

ISSN 1704 - 9377
Winter 2017-18
Volume 42, Number 4

LAW MATTERS

Legal Career Paths

Celebrating Diversity Millennials' Strengths

Pursuing Your Passion in Law

CBA Young Lawyers International Program



THE CANADIAN
BAR ASSOCIATION
Alberta Branch

BY **JOSHUA SEALY-HARRINGTON**

When I first considered applying to law school, and mentioned this intent to family and friends, two schools of thought immediately emerged: those who viewed a law degree broadly, as a “golden ticket” granting entry to limitless fascinating career opportunities; and those who viewed a law degree narrowly, as a discrete technical degree preparing you for a slim set of options. I fall in the middle. While a law degree can be a stepping stone to many interesting careers in law, business, politics, and beyond, it is still a degree which, empirically speaking, tends to lead to certain job markets. But those markets are more diverse than you might think. This edition of Law Matters explores that diversity.

Whether you are a first-year law student, or a twenty-year call, I firmly believe that one’s enjoyment of their career (legal or otherwise) rests on its alignment with their personal values, not those of others. For example, your personal fulfillment will largely depend, not on whether others value how big your latest deal was, but on whether you genuinely value it (or, whether you genuinely value other people valuing it; hey, we’re only human). It is not always easy to interrogate what values we hold, but in her article in this issue (see pg. 19), Karmen Masson includes a series of questions we should all be asking ourselves as we reflect on what we want, and need, in our legal careers. She also, critically, details the professional counselling services available to those experiencing barriers to exploring alternate career paths in law.

I have friends in myriad practice environments, and those environments all include a mix of happy and unhappy lawyers. A firm’s size (small, medium, or large), subject matter (criminal, commercial, or constitutional), location (small town, big city, remote community, or international), and prestige (relatively unknown or well-established), simply cannot account for whether or not any one person will actually like spending time there. So what should you do? Know yourself; reflect; and be vigilant in preserving your happiness and mental health, while pursuing a fulfilling career, and more importantly, a balanced life.

The articles in this edition of Law Matters will, I hope, help you in this introspective journey. Law school recruitment events already provide more than enough information about the traditional “big firm” career path. Accordingly, we have strived, in this edition, to provide some background on alternate paths: international; entrepreneurial; small town; pro bono; and policy. Depending on your interests, one of these may just be your perfect fit.

Beverley Spencer (at pg. 7) discusses the Young Lawyers International Program, which provides junior lawyers with invaluable internship experiences that help those lawyers distill the values they hold, and the career paths that will reflect those values. Andrea James (at pgs. 8-9) discusses “Jamesco”, her unique entrepreneurial path in the law. In my experience, lawyers who start up their own shop consistently describe the same core regret: not doing it sooner. Rob Harvie, QC (at pgs. 10-11) discusses the virtues of small town practice. Some of the happiest lawyers I know — regardless of where they grew up — currently practice in smaller centres. From more reasonable hours, to greater responsibility early in their careers, small town practice has a lot to offer. Kendall Moholityny (at pg. 23) describes the rewarding experience of practicing as a staff lawyer in a community legal clinic. When I was in commercial practice, many of my most fulfilling experiences involved working with pro bono clients. Kendall’s account confirms the passion and gratification that a pro bono legal career can offer. Lastly, Katherine Mackenzie (at pgs. 24-25) discusses her experience with the Alberta Law Reform Institute, a fascinating role balancing legal analysis, policy recommendations, and collaborative discourse.

Whether you are just starting your career, or are reflecting on where your career has come so far, I hope that these articles assist your reflection as to where you are today, and where you would like to be in the future. 🍷

“Aerial highway junction”: iStockPhoto.com/DKart

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BY JENNY McMORDIE



As this issue of Law Matters arrives on your desks, I will have recently returned from my travels throughout the prairie provinces, attending the mid-winter meetings of the Saskatchewan and Manitoba Branches of the Canadian Bar Association.

One of the great pleasures of serving as President is the opportunity to meet members from across the country, and it was my pleasure to bring greetings on behalf of the Alberta Branch.

I was also pleased to welcome CBA Branch Presidents from British Columbia, Saskatchewan, Manitoba and the Northwest

Territories, as well as the CBA National President, and National CEO

to our January meeting of the Alberta Branch Council. As many provinces across the country share similar priorities and opportunities within the justice system, occasions where members from different CBA Branches can gather and share best practices are increasingly important.

The January meeting of the Alberta Branch Council was an important and engaging meeting, and our membership had the opportunity to review and debate the first proposal for our new governance structure. The Governance Task Force has been hard at work since this past summer evaluating our current governance structure and examining opportunities for improvement moving forward, and our Council had the opportunity to see the fruit of those labours last month. We received some excellent feedback from the members in attendance at the meeting, and encourage all CBA Alberta members to continue reaching out to the Executive Committee to provide their own input. The Governance Task Force will be taking all of this feedback, and returning with a revised governance model at the May meeting of Council. I particularly wish to recognize the members of this Task Force, and to extend my appreciation for their hard work and thoughtful approach.

Prior to our Council meeting on January 24, we celebrated the 2018 Distinguished Service Awards with a luncheon honouring the four recipients this year. Please join me in congratulating Wendy Best, QC (Service to the Profession), Brianna Guenther (Service to the Community), Ed Ma (Pro Bono Legal Service), and Professor Barbara Billingsley (Legal Scholarship) on their awards. Go to page 15 for a picture of all of our winners. I would also like to extend a sincere thank you to the Law Society of Alberta, who has been our long-time partner in the Distinguished Service Awards.

We are now just over a year out from the 2019 provincial

election in Alberta, and justice issues are more top of mind than ever. From the *Jordan* decision to concerns with court resources, the modernization of the justice system, and the funding of legal aid, there is no shortage of matters to discuss with candidates in advance of the election.

Prior to the 2015 provincial election, the CBA Alberta released the Agenda for Justice, which addressed the justice issues of the time, and provided backgrounders and speaking points on each. We are now beginning work on updating this document before the next election, and we are encouraging all CBA members to provide their input on the justice issues that are closest to them. The current Agenda for Justice is available on the CBA Alberta website at www.cba-alberta.org/Our-Work/Agenda-For-Justice; please take a moment to review, and send in your feedback on the issues you believe we should be addressing during the 2019 provincial campaign.

On December 20, I had the honour of bringing greetings from the Canadian Bar Association to our new Chief Justice, the Honourable Mary Moreau, at her swearing-in ceremony. Justice Moreau is the first Francophone-Albertan and the first woman to serve in this position and the CBA looks forward to working with her in advancing our shared goals.

Prior to the New Year, we were delighted to hear that CBA Alberta past president Marian V. De Souza, QC, was appointed to the Provincial Court of Alberta for the Calgary region. Please join me in congratulating Judge De Souza on her appointment and wishing her all the best in her new position.

The provincial and federal governments are still accepting applications for vacant judicial positions in our province, and we urge those interested to consider applying. The new judicial appointment process gives the government the opportunity to see a greater diversity of extremely qualified candidates, which can only serve to improve the administration of justice in our province and our country. More information on judicial appointments is available on the Alberta Courts website at albertacourts.ca/pc, or on the Office of the Commissioner for Federal Judicial Affairs Canada website at <http://www.fja.gc.ca/appointments-nominations/index-eng.html>.

This spring, we have an exciting new Savvy Lawyers Series webinar titled "As the Greeks Say, 'The Only Constant is Change.'" This webinar takes place on Friday, March 9, the day after International Women's Day, and addresses issues affecting not just the legal system, but our entire society, including unconscious bias, and diversity and inclusion. Please join us, and our distinguished panel that includes Lisa Tchir (Assistant Deputy Minister, Alberta Status of Women), Cori Ghitler (Director, Professionalism & Policy, Law Society of Alberta), and Gabrielle Battiste (Executive Director, Edmonton Police Commission). The event is available live at the CBA office in Edmonton, or by webcast for those members located elsewhere. For more information on this and past Savvy Lawyers Series webinars, please visit www.cba-alberta.org/SavvyLawyers.

As always, the Canadian Bar Association strives to bring value to its members. All members of the Executive Committee welcome your calls, emails and feedback generally, to help us make your organization the best it can be. ☎

WHAT'S HAPPENING

FEBRUARY

21: The Canadian Bar Association presents **EXPLORING THE UNIQUE ETHICAL AND PROFESSIONAL ISSUES FACED BY PENSION LAWYERS**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=na_onfeb218.

27: The Alberta Lawyers' Assistance Society presents **ASSISTFIT: WEEKLY YOGA**. Fifth Avenue Club, Calgary. Recurring weekly on Tuesdays. For more information, visit <http://albertalawyersassist.ca/assistfit-weekly-yoga-calgary/>.

27: The Ontario Bar Association presents **CONTESTED PASSING OF ACCOUNTS**. Twenty Toronto Street, Toronto, ON. Also available by Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18TRU0227X.

28: The Ontario Bar Association presents **EXPERT ADVICE ON LAUNCHING YOUR LEGAL CAREER**. Twenty Toronto Street, Toronto, ON. Also available by Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=ON_18YLD0228X.

28: The Canadian Bar Association presents **CIVIL FORFEITURE: A NEW CONCERN FOR INSOLVENCY LAWYERS**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=na_onfeb318.

28: The Alberta Lawyers' Assistance Society presents **ASSISTFIT: KNOCKOUT STRESS WITH MUAY THAI KICKBOXING**. Champions Creed Martial Arts, Calgary. Recurring on the last Wednesday of each month. For more information, visit <http://albertalawyersassist.ca/event/assistfit-knockout-stress-muay-thai-kickboxing-2/>.

MARCH

1: The Ontario Bar Association presents **MANAGING PARTNER ROUNDTABLE: WHAT'S NEW IN PRACTICE FROM LAWPRO**. Live Teleconference. To register, visit www.cbapd.org/details_en.aspx?id=ON_18LPM0301X.

7: The Canadian Bar Association presents **THE MEETING OF MINDS: ACCOMMODATING MENTAL HEALTH NEEDS AT THE NEGOTIATING TABLE**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=na_onmar118.

9: The Canadian Bar Association, Alberta Branch presents **LIKE THE GREEKS SAY, 'THE ONLY CONSTANT IS CHANGE.'** In person at the CBA Office, Edmonton, AB and by Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=AB_SKIL3918.

14: The Canadian Bar Association presents **RESOLVING PROBLEMS AT THE CROSSROADS OF IMMIGRATION, FAMILY AND CHILD LAW**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=na_onmar218.

27: The Ontario Bar Association presents **TAX UPDATE**. Live Webcast. To register, visit www.cbapd.org/details_en.aspx?id=ON_18TRU0327X.

28: The Canadian Bar Association presents **REMEDIES FOR ABUSE AND NEGLECT OF OLDER ADULTS IN CONGREGATE SETTINGS**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=na_onmar318.

29: The Canadian Corporate Counsel Association presents **RESTRICTIVE COVENANTS AND INJUNCTIONS: THE LATEST ON THE LAW AND PRACTICE**. Live Webcast. To register, visit www.cbapd.org/details_en.aspx?id=NA_HMEMPO318X.

APRIL

10: The Canadian Bar Association, British Columbia Branch presents **HOW LAWYERS SHOULD BE CURIOUS ABOUT AGING CLIENTS NEEDS**. Live Webinar. To register, visit www.cbapd.org/details_en.aspx?id=BC_pdate0418.

18: The Alberta Lawyers' Assistance Society presents **2018 ANNUAL GENERAL MEETING**. In person in Calgary and Edmonton, AB. For more information, visit <http://albertalawyersassist.ca/event/assists-annual-general-meeting-2/>.

27: **MARK THE RETIREMENT OF THE RT. HON. BEVERLEY MCLACHLIN, PC, CHIEF JUSTICE OF CANADA**. Vancouver Convention Centre, Vancouver, BC. Tickets on sale at <https://www.nji-inm.ca/galas/>.

28: The Alberta Lawyers' Assistance Society presents **PEER SUPPORT TRAINING**. Field LLP, Edmonton, AB. For more information, visit <http://albertalawyersassist.ca/event/2442/>.

MAY

5: The Alberta Lawyers' Assistance Society presents **PEER SUPPORT TRAINING**. Field LLP, Calgary, AB. For more information, visit <http://albertalawyersassist.ca/event/peer-support-training-calgary-3/>.

JUNE

2: The Alberta Lawyers' Assistance Society presents **DEVELOPING COACHING SKILLS**. Field LLP, Calgary, AB. For more information, visit <http://albertalawyersassist.ca/event/assist-training-on-developing-coaching-skills/>.

Please send your notices to:
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CELEBRATING DIVERSITY: MILLENNIALS' STRENGTHS

BY **NOREN HIRANI**

By 2025, millennials will comprise up to 25% of the workforce according to a 2015 Thompson Reuters study. Many institutions, including law firms, may fear this rising percentage due to some of the negative stereotypes that are associated with millennials. While any generation may be characterized by negative stereotypes, we can choose to adopt a different perspective. A perspective that celebrates the differences millennials present as a strength, uses them as an opportunity for dialogue and leverages their views to enrich the way we practice in order to better serve our clients.

Millennials are raised with an enormous amount of self-confidence, which came from the hard work, dedication and sacrifice of their parents. Parents who were increasingly aware of the science surrounding brain development, early childhood education and raising mentally, emotionally and physically healthy children. This child-centric upbringing combined with youthful enthusiasm results in a confidence that makes a challenge more inviting and greater comfort with risk. This is a strength. Millennials are comfortable speaking up and stretching beyond



traditional comfort zones. A willingness to speak up can yield powerful results that would have never come from quietly accepting the status quo.

Millennials are also exposed to much more criticism and frank feedback, which comes from living on social media. Millennials have thicker skin because social media gives them the opportunity to feel and see the real-world effects of how people react to them and what they are thinking. Millennials are comfortable with continuous feedback and are committed to learning new things.

Growing up with constant access to technology, millennials are also tech savvy and are interested in finding ways of solving problems using technology.

Millennials—men and women alike—are no longer thinking about work-life balance but work-life integration and how to live a whole life. Millennials are redefining how and where they work. In today's always-on, technology-saturated work environment, millennials understand that there are many ways they can accomplish what needs to be done by juggling posting Instagram pictures of leisure pursuits alongside building their brand by tweeting about interesting legal wins.

Millennials' confidence, tech savvy and willingness to establish new work patterns will play an important role in establishing the future of legal services. Moreover, the strengths that millennials display in the workplace are increasingly becoming client preferences such as constant communication or updates, greater use of technology-based solutions and quicker adoption of client feedback.

To address the biases and stereotypes against millennials and to build an inclusive and diverse workplace the time to act is now—a good start would be to engage in dialogue with someone from a different generation with an intention to understand each other's strengths and needs. As eloquently stated by His Highness the Aga Khan in a lecture at Harvard University, "diversity is not a burden to be endured, but an opportunity to be welcomed." He further states that "a cosmopolitan society is a society which not only accepts difference, but actively seeks to understand it and to learn from it. In this perspective, a cosmopolitan society regards the distinctive threads of our particular identities as elements that bring beauty to the larger social fabric." In a nutshell, that is what millennials bring to the current work force. 🌐

"Overhead shot of young adults using technology at a table":
iStockPhoto.com/monkeybusinessimages



NOREN HIRANI practices intellectual property law with Bennett Jones LLP in Calgary, where she advises clients in IP-related corporate commercial agreements. Noren is currently a board member of the Association of Women Lawyers Calgary as well as the Chair of the CBA Alberta Equality Committee.



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WORKING WITH EXPERTS AND THE DISCLOSURE OF FILES

BY TAMARA PRINCE AND ALLISON KUNTZ

It is of paramount importance that expert reports and testimony tendered in a court proceeding be impartial, objective and free from advocacy. As litigation counsel, we must encourage and guard the expert's independence while at the same time ensuring that their evidence will be meaningful in the context of our case. The perceived tension between these two roles can be managed with proper process, and due regard to, not only the possibility that an expert's file (draft reports and all) may be subject to production once a report is produced,¹ but to our obligation to the court as well.

An expert's independence can be rooted in a clear retainer letter which explains the expert's duty to be fair, objective and independent. The retainer letter can also summarize the pertinent facts, and should attach the source documents from which the expert can draw his or her own conclusions. It should also state the areas for comment or questions for the expert without suggesting a desired result. Finally, a retainer letter can outline the preferred format for the report (e.g. statement of qualifications, purpose of the report, documents reviewed, analysis of information, opinion) in order to clarify expectations from the outset and minimize comments on draft reports.

Counsel will often discuss an expert's preliminary views before requesting a formal report. Once a report has been requested, it is almost inevitable that before it is finalized counsel and the expert will exchange comments (verbally or in writing) on draft reports. Because an expert's file is subject to production once the report is tendered for evidence in court,² it has become common practice to try and limit the size and content of the expert's file by minimizing the exchange of emails and communicating primarily by telephone or in person. At worst, such covert communication suggests that there is something inherently wrong with discussions between counsel and an expert regarding their opinion, and at best can be extremely inefficient and time consuming resulting in unnecessary expense.

A relatively recent decision from the Ontario Court of Appeal in *Moore v. Getahun*, 2015 ONCA 55 [*Moore*] challenges the assumption that the entirety of an expert's file is producible once an expert report has been tendered, and confirms that consultation between counsel and an expert is in fact necessary "to ensure the efficient and orderly presentation of expert evidence..."³

In *Moore*, the Ontario Court of Appeal overturned a trial judge's holding that the practice of counsel and witnesses discussing draft reports is inappropriate and needs to

stop. The Ontario Court of Appeal reasoned that there are already safeguards under the rules of procedure to protect the impartiality of experts, and in any event, automatic and wide-ranging disclosure inhibits careful preparation by encouraging parties to avoid putting anything in writing or even destroying draft reports. Sharpe J.A., for the majority, concluded that draft reports and consultations between counsel and testifying expert witnesses are protected by litigation privilege subject to an exception for improper conduct. The Court stated that "absent a factual foundation to support a reasonable suspicion that counsel improperly influenced the expert, a party should not be allowed to demand production of draft reports or notes of interactions between counsel and an expert witness."⁴ As an example of a factual foundation supporting disclosure, Sharpe J.A. cited a decision where disclosure was ordered "after an expert witness testified that he did not draft the report or affidavit containing his expert opinion and admitted that his firm had an ongoing commercial relationship with the party calling him."⁵

While the decision in *Moore* has yet to be followed in Alberta it has been referred to favourably in several other provinces,⁶ suggesting a possible move in its direction across Canada. Regardless, there is nothing inherently wrong with discussing an expert's evidence or limiting the size of an expert's file with a view to minimizing the volume of material that will eventually be disclosed so long as the expert's independence is preserved. Counsel must remember that under no circumstances should we attempt to unduly influence, or allow the expert to become unduly influenced, in favour of our client. To do so undermines our obligation to the court to ensure the production of an impartial and objective report. Further, perceived bias may result in the report being given little to no weight or being excluded in its entirety, undermining the client's case and counsel's reputation. ☞

With special thanks to Meghan Parker for her assistance with this article.

⁴ *Ibid* at paras 71-78.

⁵ *Ibid* at para 77, citing *Ebrahim v Continental Precious Minerals Inc.*, 2012 ONSC 1123.

⁶ Nova Scotia, New Brunswick, Newfoundland and Saskatchewan.



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¹ *Erketu v. Wilson*, 2013 ABQB 247 at para 33.

² *Gutierrez v. Jeske*, 2005 ABQB 95 at para 12 and *Chernetz v. Eagle Copters Ltd.*, 2005 ABQB 712 at para 10.

³ *Moore v. Getahun*, 2015 ONCA 55 at para 49.

FINDING A CALLING FAR FROM HOME

BY BEVERLEY SPENCER

This article was originally published on July 7, 2017 on nationalmagazine.ca.

Persia Sayyari's path to the BC Coroners' Service took her via Constitution Hill, a former prison in Johannesburg where men and women who fought apartheid were once incarcerated.

Home to South Africa's Constitutional Court and the offices of the South African History Archive (SAHA), it's where she worked as an intern with the Young Lawyers International Program in 2012-13. Her experience there shaped her decision to pursue a career with an investigative role – as a coroner who conducts preliminary investigations of unnatural, unexpected or unexplained deaths.

It's a long way from SAHA, an independent human rights archive that preserves histories about struggles for social justice and uses access to information laws to support present-day activism. But the work was an eye-opener for someone who, as an articling student, had been frustrated with how the human elements of a case can be ignored during litigation.

"At SAHA, I saw first-hand how thorough investigations could expose multifaceted stories and lay the foundation for preventing future injustice," Sayyari said in an email. "It validated my belief that there's value in knowing the whole truth, no matter how disturbing – and is a major part of what motivated me to become a coroner."

The Young Lawyers International Program provides opportunities for Canadian law graduates under 30 to spend a year working overseas with host organizations on legal, justice-related and policy issues.

The interns, who are not qualified to practice law overseas, take on a variety of tasks, including research, analysis and writing, justice and rights advocacy, assisting with training programs, setting up consultations and raising public awareness. They receive a monthly stipend based on the cost of living in their placement city. To be considered, candidates should be involved in extra-curricular activities related to access to justice and have an interest in pursuing a career in that area.

The program is funded by Global Affairs Canada as part of the Youth Employment Strategy. The CBA has applied for further financial support and hopes to resume YLIP in the coming months.

Joshua Lam was placed in Nairobi with the Kenyan section of the International Commission of Jurists (ICJ Kenya). His work with

the East African International Criminal Justice Initiative took him to Gulu in northern Uganda where he was profoundly affected by what he heard at a community forum held with victims of the Lord's Resistance Army, NGOs, government officials and community leaders.

They had gathered to discuss how to pursue justice and peace in the wake of the LRA's reign of terror that had seen more than 30,000 children abducted for use as child soldiers while more than one million northern Ugandans were moved to protective camps.

"It was gut-wrenching to get personal accounts of the devastation that individuals, families and communities had suffered as a result of the conflict," he said in an email.

"[But] it was humbling to see how positive, proactive and courageous all the individuals were in trying to find solutions and ways forward."

"If you continually paint individuals and people as victims, one can easily start to view people as weak and helpless. That was definitely not the case at this meeting."

Lam, who stayed on with ICJ Kenya for another year after his internship, said his professional skills grew "immensely" during his tenure. He attributed that to working with an NGO with a limited budget but high aspirations – the lack of resources meant the entire team had to work together to solve problems ranging from getting a new website up and running to bringing a class action against the government on behalf of victims of sexual and gender-based violence.

He has since returned to Canada where his wife is completing her medical residency. He plans to pursue international human rights law again in the future, but in the meantime does pro bono work related to access to justice issues.

"I feel my experiences in Kenya as a YLIP intern really made me into the lawyer I am today." 🌐

Learn more about YLIP at facebook.com/CBAYLIP and cba.org/CBA-International-Initiatives/Young-Lawyers-International-Program.

"Nairobi City": freeimages.com/Edgar Mwakaba



BEVERLEY SPENCER is editor-in-chief of National Magazine, and executive editor of CCA Magazine.

BROADENING YOUR CAREER PATH: ADOPTING A DIFFERENT MINDSET

BY **NOREN HIRANI** AND **ANDREA JAMES**

With many law school students entering the legal market and a slowdown in the economic climate in Alberta, recent law school graduates may find it challenging to find their footing after graduating. As discussed in one of my other articles in this issue, millennials are confident, have the ability to think differently, take risks and try new things. These strengths may equip young graduates facing a tough job market after graduating from law school, if they also adopt a different mindset about the paths available to them to start their future legal career.

Andrea James personifies these qualities and this mindset. Andrea is a graduate from the University of Calgary and the University of Houston, and was called to the bar in 2015 (Texas) and 2016 (Alberta). She started her own law firm and constantly changes her business to suit her clients' needs as I discovered in my interview with her.

Noren Hirani: What is your business and what do you think sets it apart?

Andrea James: Over the last few years, I have worked to create a practice that focuses on business law with an emphasis on tax and related issues. My target clients are entrepreneurs, typically in their thirties and forties, that are developing business ventures and who need someone with my business and tax expertise to help them grow. There are a lot of these individuals, many of whom are not sure where to turn to. In many cases, these entrepreneurs are not even sure what questions they should be asking.

I focus on becoming a critical part of the entrepreneurial process. I want to help the business grow and make money. I have met many of the clients that I work with through relationships that I have built with accountants. Contrary to popular belief, most accountants are not tax specialists. I can work with the clients' accountants to develop some creative and profitable ideas.

I believe I add value by constantly developing my practice. I schedule time every week to re-evaluate what aspects of my business are working well and what aspects need to be tweaked. One advantage of my firm is that I do not have a lot of overhead that weighs me down. I have the flexibility to try new ideas and to eliminate ideas that are not working. Ideas that I have had success with include implementing flexible billing models such as daily fixed fee rates, working out of my clients' offices and servicing as an in-person resource to answer any client questions.

N.H.: What inspired you to start your own business?

A.J.: I took a class called "Entrepreneurship" during my last year of law school. The final assignment in the class was to create a business plan. The plan that I created became my blueprint for creating Jamesco.

I was also inspired by my life long mentors, my parents. My parents were involved in several business ventures when I was growing up. They discussed the issues that came with running a business and I internalized these conversations. This kind of

mentorship, support and different way of looking at earning a livelihood stripped away a lot of the misconceptions that exist around starting a business for me.

When I went to my parents with my business plan and pitched the idea of starting my own firm, they were unbelievably supportive. My discussion with my mentors, in particular my Dad, has brought us much closer together. I am able to connect with him on a level that I was not able to before I went into business for myself.

N.H. What gave you the confidence to pursue this endeavor?

A.J.: I really did not see the opportunity to start my own firm as a major risk. All of my classmates in law school seemed focused on articling and working in a traditional firm environment. I was confident that I could have access to some very interesting potential clients with challenging work without going to a firm. I also had a network of professionals that I had met before graduating from law school through internships, my time abroad and networking that I was confident I could rely on to support me in starting my own business.

When I was first starting out, one client who I had met through networking during law school retained me to represent the company's interests in Europe and Asia. Working for this client was an incredible learning experience and overall exciting opportunity. Looking back, I am grateful for having built my network before I graduated law school and in particular for having met this unique client.

N.H. How did you overcome any negative perceptions or stereotypes about millennials when pitching your services to clients?

A.J.: I was 25 when I started Jamesco. Given my age and the fact that most people think I look like a high school student, I was concerned about how potential clients might perceive me. This concern materialized one day when I was not allowed to sit down with a client in a lounge until I was able to show ID. This was the first time I had met the client in person and so I cannot imagine that it helped bolster her confidence in my ability to represent her.

Knowing that my youth may be counted against me, I make it a priority to be an expert in those topics on which I am asked to advise. I have learned that it is the best prepared lawyer who has the edge in any situation and I have taken several steps to this end, for example:

- I am enrolled in the Tax LLM program at Osgoode Hall. This program provides a structured environment to learn tax law and is taught by excellent professors. It an incredible time commitment, but I view it as an essential component to my practice and lifelong learning. Not only is the program building my legal competency but I have also met many interesting people along the way.
- I recently published a book on common corporate reorganization issues that lawyers encounter in their

practices. The readers I had in mind while writing the book were professionals and entrepreneurs who were not tax experts. I have endeavored to make the book an easy to read and practical guide on various issues encountered in reorganizing companies in Canada. The publication has since been adopted by an organization for its major tax seminar and has been circulated to approximately 750 professionals. I believe writing the book has enhanced my credibility, knowledge and profile to potential clients.

N.H.: What are the highs and lows of running your own firm?

A.J.: To succeed in starting your own business, you have to be ready to hustle for work. When it is your business, you do not necessarily collect a pay check every second Friday. You eat what you kill, so to speak.

To me, the hustle is the most exciting part of running my own firm. Not knowing where I am going to find work and the knowledge that unless I do, I will not get paid is the greatest motivation for me.

My favorite time of the week is Monday morning. Every Monday morning I schedule time to strategize how to find more work. Knowing that I may strike out nine times out of ten pushes me to take more chances, be creative, and be bold.

Learning how to fail was a low point but it was also a liberating experience. Learning how to pitch myself and hear the word "No!" was difficult but "No!" was the worst-case scenario. Hearing "No!" forced me to figure out how to bounce back. Now, the more I hear "No!" the better I get at convincing a potential client to say "Yes!" to retaining me.


N.H.: What advice do you have for students once they graduate?

A.J.: I really like the quote, "if you don't know what port you are sailing to, no wind is favourable."

Every graduating student should put together a written practice plan for what they want their career to look like and the steps that they need to take to achieve those goals. This applies equally to students who are struggling to find a job upon graduation and for students who have articles. A practice plan focuses one's efforts and helps you work smarter.

When putting together my practice plan, I found it really helpful to look at the biographies of people who had achieved inspiring goals. People highlight what they think is the most important about themselves when they write their bios. Ask yourself why they highlighted a certain skill or achievement and how it served them. For example, did it advance their knowledge or expand their network? Then ask yourself what you should do to achieve your practice plan.

~~~

In my interview with Andrea it was clear to me that she has a very unique mindset and this allowed her to take a very different path than her classmates in law school. She chooses to view "No" as a growing experience and finds excitement in the hustle. She surrounds herself with strong mentors and engages them in her life, business and development. She is a believer in lifelong learning and continues to practice this core value to build her business. She believes that what sets her business apart is constant self-reflection and an openness to change to suit the needs of her clients. 



**NOREN HIRANI** practices intellectual property law with Bennett Jones LLP in Calgary, where she advises clients in IP-related corporate commercial agreements. Noren is currently a board member of the Association of Women Lawyers Calgary as well as the Chair of the CBA Alberta Equality Committee.



**ANDREA JAMES** is a graduate of the University of Calgary and the University of Houston, and was called to the Bar in 2015 (Texas), and 2016 (Alberta). She is the founder of Jamesco LLP, where she advises clients in the areas of personal and corporate tax, business succession and estate planning.

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**Lupe Rodriguez (1953-2008)**, Untitled 1983  
Goache and Pastel on Japanese Rice Paper  
23.5 x 32.5 in (59.5 x 82.5 cm), Hand-crafted frame by Jarvis Hall

## SMALL TOWN LAW... NOT A BAD GIG

BY **ROBERT G. HARVIE, QC**

A few years back, I chaired the Law Society Retention and Re-engagement Task Force, looking at how many people leave the profession and under what circumstances. After engaging in a period of exit interviews with our members, we came across some pretty shocking information - that within 5 years of being called to the bar, 57% of women and 49% of men leave private practice. Many of those chose to move to in-house or government positions, but close to 30% (28% of women and 29% of men) left the practice of law entirely.

The reasons given were varied, but seem to relate to lifestyle issues, including practice stress, time with family, dealing with discourteous colleagues and so forth.

Based upon updated reports in late 2017 discussed at our last Benchers meetings, it would appear that things haven't improved since the report was produced in 2014.

And while this struck me as a pretty big canary in the coal mine, selfishly I have viewed this as a bit of an opportunity for recruitment for our firm in Lethbridge, a smaller center.

It just so happens that some of the reasons that lawyers might choose to leave practice in places like Calgary or Edmonton are also reasons that they might choose to live in a place like Lethbridge, or Medicine Hat, or Fort MacMurray, or Pincher Creek, or Lloydminster, or Jasper or Leduc.

Lifestyle.

No - small center lawyers aren't picking up international commercial transactions and the massive fees that would accompany them, nor are we offering a chance to work in "our London offices". There are many reasons that the large firm, or even the large city experience is viewed as a more attractive option for lawyers. And they are legitimate.

There are, I confess, moments when I wonder what might have happened were I able to secure a position with Macleod Dixon (as it was) when I graduated law school. Ignoring the obvious wisdom of their selection process, I sometimes ponder what practicing law at a big firm level would have been like.

And then I jump in my car, and drive five minutes home for lunch with my wife, who is also a lawyer in another office. We munch a salad, watch some Family Feud, commiserating about



our mornings, and then we jump back into our vehicles and find our way back to our offices.

And when my kids were younger, I coached my son in baseball, running from work to the field for 5:00pm practices without difficulty.

No. We're not having power-lunches at the latest downtown bistro in Calgary, we don't have season tickets to the Flames or Oilers, and can't hop into Holt Renfrew for some lunch time shopping.

But, so what?

We practice real law. Challenging law. Law which makes a difference, for our clients and even for our province. In 2013, I was challenged to take a case to our Court of Appeal, *Goett v. Goett*, which resulted in a decision relating to imputation of income to a business owner for child support purposes. It's been cited 50 times in Alberta, British Columbia, Saskatchewan, New Brunswick and Ontario. It was a challenging case, which raised some novel issues regarding family law which, apparently, has been seen as relevant across Canada.

And there are many, many lawyers all over Alberta who are doing excellent, challenging work from smaller communities. The stereotype of the slow-witted, country bumpkin doing wills and local real estate for peanuts just isn't the case.

Which isn't to say we necessarily make the same income as lawyers in downtown Calgary. Just yesterday, sitting next to a colleague, he confessed that he turns away work notwithstanding requiring a \$50,000.00 retainer to get in his door.

This doesn't happen in Lethbridge, or, I'm guessing, Lloydminster or Westlock.

But consider.

A couple years ago, I read an excellent book by Daniel Kahneman, "Thinking Fast and Slow", an examination of the battle between "fast" thinking and "slow" thinking, and how our life choices are often not as well considered as we like to think. While the whole of the book is extremely worth reading, I was struck by one quote which I have carried with me, and which bears repeating:

"The satiation level beyond which experienced well-being no longer increases was a household income of about \$75,000 in high-cost areas."

## PURSUING YOUR PASSION IN LAW

BY **NOREN HIRANI**

As described in *The Economist*, the demands for legal work has reduced since 2008. This has caused the legal profession to undergo some major changes and has increased competition for the remaining legal work. As a result of this competition, professionals need to spend more time developing and maintaining their practice. However, even in this competitive and demanding landscape, some lawyers, supported by their firms, find unique and interesting ways to pursue their passion.

One such example is Sophie Virji. After completing her B.Comm in Finance at McGill University and working in commercial banking for a few years, Sophie pursued her law degree, which she says “seemed like a natural stepping stone to a career in corporate law”. While in law school, Sophie accepted an articling position in her home town, Calgary, with Dentons. Sophie is currently a senior associate in Dentons' Tax Group.

Sophie remarks that “going the corporate route was a natural and pragmatic move for me given my academic background, however my interest and passion in international development, which was honed at a very young age, has always been a big part of me.” She found the perfect opportunity to pursue this passion when she heard about the Aga Khan Foundation Canada Fellowship. She decided to consider taking some time away from corporate law to see what international development was all about and use her legal qualification in a way that would allow her to explore this interest. “Legal skills can be used in many contexts – whether to advise micro-entrepreneurs, world-class non-profit universities or international NGOs. I knew that one way or another, my skills would be useful to help others and their communities.”



*Sophie Virji in Bishkek, Kyrgyzstan*

When Sophie accepted a consulting role with the University of Central Asia, an agency of the Aga Khan Development Network (AKDN), in Bishkek, Kyrgyzstan, Dentons was certainly surprised, but unwaveringly supportive. Although she was unsure how long the journey would be, she kept ties with Dentons' Tax Group and was certain that if her journey brought her back home, it would be back to Dentons. After 9 months of collaborating with the Ministry of Economy of Kyrgyzstan and various other national and international experts to develop a training strategy aimed at addressing the economic and social empowerment of Kyrgyz women through microfinance, Sophie pivoted into a policy role at the Diplomatic Office of the AKDN in

Kabul, Afghanistan. There she worked with the Diplomatic Representative of the AKDN office to advance the AKDN's development priorities, strengthen government and diplomatic relations, and worked with the internal agencies to develop capacity and efficiencies.

Sophie returned to practicing with Dentons after 13 months in international development. Sophie says that her time in “Central and South Asia was a tremendously fulfilling and perspective-changing experience ... I could not imagine having taken any other path and I am grateful for Dentons' support in this endeavor”. Sophie also says that the experience has driven her to “continue to volunteer in local community development” as she builds her practice as a tax lawyer with Dentons.

Another example is Rustam Juma. When Rustam became a lawyer, he like many of his classmates in law school, intended to change the world. “I went to law school because I wanted to make a difference,” Rusty says. While at law school, he landed an articling job with one of Canada's largest law firms and stayed on as an associate in the securities group. “Who doesn't like making money? But, I

*continued from page 10*

In other words, money does buy happiness, in some respects, but only up to about \$75,000.00. Thereafter, our happiness really doesn't increase. It just sort of pours over the sides, like too much batter in a waffle iron.

What does this have to do with practicing law in a smaller center?

Candidly, the biggest difference from big city practice, in my opinion, is “income”.

And if you can earn \$75,000.00 per year, it would appear anything beyond that is, well, unnecessary to true happiness.

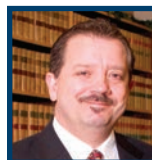
And. So. If I can avoid rush hour commuting, be closer to my

wife and children, and earn as much as I need to be happy, well, it would seem that small town, or at least smaller center practice isn't such a bad gig.

At least for me.

And maybe for you. 🌐

“CPR High Level Bridge - Lethbridge 1”: freeimages.com/Dave R



**ROBERT G. HARVIE, QC**, is the past chair of the CBA Alberta Editorial Committee. Rob is also a former bencher of the Law Society of Alberta, and currently practices in Lethbridge at the firm of Huckvale Wilde Harvie MacLennan LLP.

# LEGAL CAREER PATHS

was in search for something more!" he says.

In March 2011, ten lawyers traded their offices for something very different. Rustam Juma and others at Dentons Canada (which was then Fraser Milner Casgrain LLP) volunteered to work in developing countries through a partnership facilitated by Uniterra, a program that connects organizations and companies in Canada to ones in the developing world in need of skilled advisers.




*Rustam Juma teaching high school students in Vietnam*

Through its Leave For Change program, Uniterra works with a variety of Canadian employers to fill two- to four-week volunteer placements in one of the 15 countries where Uniterra works. The employer covers part of the costs by providing \$5,000 per volunteer and allows its employees to apply according to their interests.

Dentons Calgary was the first law firm to sign on to the program. Rustam chose to teach high school kids in a remote village in Vietnam certain soft skills such as resume writing and job interview preparation. The types of positions can vary

considerably, from helping with human resources in Mongolia to training students in Guatemala. Even though volunteer opportunities did not exactly match his practice area, skills like public speaking, professionalism and networking are valued skills anywhere and transplant well.

Despite the ever-changing challenges facing the legal profession whether it be competition or otherwise some lawyers are still finding the time, resources and energy to pursue their passion of giving back

to underprivileged communities in the developing world. Moreover, big firms even in these challenging times are encouraging, facilitating and supporting their professionals to pursue their passion. 



**NOREN HIRANI** practices intellectual property law with Bennett Jones LLP in Calgary, where she advises clients in IP-related corporate commercial agreements. Noren is currently a board member of the Association of Women Lawyers Calgary as well as the Chair of the CBA Alberta Equality Committee.



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## MEET VIVENE SALMON, CBA'S 2018-2019 VP



Vivene Salmon, Assistant Vice-President, Compliance at Bank of America Merrill Lynch, was acclaimed CBA Vice-President for the 2018-2019 year. Vivene was elected to the CBA Board of Directors in 2017, and sits on the Finance Committee, where she is involved with all aspects of the CBA's finances. She has volunteered

her time with the CCCA as a member of the Advocacy and Professional Development Committees. Her commitment to the CBA has also included work with the Young Lawyers' Section, the Ontario Chapter of the CCCA, and several Ontario Bar Association Sections and working groups, including the Challenges Faced By Racialized Licensees Working Group, and the OBA mentorship program. Vivene will commence her term as CBA Vice-President in August 2018.

## BILL S-202: SHARED PARENTING ACT

The Canadian Bar Association's Family Law Section has submitted comments on Bill S-202, *Shared Parenting Act*.

In the submission the CBA Section opposes putting the focus on parents' rights rather than what is best for children. Currently, there are no 'mother's rights' or 'father's rights' in custody and access determinations, only the right of children to reside in the parenting arrangement that advances their best interests. The CBA Section believes the law should remain focused on this fundamental priority and therefore believes that Bill S-202 should not proceed in the legislative process.

Read more online at [www.cba.org/News-Media/News/2018/January/Bill-S-202-Shared-Parenting-Act](http://www.cba.org/News-Media/News/2018/January/Bill-S-202-Shared-Parenting-Act).

## THE CBA ON IMMIGRATION CONSULTANTS

The Immigration Law Section of the Canadian Bar Association wrote to the Minister of Immigration, Refugees and Citizenship to comment on the Government Response to the Citizenship and Immigration Committee Report, "Starting Again, Improving Government Oversight of Immigration Consultants" ([www.ourcommons.ca/DocumentViewer/en/42-1/CIMM/report-11/](http://www.ourcommons.ca/DocumentViewer/en/42-1/CIMM/report-11/)), presented to the House of Commons in October 2017.

In the letter the Section applauds the federal government's commitment to addressing the inadequate protection of the public from cases of unprofessional or unethical conduct by immigration consultants, as well as its commitment to improving client services. The Section disagrees, however, with the government's view that a strong system of oversight for immigration consultants will be an adequate or successful solution to maintaining public confidence and the integrity of the Canadian Immigration System.

Instead, they propose an alternative and more cost-effective solution, which would serve to better protect applicants and newcomers to Canada.

Read more online at [www.cba.org/News-Media/News/2017/December/The-CBA-on-Immigration-Consultants](http://www.cba.org/News-Media/News/2017/December/The-CBA-on-Immigration-Consultants).

## LEGAL AID IN CANADA: SAME CONCLUSIONS, DIFFERENT REPORT

Federal legal aid funding has not kept pace with costs. There is a patchwork of legal aid assistance levels across the country. Federal money should be earmarked for civil legal aid. Money spent on legal aid saves money elsewhere in the social assistance system. Technological advances should be leveraged to improve access to legal aid services. National data collection should be improved.

Many of the 10 recommendations from a report on legal aid ([www.ourcommons.ca/DocumentViewer/en/42-1/JUST/report-16/](http://www.ourcommons.ca/DocumentViewer/en/42-1/JUST/report-16/)) by the House of Commons Standing Committee on Justice and Human Rights probably sound like déjà vu all over again.

The report's findings and recommendations will be familiar to anyone who's read the CBA's own Reaching Equal Justice report, along with its proposed national benchmarks for legal assistance ([www.cba.org/CBAMediaLibrary/cba\\_na/PDFs/LLR/A-National-Framework-for-Meeting-Legal-Needs-Proposed-National-Benchmarks.pdf](http://www.cba.org/CBAMediaLibrary/cba_na/PDFs/LLR/A-National-Framework-for-Meeting-Legal-Needs-Proposed-National-Benchmarks.pdf)), which come to many of the same conclusions – including that immediate action is needed.

Read more online at [www.cba.org/News-Media/News/2017/December/Legal-aid-in-Canada](http://www.cba.org/News-Media/News/2017/December/Legal-aid-in-Canada).

## CBA WELLNESS AWARD OF EXCELLENCE



Dana Schindelka is the winner of this year's CBA Wellness Award of Excellence. The award recognizes and celebrates one person involved in lawyers' assistance who has displayed, in an exemplary manner, the qualities of knowledge, compassion and dedication to making the lives of lawyers better and more fulfilling.

Dana has been a CBA member since 1996. Originally from Saskatchewan, he was the Director of that province's Lawyers Concerned for Lawyers for several years.

He became a member of the Alberta Lawyers Assistance Society's Board in 2005, and became chair of the board in 2011. In 2006 he received the CBA Alberta Branch Volunteer Recognition award, in part due to his contributions to wellness programs.

In 2007, he co-authored a report identifying the need for peer support for Alberta lawyers, which became what is now a well-established program.

He became a member of the CBA Wellness Board in 2010, and was its Chair from 2014-2016. As a writer, he has contributed to SLAW on behalf of CBA Wellness and to other CBA publications on wellness issues.

Dana has been lauded for his legal talents and his significant contribution to the development of his firm's work in Calgary. Throughout his demanding career he has consistently delivered, and tried to live, the message of the importance of the health and wellness.

## 2017 CBA LEADERSHIP CONFERENCE FOR WOMEN



Patricia Blocksom, QC, introduces the Cecilia I. Johnstone Award at the CBA Leadership Conference for Women, October 20, 2017



Sameera Sereda receives an Honourable Mention at the Cecilia I. Johnstone Award ceremony

## SOUTH SECTIONS



The Hon. Minister Stephanie McLean attends the October 20 meeting of the Sexual Orientation & Gender Identity Section.

## INNS OF COURT



Inns of Court presents (l to r) Sandra Corbett, QC, The Hon. Mr. Justice P.B. Michalyshyn, The Hon. Judge L.D. Young, Walter Olinyk, Wendy Young

## EDMONTON MENTOR RECEPTION



(l to r) CBA Alberta Vice President Frank Friesacher, Ziad Hajar, Anna Kuranicheva



(l to r) Michael Krause, QC, Sheila Raffray, Darren Moroz, Zubair Hussaine

## 2018 PRESIDENT'S SERVICE AWARDS



(l to r) CBA Alberta President Jenny McMordie, award winners Ed Ma, Wendy Best, QC, Prof. Barbara Billingsley, Brianna Guenther, Law Society of Alberta President Anthony Young, QC (photo credit: Monique de St. Croix)

## JANUARY MEETING OF COUNCIL



(l to r) CBA Saskatchewan President Evatt Merchant, QC, CBA Alberta President Jenny McMordie, CBA Manitoba President Melissa Buchanan, CBA National CEO Cheryl Farrow, CBA National President Kerry Simmons, QC, CBA BC President Bill Veenstra, CBA NWT President Christopher Buchanan

## 2018 PRESIDENT'S DINNER



(l to r) CBA Alberta Executive Committee: Past President Jeremiah Kowalchuk, Executive Director Maureen Armitage, President Jenny McMordie, Secretary David Hiebert, Vice President Frank Friesacher (photo credit: Monique de St. Croix)

## SAVVY LAWYERS SERIES



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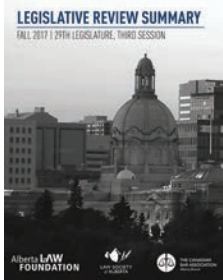
**FRIDAY, MARCH 9, 2018 | 12:00PM**  
[WWW.CBA-ALBERTA.ORG/SAVVYLAWYERS](http://www.cba-alberta.org/savvylawyers)

The CBA Alberta Savvy Lawyers Series of webinars has begun again for 2018. Earlier in February, we welcomed justices from the Court of Queen's Bench of Alberta to present a panel discussion on courtroom advocacy.

In recognition of International Women's Day, join us on March 9 for a panel discussion titled "Like the Greeks Say, 'The Only Constant is Change'". Panelists Lisa Tchir (Assistant Deputy Minister, Alberta Status of Women Ministry), Cori Ghitler (Professionalism & Policy, Law Society of Alberta), and Gabrielle Battiste (Executive Director, Edmonton Police Commission) will address topics including unconscious bias and workplace diversity and inclusion in the legal profession.

For more information on the Savvy Lawyers Series and to register for events, visit [www.cba-alberta.org/SavvyLawyers](http://www.cba-alberta.org/SavvyLawyers).

## FALL 2017 LEGISLATIVE REVIEW SUMMARY



The Fall 2017 edition of the Legislative Review Summary is now available to read and download from the CBA Alberta website. Effective at the start of 2018, the Legislative Review Summary is now available exclusively online (printed editions are no longer available).

This edition of the Legislative Review Summary includes important legislation including Bill 26: *An Act to Control and Legislate Cannabis*, and Bill 29: *An Act to Reduce Cannabis and Alcohol Impaired Driving*, both of which address Alberta's response to the national legalization of cannabis, taking place later this year.

To view and download the Fall 2017 or past issues, please visit [www.cba-alberta.org/Publications-Resources/Legislative-Summary](http://www.cba-alberta.org/Publications-Resources/Legislative-Summary).



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## LAW DAY 2018

Law Day 2018 events are almost here! This year, Alberta will play host to events in Calgary, Edmonton, Lethbridge, Medicine Hat, St. Paul and Fort McMurray. Our Calgary and Edmonton events are scheduled for Saturday, April 21, with dates for other events coming soon!



An important component of our Law Day events is the annual Dial-a-Lawyer service, which also takes place on Saturday, April 21. This event would not be possible without the support of Legal Aid Alberta, who provides us with the space and phone system on which our volunteers operate, and our community partners, Calgary Legal Guidance, the Edmonton Community Legal Centre, the Children's Legal & Educational Resource Centre, and Pro Bono Law Alberta. Dial-a-Lawyer gives members of the public from across the province the opportunity to call in and receive complimentary legal consultations from lawyers in the areas of family law, wills and trusts, civil litigation (landlord tenant issues, etc.), criminal law, and immigration law.

Law Day is a great way to donate your time to promote access to justice and public legal education in our province. Volunteer opportunities include acting in mock trials, providing complimentary legal consultations on-site at the various courthouses, or providing legal consultations over the phone for Dial-a-Lawyer. Opportunities are available for practicing lawyers, articling students, and law students alike! If you are interested in volunteering at your local Law Day event, please visit [www.lawdayalberta.com](http://www.lawdayalberta.com) for the contact information of your local organizing committee, or email Lee-Anne Wright at [communications@cba-alberta.org](mailto:communications@cba-alberta.org).

## CBA ALBERTA GOVERNANCE REVIEW

In the summer of 2017, the CBA Alberta launched the Governance Review Task Force, the purpose of which was to examine and make recommendations for changes to our current governance structure in the wake of similar changes at the national level.

After facilitated discussions at the May 2017 and October 2017 meetings of the Alberta Branch Council, the Task Force presented Council with a proposed governance model, which includes an expanded Board of Directors (which includes our current Executive Committee), and the dissolution of Alberta Branch Council in favour of greater opportunities for engagement by the members at large.

The Governance Task Force will be reviewing the feedback received from Council members at meetings throughout the next few months, and will present an updated proposal at the May meeting of Alberta Branch Council, with an aim to implement the new governance structure at the start of the 2018-19 membership year in September.

We look forward to having more information to distribute to our membership later this spring. In the meantime, please feel free to contact any member of our Executive Committee if you have questions or feedback on the ongoing governance discussions.



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## ELIGIBILITY FOR THE VOLUNTARY DISCLOSURE PROGRAM: THE CANADA REVENUE AGENCY HAS MADE CHANGES

BY DAN MISUTKA

Lawyers should be aware that Canada Revenue Agency has made changes to the Voluntary Disclosure Program ("VDP"), effective March 1, 2018. These changes restrict eligibility for the program.

### What Do You Need to Know About the VDP Changes?

The previous requirements for acceptance into the program will remain and are that:

- the disclosure must be voluntary;
- the disclosure must be complete;
- it must involve the application of a penalty; and
- it must relate to a taxation year that is at least one year past due.

As a general rule it used to be the case that if taxpayers satisfied the above noted conditions they would qualify for the program, bringing about full waivers of all applicable penalties that would otherwise relate to the disclosure, some waiver of interest and an assurance that they would not be referred for criminal prosecution.

CRA has now added the condition that taxpayers include payment of the estimated tax owing with their VDP application. If they are unable to make payment of the estimated tax at the time of the application they may be considered for payment

arrangements, subject to approval from the CRA Collection's Division. No guidance is given as to eligibility for payment arrangements beyond the requirement that full disclosure of taxpayer assets and liabilities will be required.

### New Tracks for Voluntary Disclosures

Under the changes to the VDP there will now be two tracks for disclosures; a Limited Program and a General Program. If an application is accepted under the Limited Program taxpayers are limited to an assurance that they will not be referred for criminal prosecution and will not be charged gross negligence penalties in relation to tax on amounts reported.

The Limited Program will generally be for cases where there is an element of intentional conduct on the part of the taxpayer. CRA has listed a number of factors relevant to consider in assessing these types of cases, as follows:

1. Efforts made to avoid detection through the use of offshore vehicles or other means;
2. The dollar amounts involved;
3. The number of years of non-compliance;
4. The sophistication of the taxpayer; and
5. The disclosure is made after an official CRA statement regarding its intended specific focus of compliance, (such as the launch of a compliance project or campaign) or following broad-based CRA correspondence (for example, a letter issued to taxpayers working in a particular sector about a compliance issue).

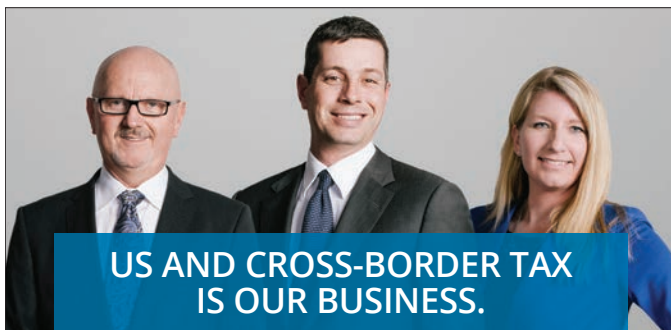
Under the General Program taxpayers will be assured that they will not be referred for criminal prosecution, they will have all penalties waived and they may be granted partial interest relief.

### What Should You Do as a Result of the Changes?

If you have clients who are considering making a voluntary disclosure, try to act quickly to get their application in before March 1.

Under the new program there will be a considerable amount of discretion exercised by CRA, including discretionary consideration as to what constitutes intentional non-disclosure and what are acceptable payment arrangements. There will be many cases where it is far less certain that taxpayers making applications for the VDP will qualify for the General Program as opposed to the Limited Program. Where there is some question as to being able to make acceptable payment arrangements there will also be uncertainty as to whether they will qualify for either program track.

Therefore, as of March 1 taxpayers will have to give even more careful consideration to the manner in which they apply for the VDP. Consultation with legal advisors is recommended. ☎



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**DAN MISUTKA** is a partner with Shea Nerland LLP in Calgary. He practices primarily in the area of tax dispute resolution, successfully dealing with tax authorities in the course of audits, Objections, Tax Court appeals, and related matters.

## STUCK IN THE LEGAL JUNGLEGYM?

BY KARMEN MASSON

Do you feel stuck in your current job? Uncertain about your "fit" in the profession? Are you concerned your job is going to change or end? Wherever you are in your career, and whatever obstacles are in your legal jungle gym, support for these and many more issues, is available to all Alberta lawyers, law students, and their families.

Whether by choice or imposition, facing a job or career change can be like an adult trying to swing across the monkey bars with alligators nipping at your heels – a worrisome, lonesome and stressful time. Self-doubt (*I don't have the right skills*), catastrophizing (*I could lose everything*), fear of criticism (*they will think I'm a failure*) and judgment (*I should have worked harder*) are some of the internal voices that can leave one feeling immobilized and unable to reach out for that next bar. At any stage of one's career, internal and external barriers, both real and perceived, can make us feel fearful of uncertainty, which can cause anxiety. While a certain amount of fear is natural, when it stops you from living the life you want to live, you need to pay attention to it.

The good news is that no matter whether you are just starting your career or are deep into it, you are capable of change and you can manage change. There is support to help you deal with worry, relieve stress and renew your energy through Assist.

Assist's programs are offered on a confidential basis and are free of charge to Alberta law students, lawyers, and their families. Through professional counselling services, you can work with a psychologist who will help explore what your fears are really about and how you can work through them. Access to this Assist service is available 24/7 by calling 1-877-498-6898. Assist's Peer Support line is also available by calling 1-877-737-5508.

Seeking support of others, especially of those who have been through the same thing can be reassuring and encouraging. Conversations with Assist Peer Support volunteers are confidential and they will listen without judgment and support you in exploring what is most important to you.

Questions you may consider discussing with a trusted partner such as a Peer Support volunteer include:

- What are the pros and cons of staying where you are versus trying something different?
- What are the risks of making a change, or staying where you are?
- What do you value most in your professional life?
- What makes a work day meaningful for you?
- How can you learn more about other options?
- If there were no obstacles, what type of work would you choose?
- How can this challenge be viewed as an opportunity?
- Who can you have a "coffee chat" with to discuss their experience or transition? *[Note: My own experience has been that most people in the legal profession are glad to share their experiences as they too have had "helping guides" throughout their career.]*

In addition to support from others, caring for yourself and exercising self-compassion is integral to building resilience so when you are faced with challenges and are feeling pushed back by stress, you can tap into your reserves, bounce back and tackle those monkey bars! Self-care can take many forms, such as scheduling regular holidays or breaks for recovery and renewal, or having a wellness routine that incorporates physical, mental and spiritual components. AssistFit activities are a great way to get started and become part of a supportive community. Check out upcoming events at <http://albertalawyersassist.ca/news-events/>.

If you would like to join the community of Peer Support volunteers across the province you can start by filling out an application at <http://albertalawyersassist.ca/volunteer-application-form/> or for more information call the Assist office at 403-537-5508 or 1-877-737-5508. **Upcoming Peer Support training sessions will take place in Edmonton on April 28th and in Calgary on May 5th.** Further training in coaching skills for Peer Support volunteers is also scheduled for June 2nd in Calgary.

While the journey along your career path may feel like you are stuck dangling on the monkey bars and soon to lose your grip, you have the support of empathetic and compassionate colleagues and other helping professionals who will stand with you and help shine a light on the path towards your success, however you define it. How can we assist you, wherever you are in your unique legal jungle gym? 🙋

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**KARMEN MASSON** has spent the past 20 years in private and government practice as well as in executive leadership roles. Now a certified professional coach, she helps lawyers and other professionals achieve their personal and professional success. She has been an Assist Peer Support volunteer since 2014.

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## NORTH

We hope that everyone had a successful conclusion to 2017, and that 2018 is starting out well for you.

Amanda and I will be continuing to attempt to drop in on various section meetings as they take place throughout the year to see how the sections are doing. We're also happy to hear from you if you have any thoughts on how we can help your section to provide maximum benefit to its members.

### Transition

With the start of a new year, it's never too early to start thinking about succession planning in your section. If you are currently on a section executive, and have been so for some time, think about whether you may want to hand the reins over to someone new. If you're not on a section executive but are looking to become more involved in the CBA, serving on the executive of a section is the ideal way to start your involvement.

### Inns of Court

The always popular Inns of Court Spring program will be taking place in May of this year. This program, intended for those lawyers who have been at the bar for 5 years or less, offers the opportunity for junior barristers to interact with senior members of the bar and bench in a dinner setting on legal topics of interest. The program usually sells out, so keep your eyes out for the confirmation on the speakers, topic and date which will be announced soon.

## FROM THE DESKS OF KYLE KAWANAMI AND AMANDA LINDBERG

### Law Day

Edmonton Law Day is taking place on April 21, 2018. Preparation is currently underway for the Children's Trial, Family Trial, Civil Trial, Criminal Trial, French Trial, Constitutional Appeal, Mock Mediation, Mock Arbitration and Identity Theft Presentation. There will also be self-guided courthouse tours, various exhibits, and running parallel to all of this is the Judge Franklin High School Mock Trial Competition, where you can catch a glimpse of what may be future lawyers in action. It looks to be a full day, where you can have the opportunity to provide family and friends with a chance to learn about the law and the legal profession. For more information on Law Day events in Edmonton and around Alberta, visit [www.lawdayalberta.com](http://www.lawdayalberta.com). 📍



**KYLE KAWANAMI** is a partner at Emery Jamieson LLP, where he practices in the area of civil litigation with an emphasis on creditor and debtor law. Kyle has served on the Creditor & Debtor Law and Junior Lawyers executives, and is currently a member of the Edmonton Law Day Committee.



**AMANDA LINDBERG** is an associate at Main Street Law LLP, where she practices construction, corporate, employment, family and personal injury litigation. Amanda is also a long-time volunteer on the Edmonton Law Day Committee, and has previously served on the Executive of the Civil Litigation Section.

## SOUTH

The end of another year, for many of us, is an opportune time for reflection and goal setting with respect to our careers (and lives in general). As you commence your professional development in 2018, we hope you look to the CBA as an important resource!

The CBA in Southern Alberta continues to support a broad network of 41 specialty Sections. These Sections cover a broad range of substantive legal areas (such as the recently added Food and Agribusiness section), as well as other more functional areas important to the legal profession (such as the Internationally Trained Lawyers section). Did you know that CBA members can drop-in to nearly any Section meeting they choose? Check your email for the new CBA Alberta PD emails, which are delivered on a bi-monthly basis. These emails include a full list of Section meetings in Calgary and Edmonton which are available for drop-in attendees.

In addition, the Sections are always on the lookout for new volunteers to sit on their executive committees. If you have an interest in participating as an executive, please reach out to your current section soon, as the executive committees for the coming year are typically finalized between April and June.

The Southern Alberta region also provides a strong program of professional development sessions. In February, Calgary hosted the first Savvy Lawyer Series program of the New Year

## FROM THE DESKS OF ANDREW BATEMAN AND BIANCA KRATT

with a program entitled, "Courtroom Advocacy: A View From the Bench". A second Savvy Lawyers Series program, sponsored in part by the North Women Lawyers Forum Section, will be held in Edmonton on March 9, in recognition of International Women's Day. Please see the professional development calendar ([www.cba-alberta.org/calendar](http://www.cba-alberta.org/calendar)) on the CBA Alberta website for more details on this and other sessions coming up this spring.

As your Section Coordinators, we want to thank all of our members for their engagement and participation over the past year! We hope this continues, and that you have a rewarding CBA experience this year. If you have any questions about CBA sections or programming, please feel free to contact either one of us or the CBA office directly. 📍



**ANDREW BATEMAN** is a partner at Felesky Flynn LLP, where his practice includes personal tax planning, corporate tax planning, commodity tax, trust and estate tax planning, and tax representation and litigation. Andrew is a past chair of the Tax Non-Specialist Section.



**BIANCA KRATT** is an associate with Parlee McLaws LLP in Calgary, where she practices in commercial and residential real estate, and corporate commercial law. Bianca previously served as the Chair of the Membership Committee, and sits on the Executive of the Real Property Law - Residential Section.

## UNIVERSITY OF ALBERTA

The year is off to a great start with interesting CBA student events underway! The annual CBA 'Mentor Mixer' took place on January 15th. This highly-anticipated wine and cheese event facilitated the meeting of University of Alberta ("U of A") Faculty of Law students and their 2018 CBA lawyer mentors. This mentorship program gives students valuable insight into the life of a practicing lawyer and the diversity of career options within the legal profession.

In March, the CBA Student Section North will host 'The Everyday Practice of Mediation & Negotiation', a luncheon panel discussion that explores the benefits of mediation and negotiation techniques across a broad range of legal practice areas.

The U of A Faculty of Law offers several events that highlight the diversity of legal careers, including the 2nd annual 'Women in Law' Dean's Speaker Series. This series of informal conversations facilitates candid conversations between distinguished women in the legal profession and U of A law students. In January, the series had the pleasure of hosting Madam Justice Hollins, Mona Duckett, Q.C., Maura Sutherland, Koren Lightning-Earle, Rita Sumka, Q.C., and Karen Hewitt, Q.C. The conversations were inspiring and insightful as speakers reflected on their careers and shared their experiences as women in the legal profession. It was fascinating to hear the diversity of career paths and

BY **AREEZAH JIWA** AND **BERNADETTE MCMECHAN**

the creative approaches to balancing life goals. Students are looking forward to the upcoming February sessions!

The 'Pizza and Practice: Alternative Careers in Law' panel discussion will take place on February 7th. This session, provided by the U of A Faculty of Law, gives students the opportunity to hear success stories of lawyers who have developed meaningful legal careers outside the law firm model. These types of sessions offer valuable career options for students in today's ever-changing legal landscape.

Last but not least, a fantastic way to learn about the diversity of careers in law is to attend the Section lunches at the CBA office. These sessions provide current updates in the law, as well as the opportunity to meet our fantastic local lawyers! 🗣️



**AREEZAH JIWA** is the CBA Student Co-Chair at the University of Alberta. She actively volunteers on and off campus through student groups and within the community. This past summer, Areezah went to Dubai to compete at the Jubilee Games, representing Team Canada's women's basketball team.



**BERNADETTE MCMECHAN** was a former teacher with the Edmonton Public School Board. She is currently a second-year student at the University of Alberta Faculty of Law. In addition to her role as Co-Chair of the CBA Student Section, Bernadette is also an active member of the Indigenous Law Students' Association.

## UNIVERSITY OF CALGARY

Entering a new year at the University of Calgary means each year of the law school enters an intensive three-week block course, part of the Calgary Curriculum. The block week courses are designed to help our students to develop stronger functional legal skills as part of their legal education.

First year students focus on legal research, developing a factum and presenting an oral moot for an appeal. This course is a precursor to the optional upper year course of Advanced Legal Research.

Second year block week focuses on negotiations. The students develop different negotiation skills and run through different practical problems with one another for the course of the week. Every fall Dentons hosts the Dentons Negotiation Competition and we have a Negotiations Club on campus, so this class provides real technical skills which can be used with other opportunities, as well as into the work force.

The third years' Advocacy Course is all about how to run a trial. From January 2nd, our students have been practicing witness management, direct and cross-examination skills, participating in pre-trial conferences and practice with real police and expert witnesses. This course relies on many volunteer hours from members of the Bar and Bench and our students get invaluable practical skills and advice from these leaders of our community. All of this is done under the tutelage of Professor Lisa Silver,

BY **SARAH MILLER** AND **HOLLY WONG**

providing one of the best educational experiences for our students planning on going into litigation as well as giving all students some basic skills in advising and managing clients and witnesses. Our third year students would like to express thanks to all our volunteers during the advocacy course, and all of our students look forward to utilizing these practical skills from the Calgary Curriculum going forward.

A reminder to all Law Student Section members that you are able to attend lunchtime Section meetings at the CBA office in Calgary for free! A full listing of meetings is available online at [www.cba-alberta.org/Calendar](http://www.cba-alberta.org/Calendar). This is an excellent opportunity to take in some professional development, while networking with CBA members from all stages and areas of practice. 🗣️



**SARAH MILLER** is currently in her third year at the University of Calgary. In addition to her role as Co-Chair of the Law Student Section, Sarah is involved in the campus community through the Ambassador program, the Student Animal Defense League Fund, and Student Legal Assistance.



**HOLLY WONG** is third year law student at the University of Calgary, and Co-Chair of the University of Calgary Law Student Section. Previously, Holly obtained her MA from the University of Calgary.

## LESA: NEW LAWYERS, NEW CAREER PATHS

BY MAURA O. SUTHERLAND

Traditionally, new lawyers were defined as those in their first few years of practice on common career paths after articling, being called to the bar, becoming an associate, working toward partnership, and so on. However, the landscape of the Alberta legal profession is shifting, changing the fundamental makeup of new lawyers and diversifying legal career paths. At LESA, we see this shift being due largely to three key factors.

First, there is an increase in the diversity of law school credentials among Alberta articling students. Historically, the vast majority came from the University of Alberta or the University of Calgary. Students applying from a law school outside the country were, relative to recent years, insignificant. In recent years, however, the number of articling applicants coming through the National Committee on Accreditation (NCA) has surpassed that of each of the Canadian common law schools, except the University of Alberta. LESA has had applicants graduating from law schools in at least 20 different countries over the past 5 years.<sup>1</sup>

Second, as technology continues to replace the need for personnel, jobs that were once reserved for new lawyers are disappearing, forcing this group to seek alternative career paths. The latest CBA report, *Futures for Young Lawyers*, notes a trend in new lawyers applying their legal skills in alternative areas, exploring career opportunities as technology programmers, in-house counsel and staff lawyers at non-legal organizations, contract lawyers, process improvement specialists, and so on.<sup>2</sup> NCA students are also adopting these new career paths. As noted in a recent report published by Cambridge Professional Development in 2017, alternative careers are of great interest to internationally trained professionals seeking to apply their skills and experience outside of their original profession.<sup>3</sup>

Finally, the economy, coupled with a growing number of law graduates looking for articling positions, has greatly affected the ratio of law students to traditional career paths available. As Jordan Furlong points out, "... I imagine law firms are looking long term and reducing their associate pool. They're also going to be looking at reducing their partner ranks as well. There's not as much money coming in so they prefer to have fewer seats at the table when they're slicing up the pie."<sup>4</sup> An article published last summer in *Canadian Lawyer Magazine* by Hassan M. Ahmad supports Furlong's theory, noting that entry-level

lawyers are well aware of the waning legal market. "I've realized that precarious legal employment (part-time or contract work) is fast becoming the only option for some Ontario law school graduates who possess glowing resumes, completed clerkships or articulated in leading law firms. In the past, these students would have had their choice of places to work and gone on to satisfying careers. Now, they take what they can find — if anything comes their way."<sup>5</sup>

It is without a doubt that the legal profession is undergoing change and as a result, legal education providers like LESA must challenge traditional continuing legal education content and delivery methods to meet the needs of this emerging group of new lawyers.

### Into the Future

At LESA, we have adopted a new strategic goal targeted specifically to new lawyers. We are exploring who they are, their learning needs, and what motivates them so that we better understand and meet the needs of new lawyers. As the new Executive Director of LESA, I am excited to explore these opportunities that come with the growing diversity in the Alberta legal community. I look forward to better defining the future of legal education in relation to new lawyers, many having already been affected by the shifting dynamics of our legal profession. 🌐



**Website:** [www.lesaonline.org](http://www.lesaonline.org)  
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<sup>5</sup> Hamad M., Hassan "Despair ahead: Millennial lawyers and the legal job market" *Canadian Lawyer Magazine*. July 10, 2017. <http://www.canadianlawyermag.com/author/sandra-shutt/despair-ahead-millennial-lawyers-and-the-legal-job-market-3685/>.



**MAURA O. SUTHERLAND** is the Executive Director of the Legal Education Society of Alberta and current Director of the CPLED Program for Alberta. She has experience in public, aboriginal and administrative law, having been a barrister and solicitor with Alberta Justice & Solicitor General for over 10 years.

<sup>1</sup> Countries include Australia, Bangladesh, China, Colombia, Ecuador, France, Italy, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, the Philippines, Poland, Romania, South Africa, Tanzania, the United Kingdom, the United States, the West Indies, and Zimbabwe.

<sup>2</sup> Furlong Jordan, Hagan Margaret, *Do Law Differently: Futures for Young Lawyers* (Ottawa: Canadian Bar Association), 14–16.

<sup>3</sup> Cambridge Professional Development, *Program Review of the National Committee on Accreditation for the Federation of Law Societies of Canada* (Western Shore, Nova Scotia: CamProf Inc), 30.

<sup>4</sup> Cameron, Grant. "Legal job outlook murky for 2017" *LexisNexis Canada: The Lawyer's Daily*, December 15, 2016 [quoting Jordan Furlong]. <https://www.thelawyersdaily.ca/articles/3560/legal-job-outlook-murky-for-2017>.

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## ANOTHER PATH: STAFF LAWYERS SERVING THOSE MOST IN NEED

BY KENDALL MOHOLITNY

Community legal clinics across the province serve thousands of low income Albertans using a combination of volunteers and staff lawyers. Clinic staff lawyers make a big difference to the individuals they assist – and have rewarding and unique legal careers working with a variety of clients with many different backgrounds and legal needs.

Gabriel Chen, the Homeless Outreach Program Lawyer at Calgary Legal Guidance (CLG), first started as a volunteer lawyer with CLG at their evening clinics. Gabe joined CLG in 2007, at a time when it was estimated that there were more than 5,000 homeless individuals in Calgary. For more than 10 years, Gabe has been working to assist individuals living with homelessness – a practice he finds extremely gratifying. “I have a unique practice, and CLG has a unique, holistic approach. We work together with advocates and staff supports to help to connect clients with resources to meet the needs that underlie the legal issue, like poverty, trauma, mental health issues, disability, and addictions. We are proud to provide high quality service to people who need it.”


Sarah Eadie, a Staff Lawyer at the Edmonton Community Legal Centre (ECLC), knew in law school that she wanted to do poverty law, and purposely did not choose a career path with a firm. After spending a short time practicing criminal law, she joined the ECLC as a Staff Lawyer. Sarah enjoys her work because she “assists those who need help the most”. She likes the autonomy of her practice: because she does not have to keep billable hours or be concerned with fees for her clients, she is able to provide whatever services are required for the file and is “not limited by what the client can afford.”

For Sarah, being a staff lawyer provides “unlimited meaningful work.” The work of staff lawyers also goes beyond helping individual clients. In some areas of law, “staff lawyers can pursue matters that would not otherwise make financial sense to litigate”, for example, housing issues, income support appeals and employment standards. By pursuing matters

for clients in these areas, staff lawyers contribute to the body of case law – which has an impact beyond the individual cases.

Tim Patterson, also a Staff Lawyer with the ECLC, worked in private practice for more than five years and was an ECLC volunteer before joining the clinic in his current role. Tim left each volunteer shift feeling good after assisting individuals most in need. When the position of staff lawyer was posted, he knew he had to consider it seriously, given that such positions are few and far between. For Tim, working as a staff lawyer allows him to “reconnect with the reasons he went to law school” – especially

by helping people in crisis. “The work is rewarding and the practice is unique: there are no billing constraints and the work lifestyle is a good fit for lawyers with young families.”

Staff lawyers provide invaluable assistance to many individuals across the province. However, all lawyers can get involved by volunteering with pro bono clinics as volunteer lawyers at evening, daytime and outreach clinics. By giving a few hours of time per month, volunteers help to provide summary advice that often forms the basis for follow-up services provided by staff lawyers. Get involved! Volunteering feels good – and may even lead to a new career in law. 

### GET INVOLVED!

To learn about volunteer opportunities with Alberta pro bono organizations, contact any of these agencies:

- Calgary Legal Guidance: [www.clg.ab.ca](http://www.clg.ab.ca)
- Central Alberta Community Legal Clinic [www.communitylegalclinic.net](http://www.communitylegalclinic.net)
- Children's Legal & Education Resource Centre <http://youthlaw.ca>
- Edmonton Community Legal Centre [www.eclc.ca](http://www.eclc.ca)
- Lethbridge Legal Guidance [www.lethbridgelegalguidance.ca](http://www.lethbridgelegalguidance.ca)
- Pro Bono Law Alberta [www.pbla.ca](http://www.pbla.ca)
- Student Legal Assistance [www.slacalgary.ca](http://www.slacalgary.ca)
- Student Legal Services of Edmonton [www.slsedmonton.com](http://www.slsedmonton.com)

 **Website:** [www.pbla.ca](http://www.pbla.ca)  
**Phone:** 403-541-4804  
**Email:** [info@pbla.ca](mailto:info@pbla.ca)

Please note that the Edmonton Community Legal Centre has moved! Visit them at their new office at:

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For more information about ECLC, visit [www.eclc.ca](http://www.eclc.ca).

### WHAT ABOUT BOB?

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**KENDALL MOHOLITNY**, is the Executive Director of Pro Bono Law Alberta. Prior to joining PBLA, she practiced at Dunphy Best Blocksom LLP and Peacock Linder & Halt LLP. Kendall is the past chair (2015 - 2017) of the CBA Alberta Access to Justice Committee.

## REFORM MATTERS

BY KATHERINE MACKENZIE

I often get told that I am not a real lawyer. My current position with ALRI involves legal and policy research on various law reform issues, extensive writing of consultation documents and final reports, facilitating consultation presentations and discussions with various stakeholders, and presenting policy recommendations to the Alberta government. This job description does not fit the common perception of what a lawyer does. In reality, however, my job involves a lot of complex thinking about very technical legal issues and could not be done by someone without a law degree and advanced legal skills. Further, I know from talking to students, fellow junior lawyers and even those more senior than me that this type of position appeals to a lot of lawyers who are currently pursuing traditional careers.



So, that first summer of law school, while most of my peers were summering at firms and securing their articles, I was providing free legal information at inner city shelters and researching and writing plain language legal brochures to assist Edmonton's low income community.

I discovered that I enjoyed legal research, writing, and talking to others about the law, but not necessarily the adversarial system. I began seeking out additional research opportunities: I was a research assistant for my family law instructor, I summered with the Legislative Reform department of Alberta Justice and I articulated with the Alberta Court of Appeal. All of these experiences cemented in my mind that I was interested in research and family law and a job that combined the two would be my ideal position as a lawyer.

**Pursuing Research Opportunities**

When I started law school, I had no idea what type of law I wanted to practise. Eventually, I started volunteering with Student Legal Services and was hired as a summer worker.

**Experiencing Private Practise**

I finished my articles at a family law firm where, as the sole articling student, I was constantly assigned research issues

## JUDICIAL UPDATES

**COURT OF QUEEN'S BENCH**

**The Honourable Mary T. Moreau** has been appointed as the Chief Justice of the Court of Queen's Bench of Alberta, effective October 12, 2017. Her appointment replaces the Honourable Neil C. Wittmann, who resigned on May 1, 2017.

**The Honourable Madam Justice D.A. Sulyma** (Edmonton) has elected to become a supernumerary judge, effective January 1, 2018.

**Lucille R. Birkett, QC** has been appointed as a Master in Chambers to Court of Queen's Bench (Edmonton), effective January 31, 2018.

**PROVINCIAL COURT OF ALBERTA**

**Marian V. De Souza, QC** has been appointed as a Provincial Court Judge to the Calgary Region, effective December 5, 2017.

**David G. Hancock** has been appointed as a Provincial Court Judge to Edmonton Family & Youth, effective December 5, 2017.

**Robert C. Shaigec** has been appointed as a Provincial Court Judge to the Edmonton Region, effective December 5, 2017.

**The Honourable Judge E.J.M. Walter** (Edmonton) retired as a supernumerary judge, effective December 11, 2017.

**Karen A. Crowshoe** has been appointed as a Provincial Court Judge to Calgary Criminal, effective December 13, 2017.

**The Honourable Judge D.J. Greaves** (Medicine Hat) retired, effective December 31, 2017.

**The Honourable Judge P.J. Maher** (Sherwood Park) was appointed as a supernumerary judge effective January 4, 2018.

**The Honourable Judge P.P. Ayotte** (Fort Saskatchewan) was appointed as a supernumerary judge effective January 18, 2018.

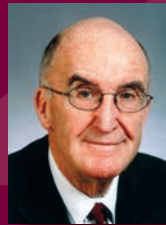




# ADR CHAMBERS



## CHOOSE FROM ALBERTA'S TOP MEDIATORS AND ARBITRATORS



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Graham Price, Q.C.



E. David D. Tavender,  
Q.C.



Harold W. Veale, Q.C.



Virginia M. May, Q.C.

dealing with specific family law issues. It was right up my alley! But, once I got called to the bar and had responsibility for my own files, I realized that I did not care for the other aspects of traditional practice. While I enjoyed public speaking in my non-lawyer life, I did not enjoy making submissions in court or dealing with opposing counsel. I also felt constrained by the billable hour. There were times when I wanted to do extensive research on an issue, but had to pull back because it was not an effective use of my client's retainer.

### Finding a Research-Based Career

It took a while to find a new position once I decided to leave private practice and pursue a research-based career. Luckily, the partners at the firm where I worked allowed me to stay on as an in-house researcher while I searched for the perfect fit. Eventually, a position became available with ALRI. While our projects do not deal exclusively with family law, approximately 20% of our past and present projects have touched on that area. Ultimately, this position combines everything I like about being a lawyer – research, writing, public speaking, complex thinking and problem solving – without the positional conflict that usually accompanies working in the adversarial system.

### Consultation and Collaboration

That is not to say that law reform is a zero conflict zone. There are times when the project is controversial and, as a result, our consultation discussions become heated or emotional. However, I find that the difference lies in the advocacy required when one is representing a client versus the collaboration required when one is communicating a preliminary conclusion and requesting feedback. The former is the role of the traditional lawyer in private practice whose job is to advocate on behalf of a client and a specific position. The latter is what I do as a lawyer engaged in law reform; I present our preliminary conclusions, ask for feedback and facilitate discussions without advocating for one position over another. Since the very purpose of consultation in the context of law reform is to find out from stakeholders whether we have proposed a workable solution, it is not the time or place to be adversarial. Even when emotions run high during consultation, it is more collaborative and less stressful than the adversarial approach.

I went to law school because I wanted a career that involved critical thinking and some element of public speaking. Luckily, having a law degree offers broad career choices and I feel fortunate that, even as a junior lawyer, I found an opportunity that matches the role I want to serve as a lawyer. 🗣️

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**KATHERINE MACKENZIE** is Legal Counsel at the Alberta Law Reform Institute. Prior to joining ALRI, she practiced family law at a boutique firm in Edmonton. She has also worked with the Alberta Court of Appeal and the Legislative Reform Department at Alberta Justice.

BY THE HONOURABLE JUDGE A.A. FRADSHAM

In the Broadway musical, and later film, *My Fair Lady*, Professor Higgins sings a very catchy song by Frederick Loewe, entitled, "Why Can't the English?", which, with rapier wit, laments the failure of the English to teach their children the proper use of the English language. At one point, Higgins, when speaking of the French learning French, says, "The French never care what they do, actually, as long as they pronounce it properly."

That observation, together with the phrase, "the triumph of form over substance", came to mind recently when I received yet another email from those very well-meaning people who seem to reside in a judicial galaxy far, far away, and who earn their daily bread by telling the rest of us in this world how to do our jobs.

This latest encyclical was directed at the scourge of the non-conforming case citation. You must have read or heard about it; it clearly ranks up there with global warming and the threat of nuclear war. Brace yourself, but I must tell you, as distressing as this will be for you: not all judges have been adhering to the latest edicts from those who write the *Canadian Guide to Uniform Legal Citation*, sometimes referred to as *The McGill Guide*. I know. The sheer enormity of this egregious state of affairs is staggering.

We have been told that some judges, and remember that judges are, together with lawyers, the trustees of our nation's system of justice, have actually been citing cases using periods in the abbreviations for the case reports. They have, for example, referred to the *Canadian Criminal Cases* as "C.C.C." instead of "CCC". The horror of it!

We who labour in the courtrooms have been told by the citation clergy that uniform citations will assist the readers of our decisions. Imagine the untold number of readers who have been completely flummoxed in their attempts to locate, for example, the decision cited as 68 C.C.C. (3d) 308. Had the offending judge instead written 68 CCC (3d) 308, all would have been become clear to the reader as the scales of the oppressive punctuation fell from his or her eyes.

There are also instructions about the order in which case report sources are to be listed. There are instructions about the placing of commas (commas must have a better literary agent than periods, as the latter are banished, but the former have enjoyed a resurgence).

I can only infer that the members of the McGill Citation Police (MCP, not M.C.P.) are very timid, fawn-like creatures easily startled and frightened away by the appearance of wee little dots between letters such as CCC or DLR or SCR, or the failure to list first a neutral citation. The rough and tumble of modern life must be very difficult for them.

You will be happy to know that training sessions are being offered to the judges so that we can break down this last remaining and formidable barricade to access to justice. Yes, people are being paid to tell us where to stick bits of punctuation. I know people who would happily do that for free. Emerson said, and not in a complimentary tone, "the virtue in most request is conformity", and that "foolish consistency is the hobgoblin of little minds". I don't think that he and those in that judicial galaxy far, far away would get along very well. ☹



**THE HONOURABLE JUDGE A.A. FRADSHAM** is a Provincial Court Judge with the Criminal Court in Calgary. His column "A View From the Bench" has been a highlight in the *Canadian Bar Association* newsletters for over 15 years.

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**THE ALBERTA LAWYERS' ASSISTANCE SOCIETY PRESENTS ASSISTFIT: KNOCKOUT STRESS** Muay Thai kickboxing classes in Calgary. Sessions take place on the last Wednesday of each month from 12pm - 1:15pm at Champions Creed Martial Arts (119 - 42 Avenue SW, Calgary). Sessions are free for members of the Law Society of Alberta, and sponsored by Calgary law firms. If your firm is interested in sponsoring a session, please contact Micah Chartrand at [micah@sobyboydenlenz.com](mailto:micah@sobyboydenlenz.com). **For more information about AssistFit, visit <http://albertalawyersassist.ca/assistfit/>.**

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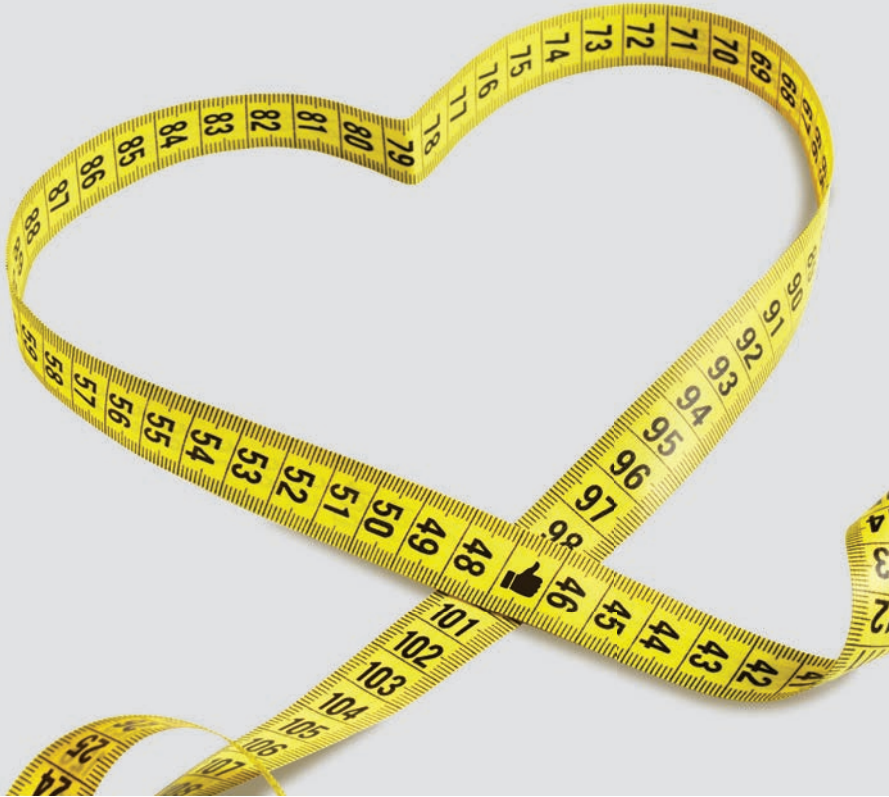
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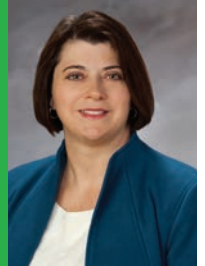
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