessment satisfactorily and in keeping with the expected entry-level competencies of a new lawyer as prescribed by the Law Society.

Candidates continue to be required to write the Barrister Examination and the Solicitor Examination to be called to the bar.

Newly called lawyers (as at June 2010) will be required to complete a new post-call requirement of 24 hours of accredited professional development during the first 24 months of practice. The new requirement reflects the Law Society's focus on quality improvement and is one of several recommendations from the Licensing

and Accreditation Task Force Report, approved by Convocation in September 2008, following an extensive consultation with the profession. By enhancing professional skills and knowledge at an early career stage, lawyers will avoid issues later on and it will also help build a foundation for lifelong learning.

Articling registry

Convocation also approved the development of an articling registry which will enhance the information available about articling positions with a view to assisting candidates who are seeking positions to find opportunities. This will include a section allowing firms to post articling positions together with a profile of their firm, and another section allowing candidates seeking an articling position to post relevant information, areas of interest and preferred placement options.

The registry will incorporate features to ensure privacy and security. The articling registry is expected to be operational by the summer of 2009.



COMMITTED TO
JUSTICIA
ON S'Y ENGAGE

Retention of Women initiatives – enabling professional excellence

THE LAW SOCIETY IS LAUNCHING TWO FORWARD-LOOKING PROGRAMS TO ADDRESS THE CHALLENGES THAT WOMEN IN PRIVATE PRACTICE FACE WHEN IT COMES TO BALANCING CHILDBIRTH AND PARENTAL RESPONSIBILITIES WITH THEIR CAREERS. THE THREE-YEAR PILOT PARENTAL LEAVE ASSISTANCE PROGRAM AND THE PRACTICE LOCUM PROGRAM ARE BOTH RECOMMENDATIONS THAT WERE DEVELOPED BY THE RETENTION OF WOMEN WORKING GROUP AND ARE DESIGNED TO EMPOWER WOMEN TO TAKE CHARGE OF THEIR CAREERS AND ASSIST IN MAINTAINING THE VIABILITY OF SMALL FIRMS AND SOLE PRACTICES. THE LAW SOCIETY APPROVED THE PARENTAL LEAVE ASSISTANCE PROGRAM AND THE PRACTICE LOCUM REGISTRY IN MAY 2008, FOR IMPLEMENTATION IN 2009.

The Justicia Project and other Retention of Women initiatives continue to attract significant media attention. More than 30 articles on the subject have appeared over the past year from media outlets throughout the province and across the country.

Parental Leave Assistance Program

The Law Society recently established the Parental Leave Assistance Program as a three-year pilot program to reduce the financial hardship that arises when a lawyer who is a partner in a small firm or a sole practitioner needs to take a parental leave. Effective March 12, 2009, the program provides financial benefits to practising lawyers in firms of five lawyers or fewer who do not have access to other maternity, parental or adoption financial benefits under public or private plans and who meet the eligibility criteria.

Under the Program, the Law Society provides a fixed sum of \$750 a week for up to 12 weeks (maximum \$9,000 per leave, per family unit) to cover, among other things, expenses associated with maintaining their practice during a maternity, parental or adoption leave.

More information about the Parental Leave Assistance Program, including guidelines, the application form and frequently asked questions, is available on the Law Society's website under the Parental Leave Assistance Program section www.lsuc.on.ca.

Practice Locum Program

This spring, the Law Society is establishing a practice locum program – a registry of lawyers

who are available to step in and provide legal services on an interim basis during a parental leave. The program can create a win-win situation for both the lawyer on leave and the locum lawyer, as well as yield benefits for the public.

The program will allow women and men to take leaves of absence or to have flexible work schedules while having the opportunity to rely on competent lawyers to maintain their practice on a temporary basis. It will also allow women and men to undertake practice locum work when they wish to have flexible careers. From a public perspective, the program will ensure that a lawyer's leave of absence for any reason can be well managed and that clients will be served during the lawyer's absence.

A more detailed article on this project can be found on page 12 of this issue. More information on the Practice Locum Program is available on the Law Society's website www.lsuc.on.ca.

Justicia Project Update

The Justicia Project is gathering momentum as more law firms come on board pledging their support for this precedent-setting project. The project involves a group of law firms committed to sharing best practices and adopting programs to support women lawyers within their firms.

More than 50 medium and large law firms, including one from Atlantic Canada, have signed on and several meetings with participants have taken place since the Justicia Project was launched last fall.

Here's a brief update on the progress that has been made to date:

- Firm representatives have been asked to set up a process to compile and maintain gender data within their firms. The data will be used by the firms to track their own statistics and develop their own programs.
- The Law Society has also received 26 firms' policies on pregnancy/parental leaves for associates and/or

partners, and nine firms' policies on flexible work arrangements. This material will be used to develop model policies on parental benefits and flexible work arrangements.

- Three working groups were recently created. One with representatives of medium firms and one with representatives of large firms will consider issues of compensation and admission to partnership in relation to pregnancy and parental leaves. The other working group will develop best practices related to ramping down and ramping up a practice when taking a leave. All working groups are scheduled to meet in March and early April.

- A bilingual Justicia icon or mark has been developed that law firms can display in their marketing literature to indicate their commitment to the project.

Justicia participants recognize the value of women lawyers in their firms and the importance of balance, flexibility, mentorship, leadership, and strong business management practices and skills.

Women make up more than half of the lawyers entering law school and being called to the bar each year since 2000. Knowing which law firms are participating in Justicia is valuable information when applying for an articling position or joining a law firm. ■

Aboriginal Bar Consultation Report

THE ABORIGINAL BAR CONSULTATION REPORT PRESENTED TO CONVOCATION OUTLINES INITIATIVES FOR THE LAW SOCIETY'S CONSIDERATION TO ENHANCE SUPPORT FOR ABORIGINAL LAW STUDENTS AND LAWYERS IN ONTARIO.

The report follows a comprehensive consultation process, one of the most extensive studies of its kind to be conducted in Canada.

"We recognize that the needs of Aboriginal lawyers and their clients are unique and the Aboriginal Bar Consultation is a very important piece of research," says Law Society Treasurer W. A. Derry Millar. Over the years, the Law Society has worked with the growing Aboriginal bar to attract and support Aboriginal lawyers and law students.

Initiated by the Law Society's Equity Initiatives Department in 2004, the Aboriginal Bar Consultation Project was designed to collect information about Aboriginal lawyers, identify what Law Society services Aboriginal

lawyers use, and identify the programs and initiatives that have provided support to Aboriginal lawyers and students and suggestions for improvements to those programs.

The consultation consisted of a survey, which was followed by a consultation with Aboriginal lawyers via phone, face-to-face interviews, or written correspondence.

Overall findings show that, despite the implementation of many initiatives and programs designed for Aboriginal lawyers and the Aboriginal community since 2000, there are still needs to be addressed.

The four initiatives suggested by the consultation participants are as follows:

- Include Aboriginal law as a recognized practice category in the

Law Society's Members' Annual Report

- Continue the Law Society's Mentoring and Networking Program for Aboriginal licensing candidates and lawyers
- Work with Aboriginal lawyers and the Law Society to develop continuing legal education programs in Aboriginal law
- Continue to work with Aboriginal lawyers to develop an area of specialization in Aboriginal law.

Law Society benchler and Aboriginal Working Group Chair Susan Hare says, "We recognize and support the need for a strong Aboriginal bar in which Aboriginal lawyers feel connected to each other. We will focus our programs and initiatives to continue to meet the needs of the growing Aboriginal bar and increase the Aboriginal community's access to legal services tailored to their needs," she says.

For a copy of the full report on the Aboriginal Bar Consultation, visit the Law Society's website at www.lsuc.on.ca.

Considerations for a Happy Retirement

What do we know for sure? Lawyers won't practise law forever – although some expect to practise as long as they live!

In today's time of financial turmoil, many lawyers in sole practice are afraid to even think of retirement. There are many changes related to retirement that have a major impact on personal lifestyle, professional responsibilities, family roles and relationships. Like all good things, retirement requires planning, but, unfortunately, many lawyers do not plan for the predictable changes associated with retirement.

The risk factor

Lawyers in sole practice or lawyers in small firms are the least likely to plan for retirement. The consequences of not having a plan, however, affect financial stability, mental health and relationships.

At OLAP, we see many lawyers who have devoted their lives to their law practices and have few outside interests. On retirement, these lawyers can be at risk for depression, frustration and loss of meaning in their lives.

Retirement as a career change

Retirement or semi-retirement is a major career change. Some lawyers eagerly look forward to retirement, while others cannot imagine it. A major survey of lawyers and retirement issues was conducted recently in Oregon by the Oregon Attorney Assistance Program,ⁱ one of a few studies that look at lawyers and retirement.

Lawyers envisioning retirement

Here are some interesting findings about lawyers' views of retirement from the Oregon study:

- 11 per cent to 12 per cent of those surveyed do not plan to ever retire
- 30 per cent plan to continue practising law part-time after age 65 for a sense of purpose and stimulation

- 11% plan to continue practising law part time after age 65 primarily for financial reasons
- 40% plan to continue to practise law after age 70
- 71% envision retirement as a new chapter in life, a time to start new activities and set new goals, as opposed to a time to take it easy.

Where do you fit?

Financial Concerns

Financial concerns are a major part of retirement. Good financial advice and starting early are essential. Younger lawyers now start out with a large student loan debt, leaving fewer years to accumulate savings and plan for career changes or retirement.

Personal concerns

Personal and professional relationships also change with career adjustments. It is important to acknowledge these changes and plan to manage different roles and responsibilities. An awareness of potential anxiety, depression and frustration that can ensue, and finding support to deal with interpersonal changes will help.

OLAP UNDERSTANDS LAWYERS
OLAP REACHES OUT TO LAWYERS



Visit us at:
www.olap.ca

Career adjustment and retirement concerns

Findings in a study *Purpose, Potential and Productivity in Later Life*ⁱⁱ found that most people approaching retirement have received no formal preparation for the step. While most people know that financial planning is important, fewer than 10 per cent had any information other than financial planning. A social portfolio is just as important as a financial portfolio to ensure successful retirement.

A financial portfolio includes assets, insurance and is built over time, not overnight.

A social portfolio uses the same three concepts. Assets are diversified interests and relationships. Insurance requires a mix of individual and group activities. And it is important to build your social portfolio over time – start interests that you can expand upon so there is not a sudden empty space when you don't go to the office any more.

Additional considerations that lawyers have found to be important are:

- Contributing towards helping others. There are many opportunities open to retired lawyers to use the skills they have used in their careers by volunteering. We at the Ontario Lawyers' Assistance Program, for example, benefit from the rich experience of retired lawyers who share their experiences on a voluntary basis as one of our peer volunteers.
- Keeping an active mind and lifelong learning. Travelling, teaching and learning new skills provide meaning and sense of purpose.

The following considerations stages can help focus your plans so that you can realize the positive potential of change to retirement.

- **Freedom: If not now, when?** You have time to engage in creative endeavours. Lawyers often return to earlier interests or explore the path not taken (join a band, ride a motorcycle, write a novel).

- **Action: Help Others:** Review your wealth of experiences—the contacts, colleagues, cases — and put them to use through writing, public speaking or mentoring younger lawyers. This can translate into community focused actions.
- **Time to celebrate:** Seize opportunity, take care of unfinished business and deal with unresolved conflicts. Celebrate family, community and provide influential models for others.

Planning relieves the stress associated with change.

If you have not thought about the adjustment of retirement take the Retirement Readiness Questionnaire in the career section of the OLAP website at www.olap.ca.

The Ontario Lawyers' Assistance Program is a confidential program for lawyers and their families.

Telephone 905-238-1740 or toll free 1-877-576-6227. ■

ⁱ Mike Long, *Assisting Lawyers Plan for Retirement and Disability*, In Sight Newsletter, Issue 63, Oregon Attorney Assistance Program, Sept 2006.

ⁱⁱ Gene D Cohen, *Purpose, Potential and Productivity in Later Life: A 21st Century Retirement Study*, The Atlantic Philanthropies, 2004

LIFE MEMBERS

Life membership is granted to members of the Society who have been entitled to practise law in Ontario for a period of 50 years. Following is a list of those members who have been awarded life membership since the last issue of the Ontario Lawyers Gazette.

G. W. Hatley, Q.C., Toronto

JUDICIAL APPOINTMENTS

Superior Court of Justice – Effective Date: January 23, 2009

Mr. Justice John S. Poupore -
Regional Senior Judge of the Northeast Region appointed
a judge of the Superior Court of Justice

Madam Justice Louise L. Gauthier -
judge of the Superior Court of Justice appointed
Regional Senior Judge of the Northeast Region

Mr. Justice Bruce Durno - Regional Senior Judge
of the Central West Region appointed
a judge of the Superior Court of Justice

Madam Justice Francine E. Van Melle -
judge of the Superior Court of Justice appointed Regional
Senior Judge of the Central West Region

Madam Justice Anne Mullins -
appointed a judge of the Superior Court of Justice

Mr. Justice William Hourigan -
appointed a judge of the Superior Court of Justice

Ontario Court of Justice

Effective Date: December 3, 2008

Madam Justice Nathalie Gregson
Mr. Justice Paul Stephen Kowalyshyn

Effective Date: December 24, 2008

Madam Justice
Rebecca Jane Rutherford
Madam Justice Kelly Pamela Wright

Effective January 28, 2009

Mr. Justice Robert W. Beninger
Mr. Justice Michael Block
Madam Justice Manjusha Pawagi

Effective March 4, 2009

Mr. Justice John Stanley Skowronski

Effective March 4, 2009

Her Worship Justice of the Peace
Ana Cristina Costa
Her Worship Justice of the Peace
Deborah Anne Nelson

PBLO wins prestigious American award

THE LAW SOCIETY IS PLEASED TO CONGRATULATE PRO BONO LAW ONTARIO (PBLO), THIS YEAR'S RECIPIENT OF THE PRESTIGIOUS EMIL GUMPERT AWARD FROM THE AMERICAN COLLEGE OF TRIAL LAWYERS.

The award recognizes programs, public or private, whose principal purpose is to maintain and improve the administration of justice. This is the first time the award has been won by a Canadian organization or individual.

The award carries with it the sum of \$50,000, which PBLO will use to open a new legal resource centre for unrepresented litigants in Ottawa modelled on the successful Law Help Ontario office based in Toronto. The award will be presented at a ceremony to be held in July in Ottawa.

PBLO promotes access to justice in Ontario by creating opportunities for lawyers to

provide pro bono legal services to persons of limited means. In 2008, PBLO's programs included Law Help Ontario, a walk-in centre at the Ontario Superior Court in Toronto. Volunteer lawyers provide a full range of brief legal services to assist unrepresented litigants,



An unrepresented litigant signs in at LHO's reception/triage desk.

including help filling out forms, summary legal advice, information on rules and procedures, and legal representation.

In 2008, Law Help Ontario assisted over 3,000 visitors to the centre and provided 1,827 hours of legal advice. Fifty-six law firms and 165 lawyers participated in this pro bono work, and their donated services are estimated to be worth nearly half a million dollars. Law Help Ontario also develops and distributes self-help legal publications, including guidebooks and tip sheets to help demystify the legal process.

PBLO's executive director, Lynn Burns, says, "The award is a fitting tribute to the many lawyers who have volunteered their time and expertise over the first year of operation of Law Help Ontario. Now we can expand this needed service to Ottawa."

Law Help Ontario is funded by the Law Foundation of Ontario and supported by Legal Aid Ontario and the Law Society of Upper Canada. ■

Volunteering for Law Help Ontario

Law Society life member, George W. Hatley, Q.C., partner emeritus at Blakes, is one of the lawyers who volunteers at Law Help Ontario. Called to the bar in 1959, Hatley had a busy litigation practice for many years. When he "retired", he continued to take some cases, undertook work for LAWPRO and volunteered at PBLO. He praises the work of this program, saying, "Working at Law Help Ontario, one realizes how complicated the legal system is for the layman, and the fact that legal fees are out of reach for many people."

On a personal level, he finds the work at Law Help Ontario rewarding and interesting. "For a retired lawyer, it provides a great way to stay involved in legal work, and an opportunity to make a difference for people who need your help. It's also valuable for those at the beginning of their careers, and a number of large firms send junior lawyers to work on the program. It's a great opportunity for them to

gain experience and to see how the legal system affects many people in Ontario."

Law Society by-laws were amended in June 2008 to permit lawyers in the 25 per cent and 50 per cent (non-practising) fee categories who wish to provide pro bono legal services through PBLO to apply to the Law Society for an exemption from the requirement to have their fees raised to the 100 per cent (practising) fee category.

This mirrors the LAWPRO insurance levy exemption for non-practising lawyers who provide LAWPRO-approved PBLO pro bono legal services.

Retired lawyers who are over 65 years of age who practise law on a pro bono basis through PBLO or at a clinic funded by Legal Aid Ontario that is approved by PBLO can also apply for an exemption from payment of the annual fee.

MAY 1, 2009 MARKS THE FIRST ANNIVERSARY OF PARALEGAL LICENSING. TODAY, MORE THAN 2,300 PARALEGALS THROUGHOUT THE PROVINCE ARE LICENSED TO PROVIDE LEGAL SERVICES IN PERMITTED AREAS OF PRACTICE.

The following highlights summarize some of the recent developments related to paralegal regulation.

Paralegal Survey

The Law Society conducted a short online survey of licensed paralegals early in 2009 to gather information about current areas of practice, as well as interests in continuing legal education (CLE). A total of 576 paralegals participated in the survey.

A large number of participants (129) indicated that the largest proportion (75 to 100 per cent) of their practices focus on provincial offences matters, while 45 respondents indicated they spent the majority of their time on Small Claims Court matters. A total of 133 respondents said they spend 75 to 100 per cent of their time on administrative tribunal matters.

Areas of top interest identified by survey respondents for upcoming CLE programming included: provincial offences in the Ontario Court of Justice, advocacy, Small Claims Court, mediation, evidence, traffic offences, practice management/responsibility, and landlord and tenant board issues.

The Law Society is using this feedback to plan future paralegal CLE sessions. Preparation is now underway for a fall CLE session focusing on landlord and tenant issues. As well, a half-day session on Best Practices for Paralegals Appearing in the Ontario Court of Justice was offered on April 4, and a session on Small Claims Court is

being offered in June for all legal service providers.

By-Law Changes

By-Law 7.1 [Operational Obligations and Responsibilities] was amended to allow lawyers handling catastrophic impairment claims at the Financial Services Commission of Ontario to delegate the mediation of subsidiary issues to licensed paralegals employed by their firm.

By-Law 4 [Licensing] was amended to implement the following policy changes previously approved by Convocation:

- **Section 10.01** – a person with a P1 licence applying for an L1 licence must forfeit the P1 licence at the time that an L1 licence is issued
- **Section 12** – a person who has previously surrendered a P1 licence may apply for a new licence without repeating the educational and examination requirements
- **Sections 23 to 26** – a paralegal may apply to surrender a licence in the same manner as a lawyer
- **Section 30** – members of the Canadian Society of Professionals in Disability Management have been added to the regulation exemption list
- **Section 30** – the repeal of the subsection regarding the FSCO regulations, which have now been repealed ; and
- **Section 32** – trade union representatives enforcing collective agreement benefits in Small Claims

Court have been added to the regulation exemption list.

As well, Convocation recently approved the extension to paralegals of the Law Society's authority to require the submission of a public accountant's report. By-Law 8 currently provides that the Law Society can require lawyers to submit a public accountant's report on their practice in addition to the annual filing of the MAR. Paralegals will be subject to the same provision (if required), in addition to filing the Paralegal Annual Report (PAR).

Accreditation

The Law Society is currently reviewing applications from additional colleges seeking accreditation for their paralegal programs. Only accredited colleges will be entitled to state that they have a program accepted by the Law Society.

Anyone applying to the Law Society for a paralegal licence after June 30, 2010 must have graduated from an accredited legal services program.

Complaints & Conduct Issues

By the end of 2008, the Law Society had received 163 complaints regarding paralegal licensee conduct – 31 per cent raised allegations of failing to serve a client. Of these, 84 files were closed and 79 remained active (with one in abeyance). The largest number of complaints was related to civil litigation (37.5 per cent), while criminal and quasi-criminal complaints accounted for 22 per cent of complaints received.

From 2007 to 2008, there were 446 cases involving good character issues. Of these, 261 were closed and 185 remain active (as of December 31, 2008), with 19 cases referred to discipline.

Stay tuned to future editions of the *Ontario Lawyers Gazette* for ongoing updates on paralegal regulation and related matters. ■

Summary Hearing Process expanded

More hearings will now be held before a single member of the Hearing Panel through the summary hearing process. This process, which has proved to be effective since it was implemented in 2006, was expanded at January 2009 Convocation to include the following matters:

- ▶ the practise of law by a lawyer whose licence is suspended
- ▶ the provision of legal services by a paralegal whose licence is suspended
- ▶ breach of an undertaking to the Law Society
- ▶ failure to pay costs awarded to the Law Society
- ▶ failure to comply with an order of the Hearing Panel.

These matters are added to the list of case types already heard through the

summary hearing process, which are failure to maintain financial records; failure to respond to the Law Society; and failure to co-operate with the Law Society. The new and existing case types are permitted by Ontario Regulation 167/07 under the *Law Society Act*, which authorizes single member hearings.

Prior to the introduction of summary hearings, both straightforward and complex matters required the same hearing process, namely a three-member hearing panel. The introduction of summary hearings has allowed the Law Society to proceed quickly with more straightforward cases that concern a failure to co-operate or comply with various regulatory requirements.

The summary hearing process reduces hearing time and requires fewer

resources. Matters authorized by the Proceedings Authorization Committee for a summary hearing are not heard by the Hearings Management Tribunal but are scheduled directly for hearing before a single member of the Hearing Panel, who is available for summary hearings on a regular basis.

Since implementation in 2006, 70 summary hearings have been completed. Findings of professional misconduct have been made in 69 of the 70 cases. In 39 cases (56 per cent) the lawyer was given a definite period of suspension, which was to continue indefinitely until the lawyer fully co-operated with the Law Society. A reprimand was imposed in 19 (28 per cent) of the cases. Matters which may lead to the revocation of a licence are not heard through the summary hearing process. ■

NEWS • ROUNDUP

INTERNATIONAL WOMEN'S DAY

Have women judges really made a difference?

This question echoed the title of Madam Justice Bertha Wilson's famous speech at Osgoode Hall Law School in 1990, and was posed to the panellists at the International Women's Day Forum held Monday March 2.

Co-hosted by the Law Society, the Barbra Schlifer Commemorative Clinic, the Feminist Legal Analysis Section of the Ontario Bar Association, the Women's Law Association of Ontario and the Women's Legal Education and Action Fund, the panel was chaired by the Hon. Madam Justice Geraldine Sparrow, and featured Professor Jamie Cameron from Osgoode Hall Law School, Mary Anne Eberts, Barrister & Solicitor, Sonia Lawrence, Associate Professor at Osgoode Hall Law School and the Hon. Madam Justice Micheline Rawlins.

At the reception following the event, Madam Justice MacLeod-Beliveau stated that greater diversity on the bench means that different life experiences are brought to the decisions that are made. "We are not a homogeneous society and we need



From left to right: Former benchers with the Treasurer: Justice Nancy Backhouse, Justice Bonnie Warkentin, Justice Kim Carpenter-Gunn, Treasurer W.A. Derry Millar, Justice Carole Curtis, Justice Helen MacLeod-Beliveau, Justice Frances Kiteley.

to have increased sensitivity to the diverse experiences of those before the courts," she said. ■

Attorney General, London lawyers' rock revival hits high note for community hunger relief

Rock and roll will never die in southwest Ontario, thanks to the grassroots volunteer group London Lawyers Feed the Hungry.

Members of London Lawyers Feed the Hungry have made the issues of homelessness, poverty and hunger in their community personal missions of action since 2003. Representing a cross section of the area legal community, this group has branded their cause with an increasingly popular and eclectic music production now considered one of London's most successful hunger relief charity fundraisers.

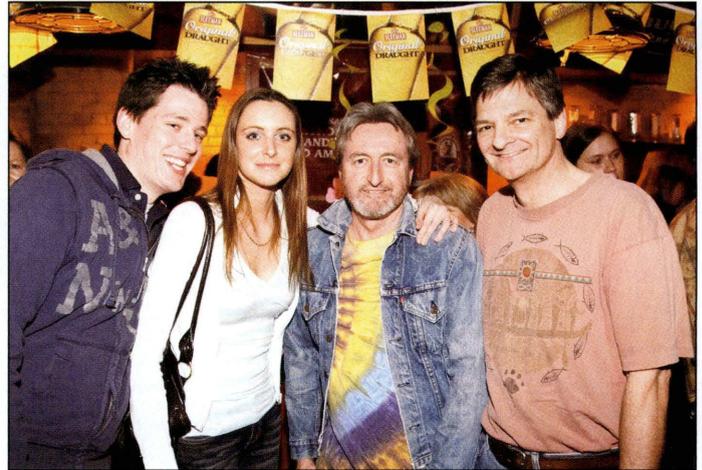
The 6th Annual **Court House Rocks** was held on March 27 in the city's downtown core attracting more than 300 people and a bevy of local and national corporate sponsors for a staging of a rock 'n' roll

revival celebrating the 40th anniversary of "Woodstock". Approximately \$24,000 in net proceeds were raised.

The evening featured dozens of performances by local lawyers, judges and other members of the legal community. One of the most popular acts was Attorney General Chris Bentley, in his fourth annual appearance, as "Country Joe" Bentley and the Fish. Lawyers Brian "Cocker" Foster and Murray Neilson continued Mr. Pensa's annual tradition of an inspiring performance in his absence.

London Lawyers Feed the Hungry program founder Claude Pensa and his late wife Elaine were motivated to create London Lawyers Feed the Hungry after visiting the Toronto community meal program at Osgoode Hall.

With this year's proceeds, Court House Rocks has

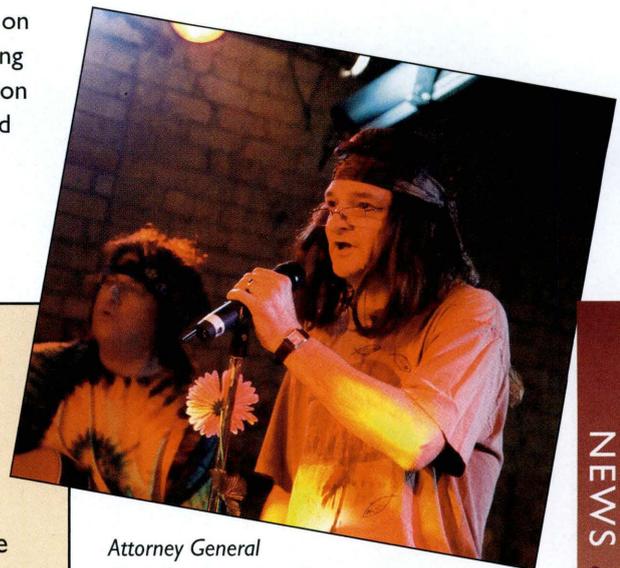


Rob Farrington, local criminal lawyer and member of the Wyld Stallions, one of the performing bands (with daughter and friend), and Attorney General Chris Bentley.

raised more than \$100,000 to date for local hunger relief agencies

Sylvia Langer, Fund Development Manager for the area's Unity Project for Relief of Homelessness, commented on the fundraising effort. "London Lawyers Feed the Hungry brings an invaluable

partnership to social service agencies like ours and expresses the legal community's goodwill and compassion in the fight against poverty. We are honoured to be in its company." ■



Attorney General Chris Bentley rocked Downtown Kathy Brown's in London on March 27.

Upcoming Events

Bugsy & Ken Charity Golf Tournament, June 10, 2009

Spring 2009

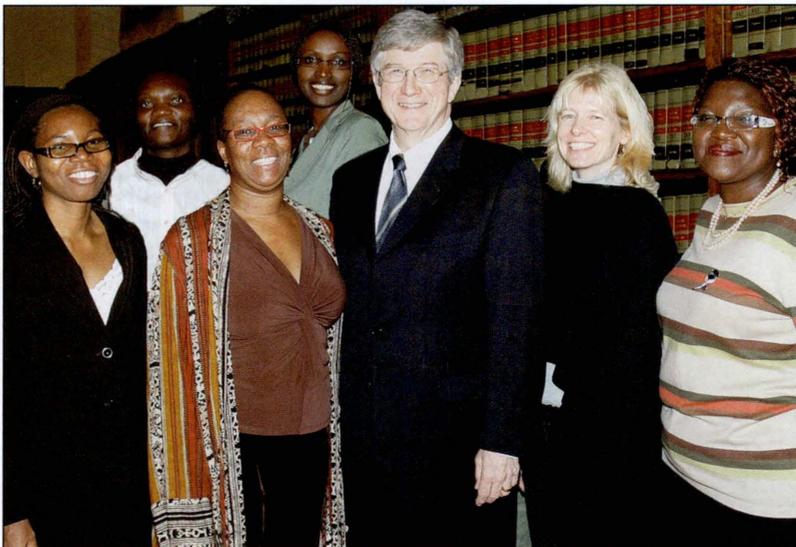
Launch of the Lawyers Feed the Hungry website
Become a volunteer, make a donation and register for events online

Go to www.lawyersfeedthehungry.ca

International Human Rights Day

MORE THAN 140 PEOPLE GATHERED AT THE LAW Society on December 9, 2008 for a forum to commemorate International Human Rights Day. Focusing on African women's inequality and strategies for gender justice, the event was hosted by the Law Society, POWER (Progress and Opportunities for Women's Equality Rights): Africa/Canada, and the Human Rights Research and Education Centre at the Faculty of Law, University of Ottawa.

Representatives of women's human rights organizations in Ghana, Malawi, Burundi and Kenya – POWER's African partners – talked about the many human rights challenges that women in these countries face and what is being done to empower them through education and other initiatives. Delegates were encouraged to volunteer to work on the POWER: Africa/Canada project to help with the development and implementation of equality rights strategies. ■



Representatives of women's human rights organizations in Ghana, Malawi, Burundi and Kenya – POWER's African partners – talked about the human rights challenges that women in those countries face and what is being done to empower them. Shown here, from left to right, front row: Elizabeth Archampong, Vice Dean and Professor of Law, University of Science and Technology, Kumasi, Ghana; Joanne St. Lewis, Law Society bencher and Director of the Human Rights Research and Education Centre, Faculty of Law, University of Ottawa; W.A. Derry Millar, Treasurer of the Law Society of Upper Canada; Fiona Sampson, Project Director, POWER: Africa/Canada; and Seodi White, Executive Director, Women and Law in Southern Africa, Malawi. Back row, left to right: Patricia Nyaundi, Executive Director, Federation of Women Lawyers Kenya; and Generose Bifunge, directrice générale de l'Association pour la promotion de la fille burundaise.

Celebrating Two Years of Paralegal Regulation



The Law Society held a reception on March 30 to mark the tabling of its two-year review of paralegal regulation in the legislature and to celebrate the success of the paralegal regulatory system in Ontario. From left to right are: the Honourable Chris Bentley, Attorney General of Ontario; W.A. Derry Millar, Treasurer of the Law Society of Upper Canada; Paul Dray, Law Society bencher and Chair of the Paralegal Standing Committee; the Honourable Heather Forster Smith, Chief Justice of the Superior Court of Justice, Ontario; and the Honourable Justice Frank N. Marrocco, Superior Court of Justice, Ontario. The full two-year review is available on the Law Society's website at www.lsuc.on.ca.

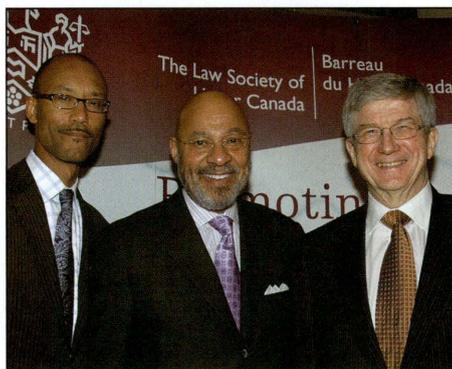
Black History Month events focus on community service and the election of Barack Obama

To honour Black History Month and the legal profession's commitment to community service and access to justice, the Law Society and the Canadian Association of Black Lawyers (CABL) hosted a public forum on pro bono work, on February 5, 2009. Some 75 members of the legal community attended the forum and more than 200 people attended the special reception that followed.

Reception

The annual Black History Month reception celebrated the inauguration of Barack Obama as the first Black President of the United States, and featured a keynote address by Dennis W. Archer, US legal and political trail blazer, and an advisor to the Obama presidential campaign. Mr. Archer reflected on the significance and meaning of the historic election to Black Americans and toward the achievement of equality for all.

In keeping with the theme of pro bono and community service, Archer told more than 200 people attending the reception that working together to help the disadvantaged and the disenfranchised



Shown at the Black History Month reception, from left to right, are: Frank Walwyn, President of the Canadian Association of Black Lawyers; Reception Keynote Speaker Dennis W. Archer, of Detroit; and Law Society Treasurer W.A. Derry Millar.

can make a difference now, and particularly for future generations.

Archer, who is the chair of a large Detroit law firm, a former associate justice of the Michigan Supreme Court, a former mayor of Detroit and the first African American to become president of the American Bar Association, recalled some of his experiences as a campaign advisor to US President Barack Obama. He also talked about the numerous challenges that the new US administration faces.

Archer also urged lawyers attending the reception to participate in pro bono work. "You have very talented men and women of colour. There's a lot of things you can do... We need to work collectively together... You put together a coalition of right-thinking people, there is no telling

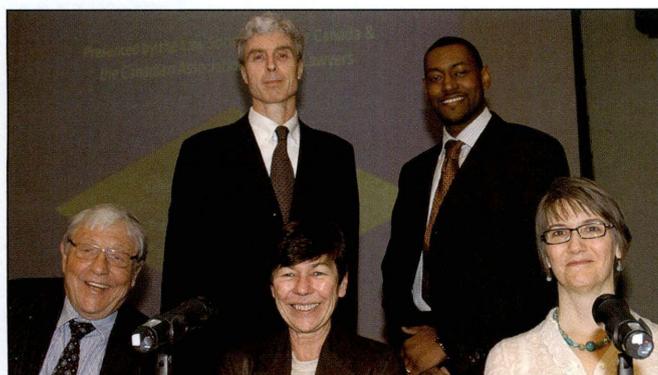
what can be done in this great country," he concluded.

Path to Equality

Law Society Treasurer W.A. Derry Millar reminded reception participants of the numerous achievements of Black Canadians in the legal profession and the significance that their contributions have made in paving the path to equality.

- Robert Sutherland and Delos Davis – Ontario's first Black lawyers
- The Honourable Justice Julius Alexander Isaac – the first Black person to be named to Ontario's Supreme Court and the first Black Chief Justice of the Federal Court of Canada
- Leonard Braithwaite, Q.C. – the first Black person elected to a provincial legislature and the first Black person to be elected as a bencher of the Law Society
- The Honourable Lincoln Alexander – Canada's first Black Member of Parliament and federal cabinet minister, and Ontario's first Black Lieutenant Governor
- The Honourable Justice Micheline Rawlins – the first Black woman appointed to the bench in Ontario
- The Honourable Justice Juanita Westmoreland Traoré – first Black person to be appointed to the bench in Quebec and first Black female dean of a Canadian law school at the University of Windsor.

He said that all of these judges, lawyers and trailblazers have "widened the path to equality, and will leave a positive legacy of achievements, including the notion that anything is possible in a just and equal society." ■



Panellists seated, from left to right are: The Honourable R. Roy McMurtry, O. Ont., Q.C., and Former Chief Justice of Ontario; Marlys Edwardh, LL.D., Barrister & Solicitor; and Wendy Miller, Child Advocacy Project Director, Pro Bono Law Ontario. Back row, left to right: Greg Richards, Barrister & Solicitor (panel moderator); and Paul Erskine, Barrister and Solicitor.

4th Annual Solo and Small Firm Conference and Expo

Chaired by:

Donna Neff

Neff Law Office Professional Corporation

Daniel E. Pinnington

Director, PracticePRO

Lawyers' Professional Indemnity Company (LAWPRO)

This highly recommended and well attended conference is designed for sole practitioners and small firm lawyers.

This year, we will maintain our focus on technology and law practice management with several new speakers. You will hear from internationally renowned experts about the top technologies for law offices, learn to collaborate and communicate in the Web 2.0 world, and learn how to start working toward a paperless office. You will have the opportunity to network with over 14 exhibitors whose products and services are designed specifically for your needs. Meet other sole and small firm practitioners from across Ontario at this one-of-a-kind conference and discover ways to boost productivity and increase your bottom line.

This program, jointly presented by the Law Society of Upper Canada and the Ontario Bar Association, is offered at a reduced rate to encourage participation from lawyers across Ontario. A continental breakfast, lunch and afternoon reception on May 7 are included.

Find out more about this event and register online at <http://ecom.lsuc.on.ca/cle>

A joint presentation with:



4th Annual
Solo and Small Firm
Conference and Expo



The Law Society of
Upper Canada

Barreau
du Haut-Canada

TREASURER'S DINNER • Osgoode Hall Dining Room

May 6, 2009 6:00 p.m. - 9:00 p.m.

CONFERENCE • Donald Lamont Learning Centre

May 7, 2009 9:00 a.m. - 4:30 p.m. (Cocktail Reception: 4:30 p.m. - 6:00 p.m.)

The Law Society of Upper Canada • 130 Queen Street West, Toronto



The Law Society of
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Barreau
du Haut-Canada

Osgoode Hall
130 Queen Street West
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