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# Law Matters

**The Future of  
Legal Education**

**Alternative Dispute Resolution  
in Law School**

**Practice Pointers**  
Procedural Changes and  
Amendments to the Rules

**Adapting to Change**  
*Internationally Trained Lawyers*



THE CANADIAN  
BAR ASSOCIATION  
Alberta Branch

# EDITOR'S NOTES

By Robert Harvie, QC

This edition of Law Matters is focused on "The Future of Legal Education". Hopefully we have provided you some good content, including the ongoing expansion of foreign graduates among our ranks as our own Law Society of Alberta continues some great work in facilitating a more predictable transition from foreign education to recognition as a lawyer in Alberta.

But it does raise an interesting point I discussed just over a year ago while attending a Federation of Law Societies meeting in Halifax, Nova Scotia. As I shared dinner with a former President of a fellow law society, I took some good-natured ribbing about why Alberta did not deny recognition of the Trinity Western law program, as occurred in Ontario and Nova Scotia by that time.

My response was we felt that the issue was more complex - and I asked my dinner mate whether his jurisdiction was going to qualify foreign degrees depending on the openness of their law schools to same-sex rights. It appears the concept hadn't been considered by him or his law society (which will remain nameless).

Ultimately, I think, my point is well made in this issue of Law Matters. To, I think, the great credit of our Law Society and our lawyers, we welcome into Alberta a great many foreign graduates, and while reviewing the general quality of their education, we do not delve into the political or social climate under which they obtained it. Good thing, as we see examples of excellent lawyers arriving into our midst, improving our diversity and broader social perspective, coming from Columbia, Poland, and Nigeria in particular.

Why should this even be questioned? Well... Notwithstanding direction from their Constitutional Court, the Columbian government has, to this date, refused to allow same-sex marriage in Columbia.


Both male and female same-sex sexual activity is illegal in Nigeria. The maximum punishment in the twelve northern states that have adopted Shari'a law is death by stoning.

There is no legal recognition of same-sex marriage in Poland, and as recent as 2013, former President and Nobel prize winner Lech Wałęsa said:

...he believes gays have no right to sit on the front benches in Parliament and, if represented at all, should sit in the back, "and even behind a wall." "They have to know that they are a minority and must adjust to smaller things. And not rise to the greatest heights, the greatest hours, the greatest provocations, spoiling things for the others and taking (what they want) from the majority," he told the private broadcaster TVN during a discussion of gay rights. "I don't agree to this and I will never agree to it."

Poland, in fact, has no laws respecting hate crimes against LGBTQ persons, and many current politicians overtly attack the entitlement of LGBTQ persons to legal recognition and protection.

The point? Well, I think as we progress in how we view legal education and qualification in Alberta and Canada, the juxtaposition between how we view Canadian law schools and how we welcome new lawyers from educational experiences abroad is, well, at least curious. Do we "need" another law school in Canada, let alone one with an overtly religious agenda? No, I don't think so. But, on the other hand, should we treat graduates of such a school differently than foreign graduates who we (properly) welcome with open arms? If nothing else the questions highlight how the issue of legal education has evolved from simply a question of basic legal principals, to a more complex and nuanced discussion of not only what you learn, but how you do it.

These and other questions will most certainly challenge us as we continue to evolve our sense of what is required in our "legal education" as we move to a rapidly changing future. 

<sup>1</sup> "Lech Walesa Shocks Poland With Anti-Gay Words", [http://www.huffingtonpost.com/2013/03/03/lech-walesa-shocks-poland\\_n\\_2802860.html](http://www.huffingtonpost.com/2013/03/03/lech-walesa-shocks-poland_n_2802860.html)

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# PRESIDENT'S REPORT

By Wayne Barkauskas



Happy New Year to all my CBA friends and colleagues!

Many years ago when I decided to run for the Executive of the Alberta Branch, I was well aware of the fact that the job entailed a significant amount of time and effort. I also suspected that role would be a rewarding one. I can tell you absolutely, that I was correct on both counts.

I am about to embark on 6 weeks of chaos on behalf of CBA members which includes 6 trips to various parts of our country, with the Alberta Law Conference directly in the middle of this.

There are a variety of things going on at this time that are of great importance to CBA members across the country. This includes establishing a firm grounding for a brand new relationship with new governments both at the federal and provincial levels, a number of intervention proposals at the Supreme Court of Canada, and perhaps most importantly for the future of the CBA, the national Re-Think project which is considering options for the complete restructuring of the Canadian Bar Association.

As many of you know, our Past President Steven Mandiuzk, QC, has been in charge of the steering committee which has been charged with the majority of the work in completing this review. His exceptional efforts have reflected well on all of CBA Alberta and he deserves our gratitude for his efforts. If you get a chance, you should thank him for his outstanding effort.

In addition, the Alberta Executive has taken a number of additional steps to increase and improve the recognition given to CBA Alberta volunteers. This has included several one-on-one meetings between members of our Executive and our Section Coordinators, with the Chairs of various CBA Alberta Sections. We have discovered that many of these Section Chairs struggle with the same issues but have little opportunity to share experiences, both good and bad, that might assist them in their difficult jobs. The efforts we have made to share ideas appear to be a value to everyone and as a result, we intend to continue these efforts and try to find some way of expanding them. This will be one of the tasks of our Engagement Task Force which we are in the process of creating.

We also have the pleasure of welcoming the new Diversity Section to our family. In addition, as a result of communications with several CBA members, it seems likely that a new

Internationally Trained Lawyers Section will be created in the future. These developments highlight the fact that the CBA exists for the benefit of its members and where there is a need, along with a request by our members to fill a gap that would assist them in their professional lives, the CBA will move quickly to address those needs.

In light of the current economic climate, we at the CBA are sensitive to the challenges that our members are facing. We anticipated, as a part of our budgeting process, that our membership would drop, perhaps significantly, as a result of these challenges. It is a great testament to the value offered by a CBA membership that we have only seen a slight decrease in membership this year. In fact, we are hopeful to recover this membership over the coming months. We are more dedicated than ever to providing outstanding value for our members, both directly and indirectly. For example, CBA members are eligible to receive insurance through the Canadian Bar Insurance Association, which offers a wide range of products designed specifically with the needs of legal professionals, their families and staff in mind. We have heard from members who have saved as much as \$1,800 annually by switching to insurance with the CBIA.

On the advocacy front, the CBA is involved in several interventions at the Supreme Court of Canada, a number of which deal with the protection of solicitor-client privilege. Our Sections and Executive Committee also meet regularly with provincial and federal governments concerning a variety of legislation each year. Without participation by the CBA, there would be no one to intervene on behalf of the profession to protect our interests. There are few non-governmental groups in Canada that have had a bigger impact on the law in Canada than the CBA. The number of volunteer hours contributed by hundreds of volunteers in Alberta alone for the benefit of CBA members and legal professionals is staggering. I applaud all of these volunteers for their contributions to the profession. If you are interested in becoming more involved in the advocacy efforts of the CBA in Alberta, I encourage you to contact one of our local offices for more information.

In closing, I would be remiss to not express my thanks for being permitted to serve as CBA Alberta President this year. I would like to thank each of the members of the current Executive Committee, including our Executive Director Maureen Armitage, each of the past presidents that I have worked with, as well as all of the staff in both our Edmonton and Calgary offices. I would also like to extend my thanks to Law Society of Alberta President Jim Eamon, QC and the incoming president, Anne Kirker, QC, Michele Hollins, QC for her work as the past national president of the CBA, as well as current national President Janet Fuhrer, Executive members and national staff who have all done their part to make my job just a little easier, and the presidents of each of the other CBA Branches who are great colleagues and have become good friends. We have also received wonderful support from the bench, including our Chief Justices and Chief Judge, on so many issues important to the CBA and the legal community for which I am thankful. And last but certainly not least, thank you to all of the CBA Alberta volunteers who give back to the profession and the community in so many ways. 🍷

# WHAT'S HAPPENING

## February

**23: The Ontario Bar Association presents Drafting Trusts: Avoiding Common Pitfalls.** Live webcast. To register visit [www.oba.org/professional-development-resources](http://www.oba.org/professional-development-resources).

**23: The Canadian Bar Association presents Negotiating the Deal: Preliminary Agreements.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**25: The Canadian Bar Association presents Contacts with Regulators (Canadian Securities Regulation Series).** Live webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

## March

**2: The Canadian Bar Association Alberta Branch presents Legal Media Relations Panel.** Live webinar. To register call 403-263-3707 or visit [www.cba-alberta.org](http://www.cba-alberta.org).

**3: The Canadian Bar Association Alberta Branch presents the Legal Media Relations Series.** Webinar. To register call 403-263-3707 or visit [www.cba-alberta.org](http://www.cba-alberta.org).

**8: The Canadian Bar Association presents Investigating the Deal: Effective Due Diligence.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**22: The Canadian Bar Association presents Financing the Deal: Secured Loan Transactions.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**22: The Ontario Bar Association presents Tax Update.** Live webcast. To register visit [www.oba.org/professional-development-resources](http://www.oba.org/professional-development-resources).

## April

**1-2: The Canadian Bar Association presents the 2016 CBA Construction and Infrastructure Law Conference.** Fairmont Banff Springs, Banff, AB. To register visit [www.cbapd.org](http://www.cbapd.org).

**3-5: The Canadian Corporate Counsel Association presents the 2016 National Conference - Your Recipe for In-House Success.** Westin Hotel, Calgary, AB. To register visit [www.ccca-accje.org](http://www.ccca-accje.org).

**4: The Ontario Bar Association presents Tax Dispute Resolution Essentials Series - Practical Advice for Dealing with Tax Authorities.** Live webcast. To register visit [www.cbapd.org](http://www.cbapd.org).

**5: The Canadian Bar Association presents Drafting the Deal: The Purchase and Sale Agreement.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**7-8: The Canadian Bar Association presents the 2016 National Immigration Law Conference.** Sheraton Vancouver Wall Centre Hotel, Vancouver, BC. To register visit [www.cbapd.org](http://www.cbapd.org).

**9: The Canadian Bar Association presents the CBA Criminal Justice Conference.** Four Seasons Hotel, Vancouver, BC. To register visit [www.cbapd.org](http://www.cbapd.org).

**19: The Canadian Bar Association presents Managing Deal Risk: Drafting Financial Terms.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

## May

**3: The Canadian Bar Association presents Closing the Deal: A Transactional Lawyer's Toolkit.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**5-6: The Canadian Bar Association presents the 2016 National Aboriginal Law Conference.** Ottawa Marriott Hotel, Ottawa, ON. To register visit [www.cbapd.org](http://www.cbapd.org).

**12: The Canadian Bar Association presents The Anatomy of a Deal: Collateral Agreements.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**12: The Canadian Bar Association presents Drafting a Shareholder Agreement.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**17: The Canadian Bar Association presents Raising Capital: Private Placements and Public Offerings.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**19: The Canadian Bar Association presents the 2016 Competition Law Spring Forum.** Toronto Region Board of Trade, Toronto, ON. To register visit [www.cbapd.org](http://www.cbapd.org).

**26: The Canadian Bar Association presents Drafting a Commercial Lease.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**27: The Canadian Bar Association presents the 2016 National Charity Law Symposium.** Toronto Region Board of Trade, Toronto, ON. To register visit [www.cbapd.org](http://www.cbapd.org).

**29-June 3: The Canadian Bar Association presents the Tax Law for Lawyers Conference.** Queen's Landing Hotel, Niagara-on-the-Lake, ON. To register visit [www.cbapd.org](http://www.cbapd.org).

**31: The Canadian Bar Association presents Cross-Border Deals: US and Europe.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

## June

**9: The Canadian Bar Association presents Drafting an IP Licensing Agreement.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**14: The Canadian Bar Association presents Corporate Governance: The Role of Directors.** Webinar. To register visit [www.cbapd.org](http://www.cbapd.org).

**22: The Calgary Bar Association presents the 2016 Q.C. Dinner.** Westin Hotel, Calgary, AB. To register email [qcdinner2016@bennettjones.com](mailto:qcdinner2016@bennettjones.com).

Please send your notices to:  
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## The Changing Face of Legal Education

We lawyers are a conservative lot. Of course, we're individually situated across a wide expanse of political views. But by and large, we tend to be comfortable with "the tried and true". We're not sure which is the chicken and which the egg - whether the law attracts folks who are instinctively risk-averse, or whether it systematically knocks the spirit of adventurousness out of us. Whichever the case (and one assumes that it's a bit of both), it's a fact that we don't generally celebrate innovativeness as a professional value as much as we do, say, steadiness.

Until recently, this was as true an observation about legal education as about any other aspect of our profession. We attended law school together, more than thirty years ago. With only a few exceptions (the dramatic increase in female enrolment being the most notable), our experience as law students was not markedly different than that of our predecessors of thirty years before. And those who studied at Dalhousie in the '50s were doing pretty much the same things as those who had been there in the '20s - thirty years before them. And when we first started teaching law students ourselves, we did so more or less the same as we had been taught.

For anyone even remotely connected with legal education, this is hardly news. But what might be, is that the jig is up. Whether we - or they - like it or not, law schools in Canada are in the early stages of a period of significant change that will likely make the JD and LLB programs that we knew barely recognizable to the law student of the 2040s. We don't yet know what the changes will all look like, but there can be no doubt that the train has left the station.

There are five broad forces driving the change. It is their shape that makes today perhaps the most exciting moment in legal education in a century or more.

The first is technology. The Legal Technological Revolution 1.0 was all about doing what we'd always done, but faster. This is why things like QuickLaw, word processing and time management software were such a boon to us. In a billable hour world, they enabled us to be a lot more productive - and thus, a lot more profitable. But the Revolution 2.0 won't be the same. Rather than being concerned about doing old things faster, it will be about doing things differently. That has to have an impact on what law schools teach.

The second is globalization. "Globalization" is an overused expression, but it is something real. And it means that lawyers have an added layer of understanding that will be demanded of them. This is not to say that lawyers in Grande Prairie or Lloydminster will start having to give advice on the law of Mexico or the Philippines (though some might). But it is to say that most lawyers, no matter where they practice, will increasingly have clients whose interests transcend our boundaries. Put another way, the Canadian common lawyer of the Twenty-First century will need to know a lot more than the common law of Canada.

The third is demographics. Canada is changing. As Canada becomes more and more multicultural in fact, (as opposed to in government rhetoric) and as the population ages, new sorts of

**By Ian Holloway, QC & Gillian D. Marriott, QC**

issues will emerge - ones that the common law in all its ancience simply isn't well equipped to deal with. Assisted suicide, three parent families, rationing of health care resources, bullying on Twitter - these and so many others are issues for which we just won't find a governing precedent. And whether we like it or not, the consequence of entrenching the Charter of Rights in the way we did means that almost all of the hard social and moral issues are ultimately going to be played out in the law courts.

The fourth is reconciliation with the Aboriginal Peoples of Canada. The release of the report of the Truth and Reconciliation Commission was the most recent step in a process that is asking increasingly challenging questions about the nature of sovereignty, the notion of real property and the concept, which most of us had never heard of five years ago, of "social licence".

Finally, what we loosely describe as the Access to Justice crisis is perhaps one of the most significant issues facing the legal profession today. The increasing costs associated with engagement with the legal system, the increasing number of self-represented litigants and the decreasing number of young lawyers in core practice areas like family and residential tenancy law make this an issue not just for the bar and bench, but also for law schools. Law students need to learn how to help "real people". But for this they need "practical skills". This is driving a need for what we now refer to as "experiential learning" (and what we used to call "clinics and practicums"). Sarah Lugtig, Chair of the National CBA Access to Justice Committee, and the Director of Experiential Learning at the University of Manitoba, Faculty of Law, had this to say,

The ideal, from my perspective, is for legal education to become a focal point for the profession, law students, and law schools to come together to grapple with the rapid changes ahead in legal services, systems and practice. Each has something unique and essential to offer. Together we need to recognize this and find way to collaborate effectively and respectfully, among ourselves and with others. Experiential programs and student legal clinics provide a particularly rich opportunity to learn, experiment with and study new ways of learning and doing.

Put it all together, and it becomes obvious that the "tried and true" approach to legal education simply can't survive. Of course, tomorrow's lawyers will still need to know all of the things we know. But they'll need to know much more - because Canada will expect more more of them. 🇨🇦



Ian Holloway, QC, is the Dean of the Faculty of Law at the University of Calgary. In 2013-14, Ian served on the CBA Futures Committee as the legal education and training team leader. In addition to his academic work, Ian was also appointed to the Security Intelligence Review Committee in 2015.



Gillian Marriott, QC is a past president of the Canadian Bar Association, Alberta Branch. She is the Executive Director of PBLA, and practices family law with Widdowson Kachur Ostwald Menzies LLP.

## Procedural Changes and Amendments to the Rules

The Civil Practice Committee of the Court of Queen's Bench held a Town Hall Meeting in November 2015 at which upcoming procedural changes and recent amendments to the *Alberta Rules of Court* (the "Rules") were addressed (AR 128/2015 effective August 21, 2015).<sup>1</sup> What follows is a summary of: (i) the proposed changes; (ii) recent Notices to the Profession; and (iii) some of the key amendments to the Rules.<sup>2</sup>

### Upcoming Procedural Changes

#### Pre-Trial Procedure

- Counsel to provide trial aids, exhibits and outline of the issues with authorities to the Court prior to trial to enable the trial judge to review the materials in advance (remember, if such materials are not provided, the trial judge sees the pleadings only);
- Re: filing an application to set a trial date under Rule 8.5 - applicants will no longer be required to file a Form 37 along with an Application for Court to Set a Trial Date (Form 38). Calgary counsel may be unfamiliar with this requirement; the filing of Form 37 with Form 38 has not been strictly enforced in Calgary.

#### Chambers Procedure

Planned improvements to **morning chambers**, effective on/about September 1, 2016, include:

- additional afternoon chambers;
- capping the chambers list at 30 matters per courtroom;
- hearing telephone applications after the completion of the morning chambers list;
- striking applications where counsel is late/not present; and
- requiring counsel to provide notice if matter settled.

In **special chambers**, expect: longer lead times for filing materials; a decrease in the number of special hearings; and, a "30 minute" special application that will not require filed briefs.

Additional changes that may be implemented include:

- strict enforcement of the Rule 6.6 timelines for filing responding/reply affidavits (ie, make sure that affidavits are filed on time); and
- limit on the number of times a matter may be adjourned before being struck.

<sup>1</sup> Alta Reg 128/2015 [Amendment Regulation].

<sup>2</sup> A comprehensive listing of the August 21, 2015 amendments can be found online: <<https://albertacourts.ca/court-of-queens-bench/rules-of-court-committee/new-alberta-rules-of-court/alberta-rules-of-court-amendment-regulation--2015>> and <<https://albertacourts.ca/court-of-appeal/rules-of-court-committee/new-alberta-rules-of-court/alberta-rules-of-court-amendment-regulation--2015>>.

<sup>3</sup> Court of Queen's Bench of Alberta Notice to the Profession (23 December 2015), online: Alberta Courts <<https://www.albertacourts.ca/court-of-queens-bench>>.

### By Maureen Killoran, QC and Anne Kirker, QC Notices to the Profession

**December 23, 2015 Re: Adjournments:** Effective January 15, 2016, the deadline for notifying the court of an adjournment by fax or telephone is 3:30 pm on the day prior to the hearing. If notification has not been received by this time, the parties must appear in chambers to request the adjournment or the application will be struck.<sup>3</sup>

**May 1, 2015 Amending Court of Appeal Consolidated Practice Directions.** Part A.6 and E.4(a)(v) are repealed and replaced. In sum: the Court will contact counsel the day before the release of a judgment; the judgment will be provided to the parties between 9:30 am and 10:00 am the next day; the judgment will be made available to CanLII and the public at ~ 10am.<sup>4</sup>

### Summary of the Alberta Rules of Court Amendment Regulation (AR 128/2015)

- **Rule 1.5** [*Rule contravention, non-compliance and irregularities*] is amended to change the requirement to comply "with these rules" to a requirement to comply "with any procedural requirement" as procedural requirements exist in addition to the Rules of Court.
- **Rule 3.36** [*Judgment in default of defence and noting in default*] is amended to add in missing wording in (1)(b). It will now read that the clerk must enter a note to the effect that the defendant has not filed a statement of defence "or demand for notice".
- **Rule 4.19** [*Documents resulting from judicial dispute resolution*] is amended to allow a transcript of the proceedings made in open court to record the outcome of the judicial dispute resolution process.
- **Rule 4.20** [*Confidentiality and use of information*] is amended to allow documents generated for or in the judicial dispute resolution process to prove the fact that a settlement was reached or the terms of the settlement.
- **Rule 8.8** [*Notice to attend as witness at trial*] is amended to change when the names of witnesses must be exchanged. The plaintiff must provide a list of witnesses' names to the court one month before the trial date. Every other party must provide a list

<sup>4</sup> The Court of Appeal of Alberta Notice to the Profession (1 May 2015), online: Alberta Courts <<https://www.albertacourts.ca/court-of-appeal/court-of-appeal-rules-practice-directions-notices>> at Part 1; Consolidated Practice Directions of the Alberta Court of Appeal (1 May 2015), online: Alberta Courts <<https://www.albertacourts.ca/court-of-appeal/court-of-appeal-rules-practice-directions-notices>> at Part 6(b)(i).

<sup>5</sup> This summary can be found at the websites referenced above in note 2.




# PRACTICE POINTERS

of witnesses' names to the Court 20 days before the trial date [**fax witness list to Trial Coordinator**].

Flowing from this, **Form 37** is also amended by striking out the requirement to list the names of witnesses, but still requires the total number of witnesses to be provided.

- **Rule 9.21** [*Application for new judgment or order*] is amended to remove the requirement that the application must require that the judgment debtor show cause why a new judgment or order should not be granted. The Rule now states that the Court may grant the new judgment or order if the judgment debtor does not appear and show cause why the order should be denied.
- **Rule 10.7** [*Contingency fee agreement requirements*] is amended to clarify the disclosure requirements in contingency fee agreements, including the clarification that contingency fees are not allowed on disbursements.
- **Rule 10.14** [*Client-obtained appointment: Lawyer's responsibility*] is amended to add a requirement that if a lawyer is served with a notice of an appointment for a review of the lawyer's charges, in addition to the requirement to provide a copy of the account and any retainer agreement, a lawyer must provide a copy of the time records upon which the account is based, if any.
- **Rule 12.46** [*Provisional order to vary a support order under Divorce Act (Canada)*] and **Rule 12.47** [*Confirmation Hearing*] are corrected to require the court clerk to forward the order to the Minister of Justice and Solicitor General of Alberta (rather than the Attorney General for Canada).
- **Rule 14.8** [*Filing a notice of appeal*] and **Rule 14.44** [*Application for permission to appeal*] are amended by removing the requirement for the application to be "returnable" within the time periods specified. Applications must simply be filed and served within the appropriate time periods.
- **Rule 14.14(3)(a)** [*Fast track appeals*] is amended to correct the reference to "third party notice" to "third party claim".
- **Form FL-2** [*Statement of claim for division of matrimonial property*] and **Form FL-3** [*Statement of claim for divorce and division of matrimonial property*] are amended by adding an additional box to indicate that a statement of claim for divorce has been issued (as allowed under the *Matrimonial Property Act*).

- **Form FL-23** [*Affidavit of applicant*] and **FL-24** [*Affidavit of applicants (joint)*] are amended by adding wording to indicate that each party has had independent legal advice respecting an agreement to waive spousal support and, where appropriate, a place to indicate that no application for spousal support is being made at the present time.
- **Form FL-25** [*Divorce judgment (without oral evidence)*] and **Form FL-26** [*Divorce judgment and corollary relief order (without oral evidence)*] are amended to provide a place to identify the location of adjudication, rather than the location of hearing or trial.
- **Form FL-27** [*Corollary relief order*] is amended by providing a new clause that must be included in every child support order. This requirement is further to recent changes to the *Family Law Act* relating to the Alberta Child Support Recalculation Program. The clause will either allow for recalculation (with implications for failure to comply with income disclosure requirements) or indicate that the order shall not be recalculated. 

With special thanks to Lily Anne Wroblewski for her able assistance.



Maureen Killoran QC, is the Managing Partner and Partner in the Litigation Group of Osler, Hoskin and Harcourt LLP in Calgary, a Canadian Bar Association Partner Firm. Maureen has been contributing to the "Practice Pointers" column since 2008.



Anne Kirker, QC is a partner with Norton Rose Fulbright in Calgary, a Canadian Bar Association Partner Firm. She was recently named as the Best Lawyers Lawyer of the Year in the area of Legal Malpractice.

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## Katherine Clackson & Dan Chivers

By Ola Malik

We are delighted to introduce you to Katherine Clackson and Dan Chivers.

On September 2, 2015, the world was stunned by the image of 3 year old Alan Kurdi's lifeless body washed up like a ragdoll upon a Turkish beach. He drowned along with his brother and mother en route to Europe where they were hoping to find a better life. This searing image served as a clarion call to action and spurred governments across the world to open their borders for Syrian refugees.

In Edmonton, Katherine Clackson and Dan Chivers, both criminal trial lawyers, were just another newly married couple. Katherine practices at the firm of Attia Reeves and Dan is a partner at Pringle Chivers Sparks Teskey. They had moved into their new house and were looking forward to starting their own family's journey. But the image of little Alan struck a deep chord and they decided they had to do something.

Katie got in touch with Bob Aloneissi Q.C., from Edmonton who was working with Calgary lawyer Maggie O'Shaughnessy on a project with the Mennonite Central Committee of Alberta to speed up the sponsorship process and get Syrian families in to Canada. Katie and Dan asked how they could help. They were told that the first task was to form a sponsorship group and raise sufficient money to pay for both the short and long-term expenses required when the family came over, and that the group would be responsible for helping the family through their first 12 months in Canada.

In order to raise the funds and find the furniture and clothing, Katie and Dan created a sponsorship group, which included one of Dan's colleagues, Lindsay Tate, and her husband, Mark Thibeault. Together, the group raised significant funds and gathered furniture and clothing in anticipation of the family's arrival. People became aware of the group's efforts and generous donations of time and much-needed items flooded in. In fact, so many friends and colleagues wanted to help that Katie and Dan recommended that people send their donations to other community agencies helping refugees.

When they first joined the group, Katie and Dan were informed that they were needed to host a family for a period



Katherine Clackson & Dan Chivers

of 2-6 weeks. They were matched with a Syrian family in October, 2015. This family consisted of three sisters, Tahani, Heba, and Aber, each of the sisters' children, and Aber's husband - in all, 10 family members.

Following the Liberal election victory, Katie and Dan realized that their family would likely arrive in the New Year, if not before. Katie and Dan had to act quickly - they were busy trial lawyers, the departure date for their honeymoon was fast approaching, and they had to find a place for their family to stay.

After much searching, they found the perfect home in North Edmonton. It had five bedrooms and was within their price

range. Katie and Dan signed the lease and organized an evening for people to come to the house and drop off donations. Over a 36-hour period, more than 30 people came to the house toting furniture, clothes, and household items. Everyone pitched in to set things up. In record time, the house was transformed into a home. The bedrooms had backpacks filled with school supplies for each of the children, Arab-to-English books on the bookshelves, clothes in all of the closets, and the necessities the family would require to make a new start.

Katie and Dan were advised in early December, 2015, that Tahani, Heba and their children were on a flight list and could arrive at any time. They left on their honeymoon and felt guilty about not greeting the family when they arrived but knew there were many people to take care of the family during their absence. On December 28, 2015, Katie and Dan received text messages from home telling them that their family had arrived. As Katie and Dan read these messages, they cried tears of joy.

As you can imagine, what awaited Tahani and Heba's families was new and strange. Lindsay and Mark took control and made sure that the family's every need was met. Neither of them speak Arabic but found ways to communicate creatively. With the assistance of Google translate and hilarious hand signals, they were able to establish basic communication. Lindsay and Mark had their hands full as they contacted schools for the kids, set the family up with healthcare cards, looked into adult English classes, and took them grocery shopping to fill the

*This feature titled "Unsung Hero" is intended to introduce a member of our profession who has demonstrated extraordinary leadership, innovation, commitment, or made significant contributions to social justice and community affairs.*



# UNsung HERO

cupboards. The first fun outing was to take the kids to a local trampoline park so Tahani could have a break. I can only imagine what her kids must have thought of that.

Katie and Dan arrived back home in Edmonton on New Year's Eve. The first thing Katie did on New Year's Day was to meet Tahani and the kids with Lindsay and Mark. They immediately brought the kids to Cloverdale Hill and went sledding. It was a warm winter afternoon on a busy hill filled with families. What could be more Canadian? The next day, everyone went swimming. After a quick stop to buy bathing suits, the kids played in the pool for hours. Afterward, Mark took the kids to get gold fish, as they missed having pets - and, as Mark will tell you, the excitement at the pet store was something to behold. Katie, Dan, Lindsay and Mark kept the kids busy for the last day of winter holidays, but the kids were eager to attend school. With Bob's assistance, the group found Tahani's kids a school and got them registered in classes.

Katie and Dan's Syrian family is not much different from any of ours. They had a wonderful life prior to the war and in Tahani's words, Syria used to be "heaven on earth." The family members were business owners -- they had owned their own homes and had kept pets -- they had vehicles -- they had worked in good jobs. Before the war, they were just like us. But in so many other ways, their lives were so very different. Tahani's husband was killed two years ago while walking to work. He was shot by government sniper fire. When he did not return home in the evening, Tahani went out looking for him, only to find him dead in the street. That was what convinced her that she had to leave.

Katie and Dan have been humbled by the strength, dignity and courage of their new Syrian family. They worry about what happens to those Syrian families who haven't been so lucky with the same level of sponsor support. Charitable agencies and not-for-profits can only do so much, and more people need to reach out to provide both time and money to other needy families. Various agencies are accepting volunteers but emergency housing placements continue to be in short supply. The plight of Syrian refugees and the commitment to render aid and support Katie and Dan's sponsorship group has brought the Edmonton Bar together in a way which is both impactful and which will likely endure. I've already mentioned the leadership and hard grassroots work undertaken by Bob, Maggie and Lindsay. Others who have played an important role in supporting the sponsorship group are: Mona Karout, Derek Jugnauth, Alan Pearse, Yasneem Nizam, Nathan Po, Kelly Dawson, L. Neil Gower, Q.C., Phil Lister, Ahmed Jomha, Mary C. Brebner, and Brian Beresh, Q.C.

Helping others and contributing to their profession is not something new for Katie and Dan - both of them were avid volunteers with Student Legal Services at U of A's law school and Katie has served on this organization's board since 2012. Dan is the VP of the Criminal Trial Lawyers Association in Edmonton while Katie sits as VP of the

Edmonton Bar Association. Katie volunteers with the Elizabeth Fry Legal Clinic at the Edmonton Institution for Women. Katie is also part of a group that runs a yearly charitable event created in the Edmonton legal community called "Rock n Robes". This event raises money for two wonderful child and youth charities: Youth Empowerment and Support Services (YESS), and Free Footie (a soccer program for kids from needy families). And, to keep things in the family, Dan's firm, Pringle Chivers Sparks Teskey sponsors the event.

Katie, Dan, Bob, Maggie, Lindsay and all the other lawyers who have helped out in some way or another are Unsung Heroes - they represent some of the finest qualities of our profession and they do us proud. 🇨🇦

*In cooperation with other community agencies, Calgary Legal Guidance and Pro Bono Law Alberta are also pitching in to assist refugees through Pro Bono Immigration Clinics. For more information on this program, see the Pro Bono Law Alberta article on page 19.*

## Do you know an Unsung Hero?

### Tell us about them.

If you know a lawyer who deserves to be recognized, please send us an email to [newslet@cba-alberta.org](mailto:newslet@cba-alberta.org) with the lawyer's name and the reasons why you believe they are an "unsung hero". The only formal requirements for nomination are that our "unsung hero" be an Alberta Lawyer and a CBA member.



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## Internationally Trained Lawyers: The long, hard journey to being accepted in Canada

By Geoff Ellwand

"I came to Canada alone in 2012. Just me and my backpack."

That is the way Ximena Espana begins her story about leaving her home in Colombia in a bid to become a Canadian lawyer. Espana was working as an oil and gas lawyer in Bogota. But she wanted more out of her career so decided in 2011, at the age of 26, to leave all that was familiar and apply to the University of Calgary's energy law LLM program. When she was accepted she assumed if she graduated, her Canadian LLM "would be the trampoline" into being allowed to practice in this country.

"I was optimistic and excited," she recalls. "I understood of course that there will be some training you have to go through but I wasn't aware the process would be so tough." Because Colombia is a non-Common Law jurisdiction Espana faced ten challenge exams set by the National Committee on Accreditation (NCA) of the Federation of Law Societies of Canada (FLSC).

The challenge examinations are intended typically for Internationally Trained Lawyers (ITL) who have qualified somewhere else other than Canada. According to the NCA website the series of examinations are designed to ensure "an understanding and knowledge of Canadian law, and knowledge equivalent to that of a graduate of a Canadian common law program".

Writing the NCAs, as they are universally known by all applicants, is a difficult, draining and nerve wracking experience. "Yes, I was scared" Espana remembers "you wonder what if I don't pass just one of the exams."

Another internationally trained lawyer Agnes Bielecki, from Poland remembers a feeling of isolation. She also had to pass 10 NCA exams. "There is no help, no guidance, all exams are on a self-study basis. It is difficult to find textbooks, there is no assistance in that. It is long and you are alone."

And as both Espana and Bielecki found out, after all their struggles to qualify they still faced the vital final step in becoming a lawyer in Canada...finding articles. While they hoped their language skills and foreign experience might be viewed as assets finding a Canadian firm willing to take them on was very, very difficult.

This is where Lara Pella, a Canadian lawyer in Imperial Oil's Calgary office, steps in. She has enjoyed a remarkable legal career, with plenty of international exposure. Over lunch in downtown Calgary one day she started chatting

with a woman from Nigeria, who had practiced as a lawyer in her home country. The woman had fulfilled her NCA requirements along with obtaining a Masters in Law in Canada, but was simply unable to obtain articles and had been working as a legal assistant for two years. "It struck me as so unjust that after all that education and training, she was unable to practice law in Canada because she could not obtain an article. I felt I had to do something," Pella recalls.

And she did.

"I talked to all my contacts in private law firms asking if they had an articling position for this remarkable woman." It was a long journey - a six-month journey, in fact - but Pella found a friendly ear in Heather Treacy, then with the Calgary office of Dentons. Starting in 2012 Dentons and Imperial shared the Nigerian-trained lawyer's articles and she is now able to practice law in Alberta and has since found a legal position.

But it didn't stop there. Dentons and Imperial formalized their Internationally-Trained Lawyers program and it is now in its 3rd year. Dentons also developed a similar program in Toronto.

Agnes Bielecki was chosen next by Imperial and Dentons. She completed her articles and has become an associate in Dentons' Calgary office. Imperial has further expanded its Internationally Trained Lawyer program and has now developed a relationship with DLA Piper in Calgary. Pella strongly believes the key to assisting Internationally Trained Lawyers overcome barriers is to create awareness across the Alberta and Canadian legal community. "I didn't know the problem existed until it was brought to my attention. When lawyers are made aware of the issue, they want to be a part of the solution", says Pella.

As for Ximena Espana - the woman with the backpack - she finally got articles at Osler's in Calgary. "I think they appreciate diversity and like to cut the cookie a little differently sometimes." Espana expects her Bar call in April. Her advice to other internationally trained lawyers? "Be patient, be confident and be persuasive."

Daniel Lo another candidate who joined the ITL program at Dentons in Calgary and is now an associate there, is a good example of being patient, confident and persuasive. Born in Hong Kong he came to Canada at five and grew up in Toronto. Fluent in Cantonese he aspired to become an international lawyer. After an undergraduate degree at the University of Toronto he went to the University

# CHOOSE FROM ALBERTA'S TOP MEDIATORS AND ARBITRATORS



continued from page 10

of Birmingham in England to take his LLB then back to Toronto for an LLM. While doing his LLM and later while working in a non-lawyer roll at RBC Capital Markets in Toronto, he successfully wrote five NCA examinations. Over those years Lo also sent out "at least" 150 resumes. At first he got absolutely no responses. But, when he was able to include his RBC Capital Markets work, he sparked some interest and finally got an offer from Dentons. His takeaway from all this is: "Never give up the dream". Incidentally he expects to qualify as a solicitor in England this fall.

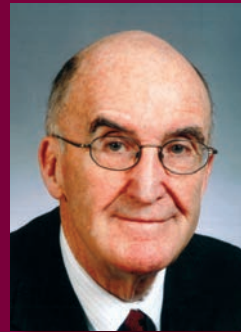
But Lo isn't just enjoying his hard work and good fortune, he remains active in a volunteer organization he founded with Espana, Bielecki and Pella. It is called Global Lawyers of Canada or GLC. It is designed to help other internationally trained lawyers who have come to Canada and are struggling to make their way through the system. GLC offers advice, encouragement and provides a networking opportunity.

And there has been another big change. Last fall the University of Alberta's Faculty of Law launched an Internationally Trained Lawyer Program - NCA Accreditation. It is designed specifically to help ITLs study for the NCA challenge examinations. Under the program ITLs sit in regular Law School classes taking exactly the classes they need for their NCAs. The coordinator of the program is Courtney Wagner. She calls it "a pilot project" and says "we're working out the wrinkles". That is one reason the course, which is not cheap, is costing \$30,000 this year and next, and then being upped to \$40,000. But it seems to directly meet the demands of Internationally Trained Lawyers seeking a way through their NCAs. But of course it does not alleviate the struggle to find articles.

In that search they may want to consider one of the strategies Daniel Lo used to land his articles. "I made a business case," he says "with the growing globalization of the profession languages and cultural integration are important and valuable skills. Now they see the business case." 🗣️



Geoff Ellwand is a Calgary criminal lawyer with an MA in history. A former CBC reporter he continues to write about the law and history. He recently had an article published in the *Saskatchewan Law Review* about Canada's most famous handwritten will.



The Hon. John C. (Jack) Major, C.C., Q.C.



The Hon. W. Vaughan Hembroff, Q.C.



The Hon. Ernest Marshall, Q.C.



Clint G. Docken, Q.C.



Graham Price, Q.C.



E. David D. Tavender, Q.C.



Harold W. Veale, Q.C.



Robert B. White, Q.C.



## Whither Traditional Legal Education?

By Robert G. Harvie, QC

I graduated law school in 1985, articled in a reputable firm, and then, full of misplaced confidence and naiveté, I opened my own office in 1992 with another young lawyer of my vintage.

For reasons that were, candidly, more tongue in cheek than having any serious design or merit, I insisted that our new letterhead contain a catchy little Latin phrase at the bottom, and 23 years later, it remains:

*"Jus est ars boni acq̄i"*

Law is the art of the good and the just.

Now - if you Google that Latin phrase, you will come across several iterations suggesting that "ars" should be interpreted as "science." I don't know, personally, because I'm not a Latin scholar, but I think most of us who have practiced for more than a few years, would, perhaps, see the "law" as much more of an "art" than a "science".

And this leads me to my discussion about the value of "traditional legal education". Back in the day when I graduated (pre-email, or for that matter, pre-fax machine even), law schools throughout Canada - with the exception perhaps of the University of Calgary and the University of Victoria - were more or less providing what has been referred to as a "traditional" or "Socratic method" of legal education. You read cases, ad nauseam, and then you recited in class on demand, like a dog doing a trick, the facts/the issues/and the *ratio decidendi*. Occasionally, very occasionally, you would have some discussion regarding the underlying philosophy of the law, but more often than not, you examined and then put to memory, the aforesaid 3 pillars of case law in a thousand cases from *Carlill v. Carbolic Smoke Ball* to *Hedley Byrne v Heller*.

Then, with a little luck, you obtained an articling position and found that 90% of what you had to now do as a student wasn't covered in law school (how to dictate, how to make a client feel confident in your skills, how to avoid irritating your legal assistant, how to collect a retainer, and how to assure a proper stock of beer is maintained in the office lounge).

This irritated law firms. They wanted students to "hit the ground running" (i.e. make money now.) As a result - law schools began to expand their vision of what "legal education" looked like, perhaps taking a cue from the efforts of the University of Calgary and others. Now, in the post-Google age, we have discussions arising about whether or not physical law schools are even necessary, and whether or not a detailed review of the 130 pages of *Bedford v. Canada* is necessary, in lieu of a one or two

paragraph head note - whether "skills" are more important than memorization of legal principals. More and more we hear the call for practical and cheaper legal education. Law firms and the public want cheap "ready to use" lawyers straight out of University.

And lo and behold. We now have Lakehead University in Thunder Bay, Ontario. A three year program, which includes a practicum component recognized as a replacement for the traditional articling requirement by the Law Society of Upper Canada. You graduate law school and day 1, you open up your practice engaging in corporate mergers and acquisitions or renvois litigation. No articling, no bar admission exams. No problem. You're insured. Clearly, the innovative effort of Lakehead and the LSUC have reduced practical training and legal education by a full year compared to the rest of us luddites who attended and who still may attend "traditional" legal education and articling programs that took four years.

Is this good, or bad? Well, I'll take the "con" position, because, well, that's what I do. I'm a contrarian. I'll ignore the limitations of my own traditional education gained at the University of British Columbia way back in the 80's, and instead, posit that the move towards more innovative and "practical" legal education may be miss-placed.

Why?

Because the practice of law is not a "science". You cannot predict that if you add "X" litres of testimony from Ms. Black with "Y" kilograms of expert reports from Dr. Brown, you will end up with judgment, "Z".

Law is an art. At its best, the law takes many diverse legal principals, and applies a liberal amount of understanding and imagination, and turns those principals into the legal equivalent of a painting by Renoir - many, many differing shades and colors - with varying inflections of hand pressure and brush texture, combined with a discerning eye and mind.

And, like any artist - from a concert pianist or ballerina, before you can create great "art", you have to spend hundreds and hundreds of hours doing the dull, plodding work of acquiring knowledge of the foundation of your art.

Malcolm Gladwell, in his book "Outliers" makes the bold statement that to master a skill you require *ten thousand hours* of practice. I assume the goal of being licensed to practice law, and being able to foist yourself upon the unsuspecting public is to assure that you have mastered the ability to care for your client.

## CBA BROADENS ITS INFLUENCE - ALL IN ONE PLACE



Submissions to government. Court interventions. Resolutions. Initiatives. Practice Tools.

The CBA's Legislation and Law Reform Committee and member volunteers stay busy all year speaking to governments, courts and regulators on your behalf.

And we'd like you to know more about it. Beginning in February, you'll start receiving CBA Influence. The email newsletter will be delivered on the first Tuesday of every month except in January and August, when Parliament takes a break.

The newsletter will have two parts:

... the first is Focus on Parliament - a monthly status report on proposed federal legislation and regulatory changes and government consultations. Designed originally for Section and Forum leaders, it will now be available to all CBA members.

... the second is a compendium of blog posts about recent CBA initiatives from the Our Work section of [cba.org](http://cba.org) to provide a timely snapshot of what the CBA is doing.

The CBA's advocacy work is consistently identified as being of significant value to members. With this newsletter we hope to show you the return on your investment.

For more information on these and other national Canadian Bar Association initiatives and news, visit [www.cba.org/Publications-Resources/CBA-News](http://www.cba.org/Publications-Resources/CBA-News).

*continued from page 12*

So. By my very rough calculations, after three years of law school, averaging 8 hours per day, over three years you will engage in about 4,128 hours of training. Not quite half way to "mastery" according to Gladwell. But the suggestion is that at Lakehead University the moment you graduate, you're good to assume responsibility for ensuring that someone is not wrongfully imprisoned, or loses custody of their child, or obtains compensation for being improperly dismissed from their employment.

I'm not so sure.

Should law schools today look like the Inns of the Court in the mid-1600's? Or even the University of British Columbia in the mid-1980's (remember Oingo Boingo?)

## AND SPEAKING OF ADVOCACY...

Upon the request of the Alberta Branch, the CBA will seek to intervene at the Supreme Court of Canada on *Information and Privacy Commissioner of Alberta v. University of Calgary* to address fundamental issues related to solicitor/client privilege. The CBA *pro bono* counsel for the intervention will include two Alberta past presidents Jim Lebo, QC and Michele Hollins, QC (current CBA national Past President), and Jason Wilkins.

## JOHN HOYLES RECEIVES 2015 WELLNESS FORUM AWARD



CBA CEO John Hoyles has been awarded the 2015 CBA Wellness Forum's Award of Excellence, which he received at the forum's annual workshop on November 7. The award recognizes an individual involved in lawyers' assistance who shows knowledge, compassion and dedication to improve the lives of lawyers.

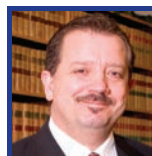
"John has worked tirelessly to raise the group's profile. Most recently, he was instrumental in seeing the online course on mental health and wellness in the legal profession come to fruition," said CBA President Janet Fuhrer.

## CBA MID-WINTER - WHAT'S IN IT FOR YOU?

Make your voice heard at the CBA Mid-Winter Meeting of Council this February at the Fairmont Chateau Laurier in Ottawa. Attend to engage with your fellow members, hear the latest about the CBA Re-Think, vote on current legal issues and more!

Visit [www.cbamidwinter.org](http://www.cbamidwinter.org) for more details and to attend.

Probably not. But I would suggest that the breadth of even a basic understanding of the law sufficient to found a career as a lawyer requires something akin to Gladwell's ten thousand hours. That the three years of traditional education, providing a strong foundation for the later development of our "art" is absolutely necessary, and that by cutting corners in favor of making it easier for firms to make money faster is not the answer to a highly skilled and competent legal profession. 🙄



Robert G. Harvie, QC is the Chair of the CBA Alberta Editorial Committee and Editor of *Law Matters*. 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.



## 2016 Alberta Law Conference



CBA Alberta Branch Executive Committee meets with Minister of Justice & Solicitor General Kathleen Ganley



Keynote Speaker and CBC Dragon Manjit Minhas



Jebb Fink presents 'Survival of the Wittiest'



CBA Alberta President Wayne Barkauskas and ALC Co-Chairs Johanna Price (l) and Loretta Bouwmeester (r)



Luncheon Debate. (l to r) Jennifer Robertshaw, Joshua Sealy-Harrington, Richard Billington, QC, Tahir Chaudry, Kaitlynn Perrin



The CBA Alberta and Law Society of Alberta celebrate the winners of the 2016 Distinguished Service Awards (l to r) Wayne Barkauskas (CBA Alberta President), Douglas Gordon Moe, QC, Michelle C. Christopher, Mitchell McInnes, Christine Pratt, James Eamon, QC (Law Society of Alberta President)



## Players de Novo present *The Beaux' Stratagem*

Theatrical Edmonton and area lawyers and judges, otherwise known as The Players *de Novo*, capped off their 10th successful season this past May with a gala performance of George Farquhar's 1707 comedy, *The Beaux' Stratagem*. Edmonton's Victoria School Foundation for the Arts, co-beneficiary of the night's profits with this year's theatre partner, Kompany Family Theatre, again hosted the production.

Artistic Director Jan Taylor's vast experience dealing with adolescents enabled her to transform this year's crew of 18 judges and lawyers into a coherent thespian troupe. Opening (and closing) night was a resounding success. *De Novo* veterans, Kevin Mott, Rob Dunseith, Terry Hodgkinson, Suvidha Kalra and Judge Laura Stevens provided invaluable theatrical experience, rounded out by performances from newbies Morgan McClelland, Amanda Hart-Dowhun, Shelly Lloyd Atkinson, Jason McCulloch, Brett Grierson, Holly Juska, Darin Sprake, Adam Garrett, Fred Whiting, Judge Kirk MacDonald and mother and daughter team Marie Gordon and Maya Gordon (playing - yes - mother and daughter!). They were joined at various points by Justice Rob Graesser, deliverer of ale and coach-driver.

Few will forget Rob Graesser's convincing "neighs", Marie Gordon's search for her saw to amputate Brett Grierson's infected limb and the incredible sword fights, blanketing the stage, by Jason, Brett, Darin, Adam and (best of all of course) Maya and Suvidha. Kirk MacDonald's drunken descent of the stairs, backwards, will not soon be forgotten either. Amanda's ancient servant rivalled Tim Conway's in hilarity, and Terry's over-the-top parson's accent invoked gales of laughter. The bondage tryst between Rob and Laura (now forever nicknamed "Judge Scrub") raised the roof, while Morgan's mercenary flirtations with Fred were as obvious to the audience as was Fred's oblivion to them, and Holly's countrywoman was right out of the country - which country caused debate. Last but not least, Kevin and Shelly used their formidable voices to the great entertainment of all.

Aside from the clear enjoyment of the audience, this annual event continued its tradition of promoting our profession's sense of collegiality by bringing together members from every area of the law to spend a night enjoying their colleagues' "putting themselves out there" in service of a great cause. The post-performance Gala reception of excellent food and beverage further fostered collegial spirits.

Over the last 10 years, The Players *de Novo* have raised more than \$818,000 for the Edmonton Theatre community! Little wonder the group has received the Mayor's Award for Sustained Funding of the Arts.

See you all on 6 May 2016, as we join Free Will Players for our 11th production: Shakespeare's *A Midsummer Night's Dream*.

Mona T. Duckett, QC  
Dawson Duckett Shaigec & Garcia



(back, l to r) Jason McCulloch, Rob Dunseith, Adam Garrett, Amanda Hart-Dowhun, Rob Graesser, Holly Juska, Laura Stevens, Kirk MacDonald, Terry Hodgkinson, Shelly Lloyd-Atkinson, Fred Whiting, Brett Grierson, Darin Sprake.  
(front, l to r) Kevin Mott, Maya Gordon, Suvidha Kalra, Marie Gordon, Morgan McClelland.

# ALBERTA BRANCH NEWS

## LEGAL MEDIA RELATIONS VIDEO SERIES

At the recent Alberta Law Conference in Calgary, our President Wayne Barkauskas announced the newest videos in the CBA Alberta Savvy Lawyers Series, "Legal Media Relations", hosted by Cynthia Carels of Miller Thomson LLP in Edmonton.

The series features three videos:

- **"The Problem"**: discusses the tension between the media and lawyers and the benefits to participation in media relations.
- **"The Pros"**: we speak to media relations professionals to get their insight into the fundamentals of good media relations.
- **"The Practice"**: we give you everything you need to put your new media relations skills into practice!

This series will launch on March 2 with a live event featuring a Q&A with Cynthia Carels and a panel of media relations professionals featured in the videos, followed by a viewing of the first video in the series. This event will be held in Edmonton and will also be available via live webcast. All three videos will be available to view on March 3.

Registration for this series is now open. Individuals who register for all three videos in the series will receive access to the live March 2 event, and will be entered to win one of six copies of *The Honest Spin Doctor*, a book by media relations trainer and "Legal Media Relations" participant Grant Ainsley.

Visit <http://www.cba-alberta.org/Professional-Development/Savvy-Lawyers-Series.aspx> for more information and to register.

## CBA SECRETARY & COUNCIL NOMINATIONS

Nomination forms for Branch Secretary and Council positions, along with interest forms for participation in Branch and National Committees, will be mailed out to all CBA Alberta members in early March.

This year, all CBA members interested in putting forward their names for the position of Branch Secretary must reside in South Alberta.

Nomination and interest forms are due back starting in early April. Keep an eye on your emails for your nomination forms. If you have any questions about participation in Council, or the Secretary nomination process, please contact Holly Schlaht at 403-218-4311.

## LAW DAY 2016

Law Day 2016 is quickly approaching! Events are currently scheduled for St. Paul on April 15, Calgary, Edmonton and Medicine Hat on April 16, and Lethbridge on April 23.

The Alberta Branch Access to Justice Committee will also be hosting the fourth annual Dial-a-Lawyer event in conjunction with Law Day on April 16. This event provides free legal consultations to members of the public over the phone. In the face of the current economic climate and other challenges, it is more important than ever to insure that Albertans have the access to justice that they need.

If you are interested in participating in Law Day events in our province, contact Lee-Anne Wright at [communications@cba-alberta.org](mailto:communications@cba-alberta.org).

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## Alternative Dispute Resolution: Strengthening the Law School Experience

By Katherine Bilson, LL.M.

In the almost sixteen years since I graduated from the College of Law at the University of Saskatchewan (the College), there have been many changes in the world of legal education. These changes have been brought on by evolving legal disciplines, the introduction of new technology, and the opening of some new law schools that have shifted the way they deliver legal education as compared to more traditional methods. In addition, Canadian law schools have undergone changes in their way of structuring some courses. Alternate dispute resolution (ADR) is one such area that has seen a seismic shift at my alma mater, as well as many other law schools across the country.

ADR was one of my favourite courses in law school. It was taught by a brilliant and wonderful professor who was clearly passionate about the topic. In addition, it was a legal subject that fit well with my interest in collaborative approaches to legal practice. Typically, the class attracted twenty or so students when offered, but largely remained a stand-alone course. A mediation course was in the midst of being piloted as well. Fragments of ADR principles were shared in a few other courses at that time, but there was no requirement then to complete ADR-related credits. In the time that I have been practicing law, the principles instilled through my ADR course have proven repeatedly helpful and they have played a significant role in my day-to-day work.

Today, Acting Dean Beth Bilson, Q.C., of the College speaks of “a strong faculty and dedicated sessionals” who have built an ADR program, including courses that span from first year all the way through the law school experience. First year students must now complete an intensive ADR course for a week in January during which they dedicate full days to learning about ADR principles and their application to various areas of the law. Using a variety of fact scenarios, these students work on small group exercises and one-on-one negotiation sessions through the week to develop their understanding. The week culminates with a sentencing circle exercise held at the Provincial Court of Saskatchewan. Bilson also describes the enthusiastic participation of judges from all levels of Court, mediators, and practicing lawyers in this week of learning, all of whom come to support and help the first year law students. It is clearly a valuable week for everyone involved.

The intensive program grew out of the College’s earlier approach to include some component of ADR in each of the first year courses. For example, students used to participate in a land claims negotiation exercise in Constitutional Law or a commercial negotiation in Contracts Law. The current format allows for better continuity and a richer learning experience.

In addition, it has clearly encouraged growth of more ADR-

related learning in the upper years. In contrast to my own experience, there are now four sections of Negotiation offered to keep up with demand amongst the second and third year students. Upper year students can also take Mediation and a course focused on multi-party dispute resolution. Students have become very active in the annual national negotiation competition and the College has been performing very well in an international mediation moot that attracts approximately 65 teams each year. The dedication and enthusiasm of those who are teaching, mentoring, and supporting the law students is paying off.

Indeed, substantive glimpses of the value of the first year ADR week can be found in the learning journals that the students are required to keep, value that will remain throughout a legal career. Now in second year at the College, Krista Cossar wrote in her journal on day one after learning about the history of ADR:

One phrase that stuck with me was “hard on the problem, soft on the people.” It set the tone for the rest of the day emphasizing the idea that we as lawyers are coming into people’s lives at an extremely vulnerable stage and we have a responsibility to care for them.

In a similar vein, Drew Wilson, also now in second year, wrote:

I found the skills I gained during ADR week to be invaluable. It believe it will be extremely helpful in my career as a lawyer when I am dealing with clients. As a lawyer, we have to know what our clients’ goals and interests are and we can only do that by asking the right questions and facilitating conversation. Through this we are hopefully able to gain insight and build a better relationship with our client.

These glimpses show incredible insight into the value that ADR principles and techniques hold in our work as lawyers, regardless of our practice area. The College’s efforts to instill the importance of ADR all the way through the law school experience, the enthusiasm of all involved, and the resultant increased demand for ADR-related classes exemplify the importance of ADR for all legal disciplines and are to be commended; such factors will collectively provide a good foundation for those who will be entering practice in the years to come. I look forward to sharing the profession with these students when they become lawyers. As Wilson so aptly points out too, the tools learned during ADR week are not only important to a legal career, “but also in life.”



Katherine Bilson, LL.M., is Senior Legal Counsel, Litigation & Employment Law at TransCanada PipeLines Ltd. She primarily practices in the areas of employment, pension and privacy law, and is also an instructor in MRU’s Human Resources Certificate Program. Katherine is also a South Section Coordinator for CBA Alberta.



## Maintaining Balance In Your Articling Year

We've all read articles about the importance maintaining balance during our studies and our career. Your law school and articling years are a formative time in your legal career, during which you will develop habits that stick with you in years to come. For that reason, it's important to find a way to maintain balance during this time, so that you can carry those habits through your legal career.

Many of us are uncertain about what maintaining balance means. We've seen glossy brochures from big-name law firms with pictures of smiling students windsurfing, playing guitar and posing in front of monuments in Peru. We're told that this is balance, but we're not sure how balance applies to our day-to-day lives. We're fairly certain it means not spending all of our time working and studying. We're confident it includes looking after our health, socializing and spending time with family. However, we're constrained by the seemingly never-ending flow of work we have to do, and the finite amount of time in which we have to do it. We may feel overwhelmed and lacking in inspiration when it comes to creating balance in our own lives.

In the interest of helping our fellow articling students and law students, we've compiled a non-exhaustive list of concrete tips for leading a more balanced life during those hectic years at the start of our legal careers. In no particular order:

- 1. Commit to a regular physical activity.** We all know the importance of exercise, but when we get busy it can be one of the first things we forego. If you commit to doing an activity at a regular time each week, you're far more likely to follow through with it than if you simply tell yourself you'll go to the gym "a couple times a week". The activity could be an intramural sports team, a lesson or a class. If you participate in these activities with friends, you'll have people to motivate you when you're thinking of flaking out.
- 2. Take the time to cook a healthy dinner.** You're not in undergrad anymore, and you can't survive off of ramen noodles, pizza pockets and fast food. While you may not be able to cook an elaborate meal every night of the week, you should take time out a few nights a week to cook something healthy and delicious. Cooking will give you a mental break and can allow you to spend time with family. If you're studying or working away from home, then offer to cook for friends. After taking time out to cook, you'll be mentally refreshed, and will be more effective if you have to return to studying or working that evening.
- 3. Hang out with people who work or study outside law.** There is an entire world outside of the legal profession. Get to know some of its inhabitants. You may find it refreshing getting to know people who talk about things other than law and who don't analyze everything with a legal mindset. And who knows, these people may

By Andrew Hill & Ana Pagkatipunan

become your future clients someday.

- 4. Eat lunch with friends.** We may think we're being super effective by doing a working lunch, but scarfing down a panini while working is not very efficient for two reasons. First, you are not focused (because you're multi-tasking). Second, working through lunch will make you mentally tired sooner in the afternoon. So take a mental break, eat and socialize. You'll also get fewer crumbs in your keyboard this way.
- 5. Practice yoga or meditation.** Practicing yoga requires you to take time out of your day to focus on yourself and your body. There is a benefit to putting time aside each day, physically leaving the office and entering a room without cellphones, and therefore without work emails, to concentrate on your breathe and movements. Meditation can be practised at home, or at work if you have your own office. Practicing these activities will help you develop mindfulness, improve your focus and emotional stability, and reduce anxiety
- 6. Accept that you can't be the best at everything all the time.** Maintaining balance means accepting that you can't be the number one student, employee, parent, partner, friend and athlete at all times. Your time and energy are finite, and devoting them to one area of your life means there is less time and energy for other areas. Decide which areas need more attention at this point in your life, and find a way to focus on them without neglecting the others. 🧘



Andrew Hill is an articling student at Shea Nerland Calnan LLP. In his spare time, he enjoys soccer, cross-country skiing, cooking, playing with his band and travelling.



Ana Pagkatipunan is an articling student at Shea Nerland Calnan LLP. She is also the mother of a 17-month old little boy.



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## Immigration Clinic Pro Bono Project

By Gillian D. Marriott, QC and Kendall Moholityn

The Immigration Clinic Pro Bono Project was born out of the need for expanded immigration law pro bono services in Calgary. Calgary Legal Guidance (CLG) has provided pro bono immigration law services at Calgary Immigrant Women's Association (CIWA) since 1991, but did not launch their specialized Immigration Law Program until 2012. By 2011, the wait list for 30 minutes of summary legal advice on immigration law issues for clients was over four months. Immigration lawyers in Calgary were already giving very generously of their pro bono time, such that the legal profession had to look for a new solution to meet the need for expanded immigration law pro bono services in Calgary.

CLG and Pro Bono Law Alberta (PBLA) worked to develop an alternative model to expand the ability to provide immigration law pro bono services with the ongoing participation of the same immigration lawyers. The model would engage non-immigration lawyers to provide summary legal advice under the supervision of an immigration lawyer. This 'group mentorship' model was designed to encourage participation from lawyers with practice areas outside of immigration law. At the same time, Gowlings was looking for an ongoing pro bono program to further engage its lawyers in regular pro bono work. The partnership with CLG and PBLA was the perfect fit.

In order to provide accessible immigration law pro bono services to those clients most in need, CLG and PBLA additionally partnered with the Centre for Newcomers (CFN) in northeast Calgary. CFN is a registered non-profit society for the integration of newcomers in the community through services and initiatives that promote diversity, participation and citizenship. Each year, more than 10,000 newcomers connect with the Centre and access its services, including settlement services, English language training for adults, and support for finding and retaining employment.

The Immigration Clinic Pro Bono Project at CFN began in earnest in 2012. Lawyers from Gowlings without previous experience in immigration law volunteered to undergo specialized training in this area. Thereafter, they began their shifts at CFN on the second Wednesday evening of each month, working alongside experienced immigration lawyers with logistical support from CFN.

Under this model, we have been able to quadruple our ability to provide immigration law pro bono services. The Immigration Clinic has served over 400 clients since its inception.

Given how well this model has functioned to expand the delivery of pro bono services by lawyers who do not typically practise in the area of immigration law, CLG, PBLA and Gowlings sought to expand the Clinic to include in-house legal counsel. In 2015, Shell Canada Limited partnered with the Immigration Clinic, and its in-house lawyers are

volunteering on a regular basis following the annual Clinic training in the spring. Shell lawyers now support the Immigration Clinics at both CFN and CIWA, under the model implemented by CLG, PBLA and Gowlings.

The Immigration Clinic, through its alternative pro bono services model, has been an enormous success from the perspective of the clients it serves. It has also been extremely fulfilling for the lawyers who volunteer at the Clinic. The Gowlings lawyers and in-house Shell lawyers do not typically get to interact with clients on such a personal level in their everyday careers. The Immigration Clinic allows them an opportunity to do so in a meaningful way that has an immediate impact for those clients that attend these clinics. The volunteer lawyers have expressed accordingly how valuable and rewarding this pro bono work is for them.

This model, we believe, can be replicated for any area of the law where there is a significant need for pro bono services but not enough lawyers practising in the area of law to meet the need for such services. We encourage any firms or in-house legal teams interested in engaging in pro bono work to think outside the box and consider applying this model themselves. If any individuals, firms or teams are interested in doing so, we encourage you to contact Pro Bono Law Alberta at 587-774-5458 or [info@pbla.ca](mailto:info@pbla.ca), or Calgary Legal Guidance at 403-218-1707 or [lamj@clg.ab.ca](mailto:lamj@clg.ab.ca).

*With thanks to Erin Runnals, Lisa Jamieson and Calgary Legal Guidance for their assistance in co-authoring this article.*



Gillian Marriott, QC is a past president of the Canadian Bar Association, Alberta Branch. She is the Executive Director of PBLA, and practices family law with Widdowson Kachur Ostwald Menzies LLP.



Kendall Moholityn is the Deputy Executive Director of PBLA, having joined the organization in 2013. Prior to joining PBLA, Kendall completed her articles at Dunphy Best Blocksom LLP and practiced at Peacock Linder Halt.

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## North

### From the desks of Bonnie Bokenfohr and David J. Hiebert

The New Year is well under way and we are into the home stretch for Section meetings. So far, Section meetings have included presentations on developing large residential lots, skinny residential lots, the police's use of body-worn cameras, pre-judgement remedies, retainer agreements, pig evictions, and an update on the use of electronic signatures at the Land Titles Office. It's been a great selection of presentations so far! You may have noticed one or two of your Section Coordinators sneaking into the back of your Section meetings last year. Over the past year, collectively we have attended meetings at almost every North section. We have seen first-hand that, by and large, the Section executives are doing a great job in keeping your favourite Sections running with interesting and informative presentations by knowledgeable and engaging speakers. Section executive may be surprised by the level of interest in a topic outside of just the Section's members. Don't be afraid to invite other Sections to your meetings.

In November, all the CBA Alberta Section coordinators met in Red Deer, along with CBA Alberta Executive Director Maureen Armitage, South Section Registrar Linda Chapman, our very own and well-loved 2015 Jack Innes Achievement Award-winning North Section Registrar Heather Walsh and former North Section Coordinator Karen McDougall to hold a Section Coordinator Summit. (Thanks to Warren Sinclair LLP for lending us the use of their boardroom.) One of the outcomes is that we will be converting the spring Section executive workshop into an interactive facilitated workshop session, the goal of which is to

help Sections get a jump on their Section planning for the year. If you are on the executive for a Section, please make an effort to attend the new and improved Section executive workshop in the spring. The other big news is that Karen McDougall has volunteered to create a Section Executive Handbook to put down on paper in one place everything you wanted to know about running a CBA Section in Alberta, but were afraid to ask. Thank you to Karen for volunteering to take this project on!

Finally, just a reminder to let the CBA staff know if you are unable to attend a CBA section meeting that you signed up for. We understand that sometimes work unexpectedly keeps us from attending Section meetings, but a call (780-428-1230) or email ([edmonton2@cba-alberta.org](mailto:edmonton2@cba-alberta.org)) 30 minutes before the meeting would help. Remember, "if you can't go, let the CBA know!" 🗣️



David Hiebert is a partner at Witten LLP in Edmonton. David is a long-time CBA member and volunteer, having served on Council, as a member of the Alberta Law Conference committee, and as chair or co-chair of a number of different sections.



Bonnie Bokenfohr is in-house counsel and the Public Complaint Director with the Edmonton Police Commission. Bonnie has been a member of the CBA since her very first days at the bar, serving on the executive of the Privacy Section for many years.

## South

### From the desks of Kate Bilson and Sean FitzGerald

A brand new year is ahead. We hope that the holidays allowed you all to take some time for yourselves and your families.

There is no question that 2015 was a challenging year in Alberta. Difficult times in the oil and gas sector, massive job loss numbers and a weakening dollar caused much anxiety in the province. Still, there were many examples of resilience, caring and good citizenry amidst the bleak days. Like the year before, CBA members committed to volunteering at the Mustard Seed to serve dinner to Calgary's less fortunate, efforts that have continued through January as well. Whether in your workplaces, your community associations, or on your initiative, many of you also reached out in other ways. Thank you all for your contributions and energy.

Section activity continues to be busy and many groups have seen a great level of enthusiastic participation so far this year. The newly formed Diversity Section has had a great start and is looking forward to gaining yet more traction in 2016. The Real Estate Section recently prepared a resolution with recommendations regarding real property reports. Last week, the Standing Committee on Alberta's Economic Future invited the CBA to participate in a review of Alberta's Personal Information Protection Act. Members of the Privacy Section will be taking a look at the proposed amendments and offering their thoughts as the review process proceeds. In the meantime, upcoming Section meetings promise to be

rich and varied in their content and speakers with some topics touching on the interests of multiple sections. This cross-pollination should only help to enrich and strengthen the work that has been going on. None of the Section activity success would be possible without the dedication and hard work of all the section executive members. We extend a sincere thank you for all the effort and commitment you have shown this year.

Please be sure to take a look at the calendar online at [www.cba-alberta.org](http://www.cba-alberta.org) to find out what the sections have in store for the coming months. If you have any questions about section membership or how to get involved, we are both here to help or, alternatively, please feel free to contact Linda Chapman at the CBA office. 🗣️



Katherine Bilson, LL.M., is Senior Legal Counsel, Litigation & Employment Law at TransCanada PipeLines Ltd. She primarily practices in the areas of employment, pension and privacy law, and is also an instructor in MRU's Human Resources Certificate Program. Katherine is also a South Section Coordinator for CBA Alberta.



Sean FitzGerald is a partner with Miles Davison LLP in Calgary, where he primarily practices in general civil litigation. Sean has previously sat on the executive committees of the Civil Litigation, Employment Law and Insolvency Law sections.



## University of Alberta

It's been a very busy first few weeks of term for the students at the University of Alberta Faculty of Law! We kicked off the winter term with the CBA Mentor Reception on January 18th, where students were able to meet with their mentors for the first time. The Mentor Program pairs interested students with practicing lawyers from the local community, who generously donate their time to have informal conversations with students on topics that aren't typically discussed in the classroom. What kinds of questions should you ask firm representatives at an interview? What happens if a person would like to make a career change after having practiced for a few years? These are all questions that we're so appreciative of our mentor lawyers for shedding light on!

Meanwhile, the Co-Chairs of the law student chapters have been keeping busy with the CBA Law Students' Forum, which is a new initiative for this year. The CBA student Co-Chairs from all Canadian law schools have been invited to participate in a monthly conference call to exchange ideas about current issues of interests to both law and articling students. The Forum has not only provided us with a wonderful opportunity to learn about initiatives taking place at other law schools across the country, but has also allowed us to participate on subcommittees on special areas of interest, such as how we could encourage more open conversations about mental health and wellness on

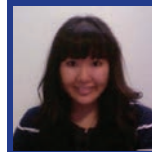
**By Lyndsay Butlin and Juliana Ho**

our campuses. We look forward to bringing these initiatives forward in the next few months!

The University of Alberta students' section is already beginning to plan for our final activity for the winter semester in March, which will also be the last event from our speakers' series. We're very lucky to host lawyers practicing in the local community, who volunteer their time to come offer current law students tips and advice on a wide scope of professional development topics! Previous sessions have included informal lunchtime chats about what they wish they knew as students and more structured lectures about how to smoothly transition between law school and practice. If you would like to connect with current law students about your experiences, we would love to hear from you! 🗣️



Lyndsay Butlin is the Co-Chair of the University of Alberta Law Students section. She is currently in her third year at the Faculty of Law, and will be articling at Agro, Zaffiro LLP in Hamilton, Ontario



Juliana Ho is Co-Chair of the CBA Law Students section at the University of Alberta Faculty of Law, and is in her second year of studies. She is born and raised in Edmonton.

## University of Calgary

Students at the University of Calgary are back in our regular classes after taking the 3 week intensive advocacy courses which focus on practical skills, such as negotiation and trial advocacy, in realistic situations. This offers an opportunity to apply some of the knowledge we have gained throughout our degrees, and a taste of what we will be doing in practice.

While it is a busy time for students, we always manage to find opportunities to relax or have fun. The Society of Law Students' annual ski trip, held at Fernie this year, was a great success. Third year students are getting closer to the end of their degrees; they have been busy taking graduation photos, applying to graduate, and making arrangements for convocation. Second year students are now officially half-way done, while first year students are starting to settle in with their classes and peers.

There are also a number of very exciting networking events planned for the winter semester, which allow students an opportunity to meet with lawyers from rural areas, solo practices, and small or mid-sized firms. February 5th is the annual Small and Regional Firm Day, and the Rural, Energy, and Agricultural Law Society (REAL) has organized a "Firm-hop" in Red Deer on February 26th.

**By Camille Sehn and Robert Sevalrud**

We are also thrilled to be hosting a new event this year, on March 8th, called "Small Firms: Big Connections". The event will be a focused-networking session with food and beverages, and a chance for students interested in smaller practices to meet face-to-face with practitioners. This event is the result of collaboration between the U of C CBA Students Section, REAL, and the faculty's Career and Professional Development Office. We have been working very hard preparing for this event, and are excited to be able to respond to students' needs for more networking opportunities with this market. 🗣️



Camille Sehn is a third year law student at the University of Calgary and Co-Chair of the Law Student Section of the CBA. This year, she is continuing her involvement with the Student Legal Assistance clinic as a Group Leader.



Robert Sevalrud is a first year law student and Co-Chair of the University of Calgary Law Students Section. Previously, Robert worked as an engineer for Imperial Oil and completed his MBA at the University of Calgary.

## Three-Stream Articling: An Update

By Anthony Young, QC

In the spring of 2014 I wrote an article on Three Stream Articling. At the time I commented on how quickly the licencing landscape was changing. Over the last two years there has been little change in the number of candidates for professional licensing. Demand for articling positions in Alberta remains at an all-time high. My thinking two years ago was that:

This pressure (for articling positions) has necessarily resulted in regulators of the legal profession searching for creative ways to accommodate the increasing numbers of students. The creative thinking has been driven by a corporate desire to enhance access to justice by licensing as many qualified lawyers as may be reasonably admitted while still ensuring quality and professionalism.

The traditional option to obtain licencing in the legal profession in Canada has been to article. Although there are other options elsewhere in Canada, the only option in Alberta remains the traditional one. The Law Society of Alberta requires completion of a 12 month articling term and the successful completion of an education component (CPLD). "The CPLD Program is based on a national Competency Profile for an entry level practitioner. Students participating in the CPLD Program must demonstrate competency under three major categories: substantive legal knowledge, (possession of) skills and (ability to perform) tasks. Articling in Alberta may be completed with a traditional article or by a composite article."

The composite article is exactly as the name suggests. "It is made up of a variety of practice settings that accumulate to fulfill the 12 month articling requirement in Alberta. They are an amalgamation of multiple short or long term articling positions." A composite article contemplates multiple principals.

In Ontario there are three paths to lawyer licencing. Candidates may choose either articling, the Law Practice Program or the Integrated Practice Curriculum. The Law Practice Program consists of a four month training course and four month work placement. Students that complete the Integrated Practice Curriculum (Lakehead University) do not need to article and are eligible for licencing in Ontario as soon as they graduate from law school.

My thinking at the time that I wrote the original article was that creativity and innovation would come solely from the regulators. In fact, that has not been the case. True innovation has been a collaboration of the members of the bar, and academics in consultation with the regulators. A great example of such innovation is the University of Calgary Family Law Articling Students' Incubator Project.

Over the past year or so, members of the local family law bar, the University of Calgary, the Canadian Research Institute for Law and the Family and the Law Society of Alberta have been meeting to discuss and develop a plan for an incubator to provide law school graduates with a further alternative for articling.

Business Incubators are typically thought of as places or programs that are used to foster the growth and education of small business owners with the intent that the businesses mature and become self-sustaining after a period of time. Typically, business incubators supply both services (administration, consultation,

referrals) and work space to the, as yet, undeveloped enterprise until the venture grows into a viable entity.

It is anticipated that The University of Calgary Family Law Articling Students' Incubator will provide intensive family law training to a number of qualified articling students. The project will be proposing that students article under the guidance and tutelage of one highly qualified and motivated principal. Curricula and training will be developed for these students to ensure that each student obtains practical experience, training and mentoring in the following key competency areas as set out in the Alberta Law Society Education Plan:

1. Ethics and Professionalism
2. Practice Management
3. Client Relationship Management
4. Conducting Matters
5. Adjudication/Alternative Dispute Resolution

The project innovators assume the incubator will run like a law firm and give the participants practical training in the business of law and practice management, as well as in the practice of family law. There may well be the opportunity for first year lawyers who have completed the program to stay with the incubator a further year.

The purposes of the incubator project are to:

- Provide pro bono and low bono services and increase access to legal services for low- and middle-income Albertans who earn too much to qualify for legal aid yet cannot afford to retain private counsel;
- Introduce market pressure to lower some lawyers' rates and thereby increase access to justice for Albertan's not able to afford to hire counsel;
- Increase the number of lawyers practicing family law in Calgary and thereby increase access to justice for Albertans already able to retain counsel;
- To produce lawyers who are enthusiastically engaged in the practice of family law;
- To fill the void in articles for students wishing to practice family law in Calgary and thereby increase the number of family law lawyers practicing in Calgary;
- To become a centre of excellence and innovation in the practice of family law practice management and client relations, including alternative retainer structures; and,
- To become a hub of learning for the family law bar in Calgary.

The incubator is just one example of creative thinking that may become part of the new fabric of articling. Although little has changed regarding the pressure for articling positions, it is clear that the profession is stepping up to the plate to meet the challenge. Innovation and creativity will continue to be key values required in the struggle to meet the needs of new candidates and the profession. 🍷



Anthony Young, QC, is Counsel at Dunphy Best Blocksom LLP in Calgary, where he practices in the area of family law. In addition to his contributions to *Law Matters*, Anthony is also a Bencher for the Law Society of Alberta, and current Chair of the Alberta Law Foundation.

## Five Easy Ways to Enhance Your CPD Plan

By Jennifer Flynn

This October, the Pennsylvania Bar Institute celebrated its 50th anniversary by hosting a ground-breaking virtual town hall on the Future of Legal Education. I was humbled to participate on the panel with several distinguished thinkers from across North America. The debate centred on the competencies of outstanding lawyers. What became resoundingly clear? We need to take a broader view of lawyer competence - and the means to achieve it.

As an active Alberta lawyer, you must submit your annual continuing professional development (CPD) plan through the Law Society of Alberta's lawyer portal by March 15. As you complete your plan, you'll see a heightened emphasis on the critical skills that underlie lawyer excellence. In addition to knowledge of substantive law, you'll be challenged to consider how you'll develop your competencies in ethics and professionalism, oral and written communication, research and analysis, practice management, client relationship management, and wellness.

Looking for inspiration? Consider these 5 options:

**1. Attend a LESA program.** More than a dozen LESA seminars are running over the next few months, letting you jump start your 2016 CPD.

- Discover substantive law updates: *Advanced Estate, Advanced Lender, Criminal Law 25, EPAs and PDs, Estate Planning, Family Law 25, Privacy, Tendering Law, USA Disputes.*
- Address practice management issues: *Legal Project Management, ESILaw Boot Camp.*
- Hone communications and dispute-resolution skills: *Basic Collaborative Law, Family Mediation, Criminal Advocacy - Experts, Intensive Advocacy, Questioning.*
- Meet a range of CPD needs: *Complete Lawyer.*
- Attend LESA's *49th Annual Refresher: Real Estate* running April 24-26, 2015 along with our Alberta Land Titles Online program (addressing fundamental changes to real estate practice in Alberta) running on April 23.

**2. Visit LESA's (virtual) classroom.** LESA's online classroom offers over 20 seminars on demand and a host of online self-study courses. Looking for CPD activities related to ethics and professionalism? Check out our Code of Conduct and Trust Accounting online self-study courses. Practice management? Try our seminars on demand in File Organization or PCLaw. Written communications? Consider Written Advocacy or one of our drafting programs. Wellness? Complete one of our free self-study modules delivered in collaboration with ASSIST.

**3. Browse the LESA Library (and related publications).**

Reading seminar papers, articles, or practice manuals can be a great CPD activity. LESA publishes a comprehensive Practice Manual or Fundamentals publication in six major areas of law (Civil Litigation, Family, Real Estate, Wills & Estates, Business Law, and Criminal). You can also purchase hundreds of individual seminar papers online. To get convenient, online access to all of this content - which supports a comprehensive range of critical lawyer competencies - subscribe to our LESA Library.

**4. Share your talents.** Volunteering is more than giving back - it is an incredible opportunity to learn and grow. Get involved as a LESA presenter, contributor, facilitator, or evaluator. Contact us to learn more about what volunteer opportunities might be right for you.

**5. Share your thoughts.** If you are looking for a specific CPD activity that LESA doesn't currently offer, we hope you'll share your insights with us. LESA is engaged in a comprehensive discovery initiative to better understand the needs of Alberta lawyers, articling students, and their staff. To get involved, complete our discovery survey at <https://www.surveymonkey.com/r/LESADiscovery> or contact our office. Your feedback will help inform the broad range of programs and resources we'll be offering in 2016/2017.

For a full list of upcoming programs, seminars on demand, online self-study courses, and publications - as well information about our LESA Library - visit [LESA.org](http://LESA.org). Stay up-to-date with all the latest LESA information by subscribing to our E-Letter at [LESA.org/subscribe](http://LESA.org/subscribe).



Jennifer Flynn is the Executive Director of the Legal Education Society of Alberta and the Director of the CPLED Program in Alberta.

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## Personal Wellness

By Michele Hollins, QC

Personal wellness is finally coming of age. Not my age, mind you, but I'm trying! Young lawyers have prioritized personal wellness in a way that somehow still challenges my generation. While arguably responsible for some inter-generational tension in current law firm environments, a focus on personal wellness is something we should all embrace, in whatever baby steps we can individually manage. I've even resolved to try meditation this year.

Perhaps not surprisingly, this focus on personal wellness is increasingly present in law schools. This is a good thing. Law school itself can be an extremely stressful experience. I was very encouraged as I travelled around the country last year to see that many law schools have incorporated education on personal wellness into their curricula and have created structured support for students who may be suffering from mental illness.

However, even beyond better support for students, the future of legal education needs to incorporate personal wellness as a necessary tool or skill with which our graduates can more confidently face their future careers. If lawyers are to survive as a profession, the practice of law will have to look quite different 20 years from now. Part of that should be lawyers who are more adaptable and therefore happier, or at least less anxious, about all the changes and pressures inherent in law.

The CBA's 2014 Report on Futures looked closely at the future of legal education. Many educational institutions are already moving to expand their experiential learning opportunities, a trend driven by the demands of law firms and law departments, which is in turn driven by public

needs and client expectations. Much of the stress of law (sometimes unbearable stress) is caused by the business of law - the billable expectations, client communications, unpaid accounts, etc. Young lawyers who are better versed in collaborative problem-solving, risk management, communication theory, financial concepts, and technology will be better business people and hopefully less at risk for the prevalent risks of stress, depression, and other mental illness.

The Futures Report also recommended that continuing legal education be revisited and expanded. If we were to accept substantive training as an ongoing requirement of continued practice, modules on personal wellness could be better incorporated into learning and training at all stages of a professional career. This in turn might make it easier for lawyers at all stages of their careers to identify issues of mental health and to access the resources available to help them and their colleagues. Even the concept of entity regulation, currently under discussion by the Law Society of Alberta among others, could lend itself to better education and a more consistent and broad based focus on personal wellness in law firms.

We are at the precipice of meaningful advances in issues of mental health. The future is bright - not just for young lawyers at the vanguard of this shift in thinking but even for old dogs like me, learning new tricks. 🐾



Michele Hollins, QC, is the current national Past President of the Canadian Bar Association. She served as the President of the CBA - Alberta Branch in 2007 - 2008. Michele is an advocate for mental health issues in the legal profession.

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## Reform Matters

By Sandra Petersson

### Your Opinion Matters

Consultation is key to effective law reform. Roughly one-third of the timeline of a law reform project is set aside for consultation. While print and internet sources document what the law is, where problems lie, and often set out a range of options for change, those sources do not address whether specific options are appropriate in Alberta and how change will operate in day-to-day legal practice. ALRI relies on lawyers like you to tell us what will work and, more importantly, what will not.

ALRI is currently consulting on two projects - the Trustee Act and new legislation for non-profit corporations. More information on each project and full reports are available on our website: [www.alri.ualberta.ca](http://www.alri.ualberta.ca).

### Trustee Act

ALRI's Report for Discussion on A New Trustee Act for Alberta was published in November 2015. The report reviews the Uniform Trustee Act and makes suggestions for how to implement that Act in Alberta. The Report includes a sample draft act to facilitate discussion.

ALRI is consulting on the Trustee Act in collaboration with Alberta Justice and Solicitor General. The aim of this joint consultation on ALRI's Report is to avoid duplicate consultation and to streamline the process of implementing a new act. Issues for consultation include:

- Should there be a higher standard of care for professional trustees?
- Should trustees be able to act by majority rather than unanimously?
- Should a trustee be able to designate a temporary trustee to act in their stead for a specific period of time?

We had the opportunity to present some of our preliminary recommendations for trusts reform to the CBA Wills and Trusts Sections in both Edmonton and Calgary. We appreciate that the views of many CBA members expressed at those presentations and afterwards indicate that our preliminary recommendations on trusts variation will be problematic in day-to-day practice. We thank those members for sharing their views and for illustrating so well the importance of consultation in the law reform process. We will be asking for further input on how trusts variation should operate. In particular, what authority to vary may be conferred by the settlor in the trust instrument and what authority to vary can be conferred by legislation?

### Non-Profit Corporations

ALRI's Report for Discussion on Non-Profit Corporations was published in February 2015. As noted in our report there are more than 24,000 provincially incorporated,

active non-profit corporations in Alberta. Non-profit corporations are reported to generate \$9.6 billion in annual revenue in Alberta and employ over 175,000 people and engage more than 2.5 million volunteers. The non-profit sector is also extremely diverse in the range of services and activities that non-profit corporations take on as well as in the size and finances of each corporation.

Consultation is ongoing to accommodate several government stakeholders which participate in the non-profit sector. We welcome any comments you may have based on your experience in establishing non-profit corporations or as a member or employee of a non-profit. Issues for consultation include:

- Should non-profit corporations be allowed to engage in commercial activities?
- What protection from personal liability should be made available to directors and officers?
- What should be the required level of financial review?

We have already had the opportunity to present to the CBA Charities Law Section South in both Calgary and Edmonton on this broad ranging topic. If your CBA section is looking for a speaker for an upcoming meeting we would be pleased to hear your views on how the law can best serve the needs of the non-profit sector.

### Next Up for Consultation

We have two projects currently being prepared for consultation.

### Property Division for Cohabiting Couples

ALRI is preparing a Report for Discussion to consider whether there should be a statutory scheme to divide property when unmarried couples split up. As the CBA Alberta Branch noted in the Agenda for Justice, consistent and predictable rules would help unmarried couples decide how to divide their property at the end of the relationship. ALRI is looking at various options for property division and will be asking whether any are suitable for adopting in Alberta. We hope also to survey cohabiting couples to determine what expectations they have about property ownership and potential division.

### Perpetuities Law Reform

This project stems from provisions in the Uniform Trustee Act that recommend abolishing the rule against perpetuities. ALRI has concluded that whether to abolish or retain goes beyond the scope of trusts law reform. Perpetuities law also affects non-trust, common law, and commercial interests and requires broader consideration and consultation.

# A VIEW FROM THE BENCH

By The Honourable Judge A.A. Fradsham

A story on page A16 of the October 17, 2015, edition of the National Post caught my eye. The headline read: "Illinois lottery winners given IOUs because of state budget crisis". It seems that people who win more than \$600 in the Illinois State lottery will not be paid in cash, but, rather, will receive an IOU issued by the state to be redeemed when "the financial situation is brought under control". If this were a trust, I suspect that timeline would offend the rule against perpetuities.

In effect, the State has converted the lottery from an event in which one buys a chance to win a sum of money into an event in which one buys a chance to win a chance to win a sum of money. I don't know which odds are worse: the odds of picking the winning lottery numbers, or the odds of the government bringing its financial situation under control.

This latest slight of hand from a government reminded me of the City of Detroit's efforts to address its financial crisis in 2013. The City suspended payment on \$2 billion of unsecured debt with the comment, "We have to strike a balance between the legacy obligations to our creditors and employees and retirees and the duty as a city to 700,000 residents for [essential services]."

"Legacy obligations" is a wonderful phrase! It would seem that economists are worrying needlessly about the level of credit card debt being carried by Canadians. That debt is simply a collection of "legacy obligations" owed to banks, and Canadians may strike a balance between those "legacy obligations" and the duty to house and feed their families. Who knew it would be so simple? Sending to the bank a simple note attached to one's credit card statement indicating that no cheque is enclosed because "the balance struck" did not go so well for the bank's legacy obligation should do the trick.

Now the State of Illinois (the birthplace of Honest Abe

Lincoln) has cleverly, and unilaterally, converted a simple sale of a chance to win money into a sale of a chance to participate in a forced loan to the State...a loan which is repayable when the State thinks it would be comfortable for the State to do so. Las Vegas is starting to look altruistic.

Are there common threads running through these stories? There might be, and the three that come to mind are these:

1. "Let us all be happy and live within our means, even if we have to borrow the money to do it with": Charles Browne (writing in the mid-1880s as Artemus Ward).
2. "There's no trick to being a humorist when you have the whole government working for you": Will Rogers.
3. "Power tends to corrupt and absolute power corrupts absolutely": Lord Acton in 1887 in a letter to Bishop Creighton. 📖



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.

*continued from page 25*

## Associates' and Students' Opinions Matter

As noted at the outset, effective law reform depends on consultation and lawyers who are willing to share their expertise and opinions. Too often we hear that junior lawyers don't think they have enough expertise to comment on law reform proposals. The expertise of senior lawyers is essential to shape reform proposals in technical areas of the law. However, junior lawyers are often able to provide a fresh perspective and to question why some aspects of the law or practice are the way they are. Regardless of how many years you have at the bar, your opinions on law reform are important because they matter to you, to your clients, and to your practice. We need to hear from lawyers at all stages of practice.

## Staying Up to Date on Law Reform

There are a number of ways to stay up to date on law reform. Complete information on active and completed projects is available on our website: [www.alri.ualberta.ca](http://www.alri.ualberta.ca). To have updates come directly to your inbox, click the Subscribe button our home page. For mobile updates, we're on Twitter as [@ablawreform](https://twitter.com/ablawreform). Or you can let us know your views by email at [lawreform@ualberta.ca](mailto:lawreform@ualberta.ca). 📧

Sandra Petersson is the Executive Director of the Alberta Law Reform Institute. She joined ALRI in 2002, having previously held the positions of Counsel and Research Manager. Prior to joining ALRI, Sandra clerked for the Supreme Court of Canada, worked as Executive Legal Counsel to the Chief Justice of Alberta and was a senior lecturer in law at Victoria University of Wellington in New Zealand.



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**WILL SEARCH.** Frances Lois Epp of Calgary. Born 10/10/1943, Deceased 20/10/2015. **Contact Eric Chesterley Law at [echesterley@aol.com](mailto:echesterley@aol.com) or (250) 334-0544.**

**WILL SEARCH.** John Allan Richardson of Lloydminster/Tullibury Lake, AB region, born Aug 24, 1947. **Please contact Mark Adams (403) 986-3666 or (587) 876-8592**

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## Judicial Updates

### COURT OF APPEAL

**The Honourable Mr. Justice P.W. Martin** (Calgary) elected supernumerary status effective December 31, 2015.  
**The Honourable Mr. Justice J. Watson** (Edmonton) elected supernumerary status effective January 1, 2016

### COURT OF QUEEN'S BENCH

**The Honourable Mr. Justice R.P. Marceau** (Edmonton) retired as a supernumerary justice effective December 31, 2015.  
**The Honourable Madam Justice L.D. Acton** (Edmonton) retired as a supernumerary justice effective January 3, 2016.  
**The Honourable Mr. Justice P.J. McIntyre** (Calgary) retired as a supernumerary justice effective January 5, 2016.

### PROVINCIAL COURT

**The Honourable Judge Thomas R. Goodson** (Northern Region/Grande Prairie) retired effective October 1, 2015.  
**The Honourable Judge P.M. Caffaro** (Edmonton) retired as a supernumerary judge effective on October 15, 2015  
**Renee R.M. Cochard, QC** (Edmonton - Criminal) has been appointed as a Provincial Court Judge, effective October 22, 2015.  
**The Honourable Judge N.R. Hess** (Calgary - Civil) was appointed as a part-time judge effective December 1, 2015.  
**Justice of the Peace I. Yaverbaum, QC** (Edmonton) retired effective December 8, 2015.  
**The Honourable Judge E.J.M. Walter** (Edmonton) was appointed as a supernumerary judge effective December 12, 2015.  
**C.A. Murray** (Calgary) was appointed as a part-time Justice of the Peace effective December 18, 2015.  
**D. Parken** (Edmonton) was appointed as a full-time Justice of the Peace effective December 18, 2015.  
**Justice of the Peace D.B. Logan** (Grande Prairie) retired effective December 24, 2015.  
**The Honourable Judge K.D. Hope** (Edmonton) retired as a supernumerary judge effective December 31, 2015.

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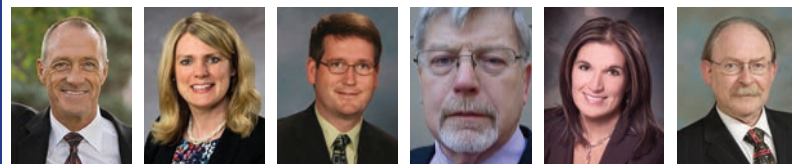
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