



Benchers Bulletin

February 1994 Vol. 2 No. 5

Duress clause removed from HIV+ compensation package

Lawyers are no longer required to sign certificates of independent legal advice on behalf of HIV-positive claimants attesting that they were under no duress when they agreed to accept benefits under the terms of the multi-provincial/territorial assistance package (MPTAP). Financial compensation amounting to a maximum of \$30,000 per year is being offered to those persons who contracted the HIV virus through contaminated blood distributed by the Red Cross in the 1980s.

The Law Society was advised on March 2 that contributors to the MPTAP had agreed to withdraw the language of duress from the certificate of independent legal advice. The Society had issued a news release on February 28 warning lawyers to exercise extreme caution before signing certificates on behalf of their clients.

The Society had expressed concern about lawyers' ability to certify the absence of duress since all those eligible to receive compensation are infected with HIV and many are experiencing serious health problems and financial difficulties. A March 15, 1994, deadline has been imposed on the compensation offer. The matter was first brought to the Law Society's attention last month by the HIV+ Counsel Association, a committee of counsel representing HIV-positive plaintiffs in actions against the

Red Cross and others.

The Law Society was also concerned that should clients whose lawyers signed the certificate later sue to set aside the settlement on the grounds that they accepted the offer under duress, those being sued might in turn initiate third party proceedings against those lawyers who provided certificates. Lawyers could have been exposed to multi-million dollar negligence claims. The language in the original certificate of independent legal advice shifted the burden of liability from those offering the settlements to lawyers and their insurer.

The certificate of legal advice that a lawyer is now required to sign attests that it appeared the client entered into the deal "willingly". The language of the former certificate required the lawyer to certify that the client was accepting the package "willingly and not under any duress exercised by and without pressure or influence on the part of the released parties".

"The Law Society is grateful that the contributors acted immediately to resolve this matter in the public interest. The removal of the duress clause eliminates the Law Society's concern over this matter and we shall advise lawyers immediately to that effect," said Treasurer Paul Lamek in a news release issued March 3.

Call to the bar ceremonies

The 1,099 graduates of the 35th bar admission course were called to the Ontario bar at ceremonies held in London, Toronto and Ottawa in early February.

According to a survey completed by 841 of the 1,099 new graduates, 61 per cent report having found employment, 35 per cent are seeking placements and another four per cent are pursuing other activities such as higher education. Approximately 68 per cent of new lawyers will be practising law in the Metro Toronto area and more than a third of the graduating class will be joining larger firms of 75 or more lawyers.

The degree of doctor of laws *honoris causa* was conferred upon the following individuals at the call to the bar ceremonies:

- The Honourable Robert Gordon Robertson, former Clerk of the Privy Council and Secretary to the Cabinet.
- Dean Marilyn Lee Pilkington, currently dean of Osgoode Hall Law School.
- The Honourable Samuel Grange, Court of Appeal Judge.

Congratulations are extended to recent graduate Nicholas Anthony Richter for attaining the highest grades in the bar admission course. Mr. Richter, who has joined the Toronto firm of Tory Tory DesLauriers & Binnington, received the Treasurer's Medal at the bar call ceremony at Roy Thomson Hall on February 8.

Case management update

Beginning May 2, 1994, case management will apply to all cases – except *Young Offenders Act* matters – to be heard at the Ontario Court (Provincial Division), 311 Jarvis St. in Toronto.

An introductory seminar explaining the rules and procedures of case management for the benefit of lawyers, process servers, law clerks and secretaries will be held on Saturday, April 23, 1994 at the CBA(O) offices located at 20 Toronto St., Toronto. A *Users Guide to Case Management Procedures at 311 Jarvis St.* will also be available at the seminar. The seminar fee is \$49. For registration and inquiries contact the CBA(O) directly at (416) 869-1047.

Court-annexed ADR: new practice direction

The Ontario Ministry of the Attorney General will be announcing the opening of the first Canadian court-based alternative dispute resolution office to resolve general civil cases. The Alternative Dispute Resolution Centre, a two-year pilot project, will open in April at 77 Grenville Street, Toronto, and is expected to handle commercial disputes, construction lien cases, wrongful dismissals and contract and tort actions. The centre will not be handling family law or landlord and tenant disputes.

A new practice direction has been issued that provides for the referral of both new and existing civil cases to the ADR Centre. Counsel in selected cases will be required to comply with the provisions of the practice direction.

The Law Society and the CBA(O) will be offering a half-day joint seminar analyzing the project and the practice direction on the morning of March 28 and the afternoon of March 30. The seminar will feature judges, litigators and ADR providers. Seminar cost is \$96.30 including GST. For registration and further inquiries call 947-3380 or toll-free 1-800-668-7380.

The Law Society
of Upper Canada



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Convocation attendance and roll-call votes

Feb. 25, 1994	Attend		Motion*
	a.m.	p.m.	
Arnup, John			
Bastedo, Thomas	✓	✓	
Bellamy, Denise	✓	✓	
Bragagnolo, Rino	✓	✓	
Brennan, Lloyd	✓	✓	
Campbell, Colin	✓	✓	
Carter, Robert			
Copeland, Paul	✓		
Cullity, Maurice	✓	✓	
Curtis, Carole	✓	✓	
Elliott, Susan	✓	✓	
Epstein, Philip	✓	✓	
Feinstein, Abraham	✓		
Finkelstein, Neil	✓	✓	
Goudge, Stephen			
Graham, Netty	✓	✓	
Hickey, Michael	✓	✓	
Hill, Casey	✓	✓	
Howie, Kenneth	✓	✓	
Howland, William	✓		
Kiteley, Frances	✓		
Krishna, Virender			
Lamont, Donald			
Lax, Joan	✓		
Legge, Laura			
Lerner, Samuel			
Levy, Earl			
McKinnon, Colin			
Manes, Ronald	✓	✓	
Martin, Arthur			
Mohideen, Fatima	✓	✓	
Moliner, Marie	✓	✓	
Murphy, Daniel			
Murray, Ross	✓		
O'Brien, Brendan			
O'Connor, Dennis			
O'Connor, Shirley	✓	✓	
Palmer, Julaine	✓		
Peters, Patricia	✓	✓	
Richardson, Nora			
Rock, Allan			
Ruby, Clayton	✓		
Scace, Arthur	✓		
Scott, David			
Sealy, Hope	✓	✓	
Somerville, Marc			
Strosberg, Harvey	✓	✓	
Thom, Stuart	✓	✓	
Topp, Robert	✓	✓	
Wardlaw, James			
Weaver, Mary	✓		
Yachetti, Roger	✓		
Lamek, Paul (Treas.)	✓	✓	

Non-voting Benchers in attendance

R. Cass, G. H. Farquharson, P. Furlong, A. Lawrence,
P.B.C. Pepper

***Motions** A=against, F=for, Ab=abstain

There were no motions requiring a roll call vote at
Feb. 25 Convocation.



Membership Reinstatements and Suspensions *February 1994*

Members whose names appear below have been reinstated after previously being suspended for administrative reasons (non-payment of either annual fees or errors and omissions levies). A listing of newly suspended members appears on the overleaf. The year after each member's name is the year of

call to the Ontario bar. Enquiries regarding members listed should be directed to the Admissions and Records Department, (416) 947-3318.

REINSTATEMENTS

ERRORS AND OMISSIONS

Blayways Jeffrey Aaron	1990	Toronto, ON
Kreutzer Timothy John	1976	Toronto, ON
McArter Raymond Gary	1990	Hamilton, ON
Pennell Brian Terrence	1975	Brantford, ON

ANNUAL FEES

Clark Bruce Allan	1971	Gabrovo, Bulgaria
Daniels Ronald Joel	1990	Toronto, ON
Davidson Mark Leonard	1985	Montreal, PQ
Hunt John Thomas	1987	Oakville, ON
Kelley Ninette Gail	1985	Toronto, ON
MacNabb Kathryn Elaine	1990	Toronto, ON
Mallory Dorothy Jeanne	1965	Toronto, ON
McCutcheon John Steven	1987	Campbellville, ON
Rosenthal Stuart Elliot	1985	Toronto, ON
Rowbotham Mark Shaun	1992	Toronto, ON
Rubin Linda Cheryl	1983	Toronto, ON
Sprague Brentwood Charles	1987	Ottawa, ON

APOLOGY

Joseph Paul Robert Doyle of Orleans, ON appeared on the list of suspended members which was published with the January 1994 Benchers Bulletin. His name was included in error and the Society regrets the embarrassment caused to the member.

SUSPENSIONS

Pursuant to the *Law Society Act*, Convocation on Friday, the 25th day of February, 1994, ordered that the rights and privileges of the following members of the Society who failed to pay late filing fees within four months after imposition be suspended for a period of one year from the 25th day of February, 1994, and from year to year thereafter or until their fees are paid together with any other fee or levy owing to the Society which has then been owing for four months or longer.

David Arthur Allport	1963	Mississauga
Martin Aylmer Bitz	1949	London
Alexander Peter Christopher	1979	Newmarket
Arthur Chung	1983	Toronto
John William Clarke	1979	Alliston
Mary Brenda Anne Dagenais	1986	Ottawa
Peter Gabriel Di Martino	1980	Brampton
Raymond Vincent Donohue	1956	Sarnia
John Thurston Goodchild	1979	Godfrey
Brian Patrick Horgan	1976	Toronto
Richard William Landers	1983	Mississauga
Peter Daniel Lawson	1991	Toronto
Sidney Irving Lovas	1977	Toronto
Joseph Markin	1974	Downsview
Marcia Evelyn Yoshi Matsui	1984	Toronto
Kenneth Gerard McQuaid	1981	Toronto
Henry Desmond Morgan	1963	London
John Victor Patrick O'Donnell	1970	Etobicoke
Janly Cho-Lun Pang	1974	Toronto
William Leo Riley	1970	Ottawa
Stuart Elliot Rosenthal	1985	Toronto
John Rothel	1977	Timmins
Donald Charles Schlichter	1969	Kingston
Ansis Semenovs	1970	Toronto
Warren Arnold Singer	1991	Toronto
Trevor Basil Spurr	1975	Toronto
Paul Douglas Squires	1977	Mississauga
Leon Stanley Wickham	1987	Toronto
Andrew James Wilson	1991	Ottawa
Sheldon Samuel Wiseman	1969	Ottawa
Alan Murray Zuker	1962	Brampton

Pursuant to the said Act, notice of the suspensions has been given to the Registrar of the Ontario Court, General Division.