

# The Law Society of Manitoba

# 2018 Annual Report

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# PRESIDENT'S REPORT

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**Jim McLandress**

Another year in the life of the Law Society has come and gone, and with it, another Law Society president.

Over the past year, the Society has made significant progress on a number of fronts.

We have approved our first strategic plan. Developing and adopting a strategic plan is a critical process and a critical tool for any modern institution, and for that reason, it was a big step for the Society to go through the process and develop the tool. It gives the Society a clear sense of direction, the ability to course-correct and adjust as circumstances require and to do so within an organized, long-range framework. It gives management a guide to help them organize and prioritize activities. The process of examining the “whys” and the “what ifs” and making choices to do or not do certain things is a never-ending activity. As benchers, we always have to ask how whatever issue we are addressing or whatever idea we are considering fits in the context of the plan. Engaging in strategic planning is a challenging process but it is part of being a mature organization. The Society should be proud of the work it has done to build this plan and eager to keep it vibrant.

We have done some very heavy lifting in the areas of engagement, entity regulation and alternate legal service providers. Each one of these is a big topic in its own right, so I can only scratch the surface.

Engagement is about examining how the Society interacts with its stakeholders – the public, the profession, the courts, the government, etc. To achieve its mission of “a public well-served by a competent, honourable and independent legal profession”, the Society must have a deep understanding of how each of our stakeholders intersects with that goal. This year, we have developed a plan that puts us on the road to garnering that deep understanding. Engagement is a two-way street, as much about understanding our stakeholders’ needs and concerns as about telling people what the Society does and how it can help.

Entity regulation is about how Law Societies should go about regulating law firms. That is something the public would rightly assume we have been doing forever. But, it is only in the last few years that law societies across the country have begun to secure the legislative ability to regulate a law firm as opposed to just an individual lawyer, and even now not all Societies have that authority. As we move forward on this front, we will strive to balance the need to ensure competent, ethical practice that meets the standards the public rightly expects of an independent profession without dictating to firms and lawyers how to conduct their affairs.

“Alternate legal service providers” is primarily about access to justice. How do we enable competent, ethical groups and individuals to provide much needed services to the public that would otherwise be prohibited as “legal services” under *The Legal Profession Act*? It is also about enabling innovation in the practice of law; finding ways to allow lawyers and non-lawyers to work together to better meet their clients’ demands. Over the past year the Society has made significant strides in understanding the scope and complexity of this issue and in finding a way forward.

We have also made progress on reconciliation. Recognizing that we are only in the early stages, the Society has continued to work on cultural awareness and continued to foster amongst its staff, benchers and the profession at large a greater understanding of indigenous traditions, issues, and concerns. These are small steps, but I can say with confidence, that we are moving in the right direction.

As I look back over the year, one of the most satisfying sights is the number of people from all walks of life and from all over the country who regularly come together to enable our profession to continue to advance. When I started out as a bencher, I, like most lawyers, had a limited understanding of the scope and scale of the activities for which the Society is responsible. Since then, and particularly in my time as vice-president and president, my appreciation for the work done by the staff here, by the people around the bencher table, by law societies across the country and by the Federation of Law Societies in Ottawa has increased a thousand-fold.

We have made significant progress over the last few years as we have moved into the 21st century of professional regulation and when I look at the dedicated staff, benchers and volunteers around us, I am confident that this great work will continue.

It has been an honour and a privilege to have been able to contribute in any small way to the work the Society does. I know I leave the Society in excellent and highly capable hands.

# CHIEF EXECUTIVE OFFICER'S REPORT



**C. Kristin Dangerfield**

The year 2017 was a significant one for the Law Society of Manitoba as it marked its 140th Anniversary of regulating the legal profession in Manitoba. The *Law Society of Manitoba Act* was assented to on February 28, 1877. This followed *An Act to Regulate the Admission to the Study and Practice of Law in the Province of Manitoba*, which was passed in 1871 and provided that when ten persons had been admitted to the Bar they could meet and form a Bar Society. The first Bar Society rules were adopted in 1872 but it was not until 1877 that the Law Society was created and found its first home at Winnipeg's Main Street courthouse, a wood framed building on Main Street. The Law Society has played an important role since that time by ensuring that the public interest in the delivery of legal services is protected with competence, integrity and independence. As an independent regulator of the legal profession, the Law Society supports the rule of law and promotes the administration of justice in Manitoba. The Law Society celebrated 140 years of regulating the legal profession on November 2, 2017, by hosting an anniversary dinner at which nine lawyers were honoured for having practiced law for 50 years.

In 2017 the benchers adopted a three year Strategic Plan that focuses on issues directly aligned with its primary responsibility under *The Legal Profession Act* to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence. In addition to the core functions of regulating the profession, establishing standards for admissions, education and professional responsibility and protecting the

public against loss caused by lawyer conduct, the goals, strategies and initiatives set out in the three year plan support our ability to fulfill the Law Society's mandate to protect the public.

The benchers approved four primary strategic objectives:

- (1) **Competence:** The Law Society will regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.
- (2) **Access to Justice:** The Law Society will demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans.
- (3) **Equity, Diversity and Inclusion:** The Law Society will promote and improve equity, diversity and inclusion in the regulation of the legal profession and in the delivery of legal services.
- (4) **Stakeholder Confidence:** The Law Society will build public and stakeholder confidence in the Law Society as the regulator of the legal profession.

Considerable progress has been made in respect of each of these objectives.

## *Competence*

The benchers have determined that it will be important to develop and deliver a renewed Canadian Professional Education (CPLED) program that is a high quality, pre-call education and assessment program in collaboration with our CPLED partners in Alberta and Saskatchewan. This initiative is well underway and Dr. Kara Mitchelmore was hired as the Chief Executive Officer of CPLED in March 2018 to develop a business plan for the new program.

Another significant component of the commitment to regulate proactively to ensure that lawyers practice competently is the Entity Regulation work that is being done with our colleagues in Saskatchewan and Alberta. The objectives of the initiative are to catch risky practices before lawyers fail, develop more collaborative relationships with the profession and elevate the overall performance of the profession by enhancing practice standards and providing education, resources and assistance as required. As part of this work a Practice Management Assessment Tool has been developed and was tested in a pilot project in order to obtain feedback from the profession. Next steps will require a framework for the regulatory infrastructure that will support the regulation of law firms as well as individual lawyers.

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An on-line Practice Management course is being developed to provide appropriate resources for lawyers either as part of, or independent of the Practice Management Assessment Tool. It will offer modules on key practice areas of interest to practitioners, ranging from practice management to trust accounting to technology issues.

Also in the final stages of development is a Trust Safety Program that will ensure that client property that is entrusted to lawyers is protected. The program will require that all practising lawyers and firms obtain the approval of the law society to operate a trust account. Once approved the Trust Account Supervisor will be required to successfully complete an on-line trust accounting program prior to operating a trust account.

### *Access to Justice*

Stemming from the objective to facilitate greater access to justice, the benchers established the following desired outcomes in the Strategic Plan:

- Manitobans will have access to the required complement of appropriately trained lawyers and legal services providers to meet their legal needs;
- The Law Society will advance, promote and facilitate the delivery of quality, innovative, accessible and affordable legal services including pro bono services;
- The Law Society plays an active role regarding access to justice issues and ways to increase access to justice.

A President's Special Committee on Alternate Legal Service Providers was established to explore whether the Law Society ought to take steps to give up the legal profession's "monopoly" over the delivery of legal services. This initiative flowed from the recognition that there are substantial unmet needs in Canada and that systemic and other barriers prevent people from accessing justice. The committee issued a report making recommendations for legislative amendments that will permit a range of legal services to be provided by entities and other service providers without contravening the unauthorized practice provisions of *The Legal Profession Act*.

### *Equity, Diversity and Inclusion*

The benchers determined that the Law Society ought to examine whether its operational policies and processes demonstrate commitment to equity, diversity and inclusion. As a result changes have been implemented in the Annual Member's Report and the Student Registration to provide a wider range of options to members when asked to identify their gender or to allow members to self-identify as Indigenous.

Educational programming has been delivered on *Women Thriving in the Law with a Grit and Growth Mindset*. Significantly, cultural competency training has been incorporated into the CPLED program and many professional development programs to ensure that the Law Society meets its mandate to increase cultural competency in the delivery of legal services. The benchers and staff of the Law Society participated in a blanket exercise in June 2017 to learn more about the history of Indigenous people in Canada and will continue to undertake education in this important area.

### *Stakeholder Confidence*

The benchers determined that in order for the profession and other stakeholders to trust the law society to be proactive, fair, transparent and accountable in regulating the legal profession they must better understand the role of the Law Society. This will come through greater engagement with the public, the profession and other stakeholders. Flowing from this strategic objective a President's Special Committee on Communications was established to identify how the Law Society might achieve these goals. The committee issued a series of recommendations that will assist the Law Society to develop a communications strategy that will build public and stakeholder confidence in the Law Society as the regulator of the legal profession.

The benchers made a major decision in 2017 that will impact on the Law Society for years to come. After 32 years in the same premises at 219 Kennedy Street the decision was made to move to leased premises at 260 St. Mary Avenue. This will allow staff to be located in one central office, and will provide room to carry on for years to come with the important work that ensures that the legal profession continues to serve the public honourably and competently.

I have been fortunate to work with a dedicated and creative staff whose efforts ensure that the Law Society is able to meet its mandate to protect the public. Their work is supplemented by that of our volunteers, lawyers and public representatives who willingly give up their time to serve on committees, as benchers, and as executive members to further our work. It could not be done without them.

It was a pleasure to work with President Jim McLandress and our Past President Roberta Campbell. I look forward to working with our new President Kathy Bueti as we continue to develop new and innovative approaches to the regulation of the legal profession in Manitoba.

# COMPLAINTS REVIEW COMMISSIONER'S REPORT

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**Drew Perry**

The Complaints Review Commissioner's role is one component of the overall complaints process. Complainants to the Law Society who disagree with certain decisions of the Law Society's Complaints Resolution Department staff regarding their complaint about a lawyer have the option to request an independent review by the Commissioner, who is a non-lawyer.

Complainants have 60 days after a decision by Law Society staff to request such a review if:

- (a) Complaints Resolution Department staff have initially reviewed a matter but have decided not to investigate the complaint on the basis of no merit; or
- (b) Following an investigation by staff, the matter has been concluded at the staff level, either with or without taking action.

The Complaints Review Commissioner's review process is based on a file review of the same information that was available to staff at the time of their initial decision. The Commissioner provides a written decision to the complainant, with a copy to the lawyer in question.

The options available to the Commissioner following a review are to:

- (a) confirm the initial staff decision;
- (b) require an investigation by a different staff member in cases where an investigation has not been conducted; or
- (c) where an investigation has taken place, direct the Law Society to refer the matter to the Complaints Investigation Committee for its consideration.

In 2017-2018 there were 48 requests for review from complainants who disagreed with the decision made by staff on the initial review of their complaint. This total is consistent with the numbers in recent years. Upon review, 43 of the 48 staff decisions were confirmed. Four complaints were determined to have some unresolved issues which could benefit from a more formal review by the Complaints Investigation Committee, so they were referred to that body for its consideration. In one case, the staff decision had been to not initiate an investigation and the review determined that an investigation should be undertaken.

I would like to thank the benchers of the Law Society of Manitoba for allowing me the opportunity to participate in the overall complaints review process in this way. I continue to believe that having an independent review by a non-lawyer as an option in some cases is an important part of maintaining public confidence in the overall complaint resolution process.

The Law Society of Manitoba accounts for its financial activities through four separate funds, namely the General Fund, the Reimbursement Fund, the Professional Liability Claims Fund and the Education and Competence Fund. Under the general oversight of the benchers, Society management is responsible to ensure that budgeting in each of the funds is done in a fiscally responsible and prudent manner.

The General Fund reflects the financial position and performance of the general operations of the Law Society, including accounting, admissions and membership, benchers, complaints resolution, discipline, the Family Law Access Centre, general administration and information technology. The Fund's main source of revenue comes from practising fees (\$1,700 per member in 2017-2018), supplemented by investment income and other administrative fees and recoveries. The major expenses of the Fund include salaries and benefits related to operations, grants (in particular support of the Great Library, Community Legal Education Association and the Federation of Law Societies of Canada), building maintenance and operations (going forward rent payments), committee and bencher support, professional assistance and general office supplies and operations. Beginning in 2016-2017, a Capital Improvement fee of \$100 per member was levied for a five year period. These funds have been maintained separately and are to be used for major capital improvements to our aging premises or relocation costs.

The Reimbursement Fund exists for the benefit of clients who may suffer losses in the event of the theft of client funds by lawyers. The fund is financed by an annual assessment (\$500 per practicing lawyer in 2017-2018), a grant from the Manitoba Law Foundation and investment income. Major expenses include Lawyers Trust Protection Insurance premiums and repayments to clients who become victims of lawyer theft. The Fund also finances the Law Society's audit program, the major expenses being leasing of premises and salaries and benefits.

The Professional Liability Claims Fund provides professional liability insurance coverage to all Manitoba lawyers. It is funded by an annual insurance levy (\$1,550 for July 1, 2016 to June 30, 2017 and \$1,600 for July 1, 2017 to June 30, 2018), investment income and deductibles received. Beginning July 1, 2017 lawyers also received cyber insurance coverage at an annual cost of \$45. The annual insurance levy covers net damages and defence costs, mandatory and other insurance premiums and the costs of administering this service, with the major expense related to salaries and benefits.

The Education and Competence Fund supports lawyers by providing both the knowledge and skills to become and remain competently able to serve the public. This fund is financed by an annual contribution from fees (\$350 per member in 2017-2018), educational program revenue, application/tuition/call fees for CPLED (the Society's bar admission program), a grant from the Manitoba Law Foundation and investment income. These monies are used to deliver educational programs to both existing and future lawyers. Expenses include salaries and benefits paid for those administering the programs, contributions towards CPLED development, honoraria for volunteer presenters and material and other program delivery costs.

The Law Society ended the 2017-2018 fiscal year with a net income. In part this was due to the collection of fees, levies and assessments which generated more revenue than expected due to increased membership. The Society was successful in obtaining substantial recoveries of both deductibles and costs. Investment returns are extremely difficult to predict yet have a major impact on the Society's financial results and this year was no exception. Investment returns far exceeded expectations, however the year end adjustment from cost to fair market value saw a decline which offset some of the gains. On the expense side, there was a significant increase in net insurance settlements paid and the reserve for future claims was beyond what had been anticipated. Other increases in expenses were incurred in the leasing of the new premises, costs specifically related to the 140 Year Gala and salaries and benefits. There were some notable decreases in expenses, including external counsel fees, the grant to the Great Library, insurance premiums, outside professional fees and travel costs.

Overall, the Law Society's sound financial performance in 2017-2018 reflected effective financial management and prudent business practices throughout the organization.

# ADMISSIONS AND MEMBERSHIP

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## New Members

During the year ending March 31, 2018, 133 lawyers were called to the Bar in Manitoba. Of those:

- 21 lawyers transferred to Manitoba from other Canadian jurisdictions, under the National Mobility Agreement;
- 109 articling students were called to the Bar;
- 1 lawyer received an exemption from articling based on foreign practising experience; and
- 2 lawyers were called under the exceptional merit rule.

Of the total called to the Bar, 22 had obtained law degrees outside of Canada and were admitted on the basis of a Certificate of Qualification issued by the National Committee on Accreditation.

## Where Members are Practising

Law Society members with active practising status on December 31, 2017 were practising in the following geographical areas:

- within the City of Winnipeg: 1,767;
- within Manitoba, but not in the City of Winnipeg: 253; and
- outside Manitoba: 71.

## Law Firms in Manitoba

As of December 31, 2017, 175 law firms, not including sole practitioners, were operating in Manitoba. Of these firms:

- 84.6% have 2-10 lawyers;
- 9.7 % have 11-25 lawyers;
- 2.03% have 26-50 lawyers; and
- 3.4% have more than 50 lawyers.

## Demographics and Nature of Practice

There were 2,020 lawyers with active practising status in Manitoba as of December 31, 2017, of which 1,257 or 62.22% were men and 763 or 37.78% were women. Of those women in active practice, 55.17% were engaged in private practice with the remaining 44.83% employed in corporate, government (including Legal Aid) and educational endeavours. Of the men in active practice, 67.94% were engaged in private practice and 32.06% in corporate, government and educational endeavours. **Table A** below provides a historical record of the number of practising lawyers in Manitoba and **Table B** provides a gender breakdown by years in practice.

The following are the number of lawyers who voluntarily reported that they identified as:

- 82 - Indigenous;
- 109 - Visibly Ethnic;
- 56 - Francophone;
- 34 - LGBT2SQ+; and
- 31 - Person with Disability.

**Note:** The Law Society will include the option of identifying as non-binary in the future.

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**Years at the Bar**

The breakdown of the profession in terms of number of years at the bar for the province's 2,020 practising lawyers is indicated in **Table B**.

**Table A: Practising Lawyers in Manitoba as of December 31st**

1932 - 603	1975 - 910	1986 - 1,483	1997 - 1,711	2008 - 1,860
1950 - 551	1976 - 967	1987 - 1,526	1998 - 1,699	2009 - 1,883
1955 - 636	1977 - 1,105	1988 - 1,548	1999 - 1,731	2010 - 1,919
1965 - 683	1978 - 1,083	1989 - 1,609	2000 - 1,737	2011 - 1,946
1966 - 702	1979 - 1,169	1990 - 1,635	2001 - 1,760	2012 - 1,985
1968 - 704	1980 - 1,213	1991 - 1,680	2002 - 1,769	2013 - 1,992
1970 - 723	1981 - 1,252	1992 - 1,665	2003 - 1,778	2014 - 2,014
1971 - 746	1982 - 1,282	1993 - 1,659	2004 - 1,808	2015 - 2,028
1972 - 776	1983 - 1,304	1994 - 1,659	2005 - 1,825	2016 - 2,008
1973 - 795	1984 - 1,336	1995 - 1,671	2006 - 1,819	2017 - 2,020
1974 - 837	1985 - 1,387	1996 - 1,677	2007 - 1,836	

**Table B: Practising Lawyers in Manitoba as of December 31st by Years at the Bar and Gender**

Years at the Bar (Inclusive)	Male		Female		Total	
	#	%	#	%	#	%
0 - 5	271	13.4	231	11.4	502	27.9
6 - 10	134	6.6	148	7.3	282	14.0
11 - 15	93	4.6	108	5.3	201	10.0
16 - 20	109	5.4	69	3.4	178	8.8
21 - 25	98	4.9	66	3.3	164	8.1
26 - 30	114	5.6	57	2.8	171	8.5
31 - 35	100	5.0	40	2.0	140	6.9
36+	336	16.6	46	2.3	382	18.9
<b>TOTAL</b>	<b>1,255</b>	<b>62.1</b>	<b>765</b>	<b>37.9</b>	<b>2,020</b>	<b>100.0</b>

# COMPLAINTS RESOLUTION

## Complaints

The aim of the Law Society of Manitoba is a public well served by a competent, honourable and independent legal profession. The Complaints Resolution Department strives to meet that aim by resolving complaints in a way that is thorough, timely and fair. Law Society staff investigate and resolve the majority of complaints received about lawyers, while the Complaints Investigation Committee deals with the more serious complaints.

Where appropriate, Law Society staff will attempt to address verbal complaints quickly and informally by way of an early intervention. In the past fiscal year, staff resolved **109** verbal complaints in this manner.

Law Society staff also resolve the majority of written complaints. Last year, the Law Society opened **317** new complaint files and staff resolved approximately **303** complaint matters (some received in prior fiscal years) as follows:

- **115** complaints were determined to be outside the Law Society's jurisdiction or did not merit investigation;
- **15** complaints were resolved informally to the satisfaction of the complainant and the lawyer;
- **59** complaints were investigated and concluded on the basis that the lawyer provided a satisfactory response to the concerns raised by the complainant;
- **48** complaints involved substantiated concerns that were disposed of by a written reminder to the lawyer of his or her professional obligations;
- **8** complaints were concluded with a recommendation that the lawyer follow a particular course of action;
- **24** complaints were concluded with a written reminder and recommendation; and
- **2** complaints were closed upon being abandoned or withdrawn.

Several matters were referred to the Chief Executive Officer who, pursuant to her authority under Law Society Rule 5-66(e)(i), authorized charges of professional misconduct against **1** lawyer for failing to respond to complaints and to Law Society correspondence.

In accordance with Law Society policies and the Benchers' Code of Conduct, all complaints about benchers are to be investigated by an independent investigator and then presented to the Complaints Investigation Committee for consideration.

Law Society staff referred a total of **37** matters to the Complaints Investigation Committee for its consideration including **3** complaints about benchers.

## Fee Arbitration

The Law Society offers a fee arbitration program to members of the public free of charge. Members of the legal profession donate their time to arbitrate fee disputes in a voluntary arbitration process. In 2015, the Law Society amended the process to allow for public representatives to sit on fee arbitration hearing panels. The program allows clients and lawyers to resolve disputes about accounts in a more informal setting than through a court assessment. Members of the legal profession, however, are not required to agree to arbitration.

The Law Society received 43 complaints relating to excessive fees. No action was taken in 3 matters due to no follow through by complainants or the Society having no jurisdiction to deal with the complaint. There were 40 requests for arbitration upon which the Law Society was able to act. Eight of the arbitration requests resulted in a satisfactory settlement being reached between the member and the complainant directly. No further action was taken on 17 requests due to the fact that the lawyer declined to arbitrate the dispute. There were four instances where an arbitration request was made, but the requests were later abandoned or withdrawn by the complainant prior to the conclusion of the arbitration process. Two matters are ongoing, either pending an arbitration hearing or pending the member's or the complainant's consideration.

Nine arbitration hearings were conducted between April 1, 2017 and March 31, 2018. Of the 9 hearings, in four instances, the fees were upheld, and in five instances the fees were reduced. There are no pending arbitration decisions.

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While most complaints to the Law Society are made by clients or former clients and commonly raise concerns relating to quality of service and excessive fees, the matters referred to the Committee dealt primarily with integrity concerns, competence issues, breaches of trust conditions, conflicts of interest, and ungovernable members.

The Committee has a wide range of powers including the authority to order reviews of a lawyer's practice, authorize charges of professional misconduct, conduct unbecoming a lawyer or incompetence in a lawyer's practice of law. The Committee can also issue formal cautions, direct personal appearances and suspend lawyers from practice on an interim basis.

The Complaints Investigation Committee held **9** meetings during the fiscal period of April 1, 2017 to March 31, 2018. The first of those meetings was the final meeting for the 2016-2017 Committee and the remaining 8 meetings were held by the 2017-2018 Committee. The 2017-2018 Committee was comprised of 5 practising benchers, 2 life benchers, 2 lay benchers, (public representatives), and 2 non-bencher lawyers.

The matters considered by the Committee included **3** bankruptcies of lawyers, and **3** personal appearances by lawyers required to address urgent concerns and to assist in the investigation of a complaint.

The Committee considered **37** matters, the resolutions of which included:

- charges authorized on **25** matters, relating to 13 lawyers;
- interim suspensions of **2** lawyers;
- cautions offered to **2** lawyers in lieu of charges (both accepted);
- practice restrictions imposed upon 2 lawyers;
- undertakings signed by **7** lawyers;
- recommendations made to **2** lawyers;
- lifting a previous bankruptcy undertaking for **1** lawyer;
- taking no further action on **3** matters;
- deferring consideration of **1** matter for further investigation; and
- ordering a practice review for **1** lawyer.

The Law Society protects the public interest in the delivery of legal services by prosecuting lawyers who are charged with professional misconduct, incompetence, or conduct unbecoming a lawyer. Charges are authorized only when it appears that alternative measures for dealing with complaints are not sufficient in the particular case to meet the Society's public protection mandate. These are often cases of serious lapses or where lesser prior dispositions have not corrected the member's conduct.

Once charges are authorized against a lawyer by The Law Society's Complaints Investigation Committee - or in limited circumstances by the Chief Executive Officer - the charges are formalized into Citations. Notices are posted on the Law Society's website so that clients and prospective clients can see that a lawyer has been charged and can determine the nature of the allegations against the lawyer. So as to keep the public informed, decisions in discipline matters are posted on the website immediately after they have been served on the member and a digest of each decision is also posted.

Out of over 2000 lawyers with active practising status this year only 12, or about 3/5 of 1% were disciplined. Another lawyer was found guilty of professional misconduct, but the disposition phase of the hearing was not completed during the year. In one matter a hearing was begun to deal with a preliminary motion and remains pending.

Discipline hearings are conducted by panels of three members of the Discipline Committee, one of whom is a public representative to help ensure that the public interest is a key component of the hearing process. Hearings are open to the public unless there are compelling reasons for the Panel to order that the public be excluded from all or part of a hearing. This year all hearings were open to the public.

Parties to the hearing have the right to subpoena and cross examine witnesses. Lawyers who are charged may choose to be represented by counsel at these discipline hearings. Lawyers may plead guilty or not guilty to the charges laid against them. If facts can be agreed upon, a Statement of Agreed Facts is filed and this reduces the time it would otherwise take to prove the facts that demonstrate the misconduct. Frequently, a joint recommendation is made with respect to the conduct at issue and with respect to the appropriate consequences. In nine disciplinary hearings concluded this year the lawyer entered a plea of guilty and the Discipline Committee Panel was presented with a joint recommendation.

In two hearings, the lawyer was found guilty after contesting all charges and in one hearing the lawyer pleaded guilty to some, but not all charges of misconduct.

In two of the contested hearings, the lawyer was found guilty of some but not all charges. In the one hearing that is not completed, the lawyer has entered a plea of not guilty.

At the conclusion of a discipline hearing, the panel must either dismiss the charges or make a finding that the lawyer is guilty of the alleged conduct. If a lawyer is found guilty, s. 72(1) of *The Legal Profession Act* provides the panel with the authority to impose sanctions ranging from a reprimand through to an order that the lawyer be disbarred. A discipline panel may also impose restrictions or remedial requirements. In some cases more than one of the available dispositions is ordered. In two cases concluded this year the lawyer was disbarred and in one case the lawyer was permitted to resign. Three cases resulted in suspensions, three in fines and three in reprimands. Remedial conditions or restrictions were also ordered in two cases. In every case concluded this year the lawyer was also ordered to pay costs to the Society, which ranged from \$2,500 to \$42,000.

This year the Discipline Committee's 14 hearings involving 13 lawyers were conducted over 38 days, of which 21 were in the current year. In addition two pre-hearing conferences were conducted by the Chair of the Discipline Committee. The Chair or Vice-Chair of the Discipline Committee presided over 11 "set down dockets", at which the progress of pending charges is monitored, hearing dates are set and at which procedural issues may be addressed and resolved.

Decisions of the Discipline Committee may be appealed to the Court of Appeal. This year there was one appeal decided by the Court and dismissed. Another appeal is pending.

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This year the charges in the concluded cases that came before the Committee included:

**Failing to act with integrity**, including misappropriation, misleading clients, misleading other lawyers, advising clients to act dishonestly, misleading the Society and falsifying trust records;

**Conflict of Interest**, including acting against a former client;

**Incompetence** by reason of alcoholism;

**Failure to respond to the Law Society**, including failing to respond to “14 day letters” and follow up letters;

**Failing to serve** the client in a conscientious, diligent and efficient manner, including failing to provide competent service, failing to keep clients informed of the status of their matter, failing to take steps in a timely fashion, failing to respond to client communications, failing to discharge the duty owed to the client on withdrawal, failing to keep client information confidential;

**Failing to comply with duties on termination of a retainer** including failing to deliver file material to successor counsel, failing to notify the client on change of practice location;

**Charging fees and disbursements that were not fair, reasonable and fully disclosed** including by failure to provide required information to personal representatives and beneficiaries of estates and taking fees without first delivering or sending a bill;

**Failing to comply with trust conditions and undertakings** including conditions imposed by other lawyers and by financial institutions and undertakings to the Society;

**Failing to comply with accounting rules** including as to handling of trust funds, recording receivables and keeping required general account records;

**Failing to treat other counsel with courtesy and respect**, including failing to respond in a timely fashion to communications from opposing counsel;

**Failing to treat a tribunal with fairness, courtesy and respect** by failing to respond to a series of inquiries from an adjudicator necessary to allow for the fair determination of a hearing;

**Failing to supervise staff** by assigning matters to staff with no instruction or oversight.

Several of the hearings held this year involved more than one complaint against the lawyer and multiple charges. In one case the member was found guilty of 9 charges involving many individual breaches of the rules, in another there were 28 charges involving 7 client matters and in yet another there were 41 charges involving 11 client matters.

Charges were stayed in one matter after the lawyer entered into undertakings that were considered sufficient to protect the public in the particular circumstances.

A total of 26 files were opened in the Discipline Department in 2017-2018. One lawyer accounted for seven of those and two other lawyers accounted for three each. At year’s end hearings were scheduled but had not yet been completed involving two files. In 20 matters involving eight lawyers hearings were yet to be scheduled.

# PRACTICE ISSUES

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The Law Society regularly provides guidance and support to lawyers who have questions or concerns relating to practice issues and ethical obligations. Lawyers and students are encouraged to contact the Law Society as it provides an opportunity for the Society to provide advice on a proactive basis and refer lawyers to provisions within the *Code of Professional Conduct*, Law Society Rules, Practice Directions and other resources.

Lawyers and students are encouraged to view the Society as a helpful resource that may assist them to resolve issues before concerns are raised about a lawyer's conduct. When concerns are addressed at an early stage, the Society is better positioned to govern the conduct of lawyers in the public interest. Inquiries from lawyers include questions about trust conditions, potential conflicts of interest, the transfer of client files, duties to the court, civility between counsel, and issues relating to confidentiality and solicitor-client privilege. From time to time, a lawyer will request a written opinion with the intention of sharing the Society's views with other counsel or a client in order to attempt to resolve a disagreement.

Over the past number of years, the Society has made amendments to the *Code of Professional Conduct* in an effort to harmonize Manitoba *Code* provisions with the Federation of Law Societies' Model Code of Professional Conduct. We continue to monitor suggested amendments to the Model Code and participate in a Law Society Liaisons Group with representatives across the country, in order to stay informed, provide feedback, and take recommendations to the benchers about revisions to the Manitoba *Code of Professional Conduct*. This year, the benchers approved amendments to the Manitoba *Code* that:

- provided additional guidance on the independence of legal opinions by setting out that lawyers should only express opinions that are genuinely held and provided to the standard of a competent lawyer and be wary of providing unreasonable assurances;
- expanded the scope of the rule that prohibited lawyers, when acting for clients, from knowingly assisting in or encouraging any dishonesty, fraud, crime or illegal conduct, or instructing the client on how to violate the law and avoid punishment by imposing the same prohibition when lawyers are dealing not only with clients but with others and by amending the rule to include situations of willful blindness;
- aligned the rules and commentaries relating to withdrawal from representation to those in the Model Code; (e.g. when a lawyer leaves a law firm, the lawyer and the firm must ensure that clients who have current matters for which the departing lawyer has conduct *or substantial involvement* are given reasonable notice that the lawyer is departing and are advised of their options for retaining counsel; a lawyer who ceases to act for one or more clients should co-operate with the successor lawyer(s) and seek to avoid any unseemly rivalry, whether real or apparent.)
- added guidance about incriminating physical evidence by stipulating that lawyers cannot merely continue to keep possession of incriminating physical evidence and clarifying that if a lawyer advises a client of the right to refuse to divulge the location of physical evidence, the lawyer is not hindering an investigation.

# EQUITY INITIATIVES

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The Law Society of Manitoba supports the full participation of all people in the legal profession regardless of age, disability, race, religion, marital or family status, or sexual orientation. The Society acknowledges the diversity of the Manitoba community, and expects lawyers to respect the dignity and worth of all people and to treat all persons equally. Discrimination and harassment are against the law and are prohibited by the *Code of Professional Conduct*.

The past year was one of transition. Following the departure of the long-time Equity Ombudsperson in July, the Law Society moved the role in-house and created the new position of Equity Officer & Policy Counsel. The new Equity Officer began in January 2018. She delivers the services previously provided by the Equity Ombudsperson and provides confidential information, advice and assistance to Manitoba lawyers, articling students, legal support staff and clients of lawyers in dealing with issues of discrimination and harassment. The Equity Officer also seeks to prevent discrimination and harassment through a variety of educational and policy initiatives aimed at promoting equity, diversity and inclusivity in the legal profession.

In 2017, the Law Society began to collect data on the number of members who self-identify as Indigenous and developed an exit survey to be sent to all members who withdraw from practice. These steps will assist in gathering data on the composition of the profession and the barriers faced by members, which will inform the development of programs and initiatives to promote equity and diversity in the profession.

The Equity Officer is developing new and innovative opportunities for diversity training and intercultural training in response to the Truth and Reconciliation Commissions' Calls to Action, specifically Call #27, which identifies the need for lawyers to receive training that promotes an understanding of the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. She works closely with the Education and Competence department to deliver this training to members of the profession, benchers and Law Society staff.

The Law Society has a standing Equity Committee that deals with a variety of issues relating to equity and diversity. The Committee has identified several priority initiatives that it will work to advance in the coming year.

The Equity Officer is an active participant in the Federation of Law Societies Equity Network, a working group with representatives from across the country who share information about issues related to equity and diversity in the legal profession and engage collaboratively in developing and implementing joint regional or national projects.

# EDUCATION AND COMPETENCE

The Law Society's mission is a public served by competent lawyers. To fulfil that mission, the Law Society ensures that:

- Individuals applying for entry into the legal profession have the knowledge and skills required to provide legal services competently;
- The knowledge and skills required to become competent are articulated;
- Individuals applying for entry into the legal profession are of good moral character;
- Guidelines for what constitutes good moral character are articulated;
- Consideration of applicants for entry into the legal profession complies with legislative requirements; and
- After entry into the legal profession, lawyers take responsibility for maintaining their own competence.

## Admissions and Education Committee

The Admissions and Education Committee assists bench governance by recommending policy alternatives in three areas:

- admission matters;
- education of applicants seeking admission as lawyers; and
- continuing professional development of practising lawyers.

The committee monitors the work of the Admissions and Membership Department and the work of the Education and Competence Department. In addition, the Admissions and Education Appeals Sub-Committee hears appeals from both admissions and education decisions.

## CPLED and Articles

The Manitoba CPLED Program is part of a regional bar admission course offered in Manitoba, Saskatchewan and Alberta. The CPLED Program focuses on the essential skills that new lawyers need in the early years of practice. The program combines traditional classroom and online delivery formats. CPLED has just hired a new CEO and work is underway to revise the program to provide greater uniformity and more learning opportunities across the participating jurisdictions.

The 2017-2018 Manitoba CPLED Program began on September 11, 2017 with 105 new students and 1 student continuing from 2016-2017. After voluntary and mandatory withdrawals over the course of the program year, 100 students successfully completed the 2017-2018 Manitoba CPLED Program.

In addition to the CPLED Program students must complete 52 weeks of articles under the supervision of a lawyer approved as a principal. Articles are supposed to provide students with

realistic experiences in a supervised and reflective atmosphere. In 2017-2018 eight students articulated outside the City of Winnipeg for all or part of their articling period. This was a significant decrease from the twenty students last year who articulated outside the perimeter

Students who complete the 2017-2018 CPLED Program and the required articling period will be called to the bar in ceremonies in Winnipeg and other centres in Manitoba. The mass Call to the Bar will be held on June 14, 2018.

Last year's mass Call to the Bar ceremony took place on June 15, 2017. At the ceremony, the A.M. Montague Israels, Q.C. Prize was awarded to Julia Ryckman.

## Qualification Examinations

The Law Society may require that lawyers seeking to resume practice after being out of practice for a period of time and foreign lawyers wishing to practise in Manitoba complete qualification examinations. Between April 1, 2017 and March 31, 2018, three lawyers completed or were involved in taking qualification examinations.

## Remedial Education

From time to time the Society identifies lawyers whose skills or legal knowledge have deteriorated and who are not able to competently provide legal services. The Society provides remedial programs to assist these lawyers to reacquire and to demonstrate their competency. Between April 1, 2017 and March 31, 2018 there were no members enrolled in a Remedial Program.

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## Continuing Professional Development (CPD)

The Education and Competence Department provides educational opportunities to lawyers and their support staff to help them provide high quality legal services to the public. In planning continuing professional development (CPD) programs, the department is guided by a working definition of competence and strives to offer programs that address each component of the definition.

During the 2017-18 year, the Law Society offered 77 CPD programs:

- 66 in Winnipeg (which includes 42 replays);
- 10 outside Winnipeg: 3 in Brandon, 1 in Clear Lake, 2 in The Pas, and 4 in Morden.

The 77 programs offered

- 184.75 total hours of CPD;
- 67.25 of the total hours of EPPM (Ethics, Professionalism and Practice Management).

The 77 programs attracted 3,291 registrations.

These programs included:

- 4 webinars;
- 42 DVD replays of in-person programs;
- 4 programs offered by teleconference;
- 1 program offered in French; and
- 1 program offered exclusively for support staff

The Law Society is aware that another aspect of accessibility is cost. Programs are offered with very competitive registration fees. A few courses are available for free via cpdonline.

The Law Society is committed to increasing educational opportunities with respect to cultural competence as called upon in the Truth and Reconciliation Report Calls to Action. Cultural competence and awareness is increasingly incorporated into CPD programs. We will continue to build resources in this area as we all continue to learn.

## Continuing Professional Development (CPD) Programs delivered in 2017-2018

(list does not include **replays** of DVD or Webinar programs):

1. Common Practice Issues: How the Code Can Help
2. Criminal Defence Advocacy Skills Workshop: Defending Sexual Assault Charges
3. Sound Cybersecurity Practices for Your Law Firm
4. 10th Annual Hot Topics in Real Estate (2 live presentations)
5. Women Thriving in the Law with a Grit and Growth Mindset
6. Getting and Growing Grit: The Secret to Success
7. Dealing with Pre-Acquired, Inherited & Gifted Assets in Family Property Accounting
8. New Civil Queen's Bench Rules: A Focus on Case Management, Proportionality & Expediency
9. Most Often Asked Questions of a Supreme Court Justice
10. Changes to Probate QBR
11. Avoiding Cyber Dangers
12. 2017 Northern Bar
  - Part 1: British Columbia's Experiment with First Nations Courts
  - Part 2: For the Sake of the Children & Lawyers' Guide to Anxiety

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### **Continuing Professional Development (CPD) Programs delivered in 2017-2018**

(continued)

13. 2017 Central Bar
  - Central Bar Session 1A: Considerations in your Estate Practice
  - Central Bar Session 1B: For the Sake of the Children...For Lawyers
  - Central Bar Session 2A: eTransfer: Dumbing Down a Very Smart Form
  - Central Bar Session 2B: You are Not Alone: The Lawyer's Guide to Anxiety
14. 2017 Western Bar Annual CPD:
  - Slaying the Dragons of Anxiety and Stress for Improved Health & Wealth
15. LTO eRegistration and Electronic Funds Transfer (4 live presentations)
16. Hot Topics in Wills & Estates (3 live presentations)
17. Criminal Defence Advocacy Skills Workshop: Khelawon Applications
18. For the Sake of the Children...For Lawyers
19. Pitblado Lectures: #140 Down - Now What?
20. Utmost Good Faith: Yesterday and Today
21. Costs in Estate Litigation: Changes and Trends
22. The 3rd Annual Child Protection CPD
23. Les ressources juridiques gratuites en français
24. All About Anxiety: A Program for Legal Support Staff
25. Joint Family Program: The Tough Stuff: Pensions, Family Trusts & High Conflict Cases

The Law Society collaborates with other organizations in order to provide the depth and breadth of available programs.

Partners included:

- Manitoba Bar Association and its subsections including Family Law, French-speaking Lawyers and Women Lawyers' Forum and;
- Faculty of Law, University of Manitoba
- Queen's Bench Judges, particularly the Family Division
- The Provincial Court Judges
- Northern, Central and Western Bar Associations
- Criminal Defence Lawyers' Association

Written materials from specific CPD programs as well as the CPLED Resource packages are also made available to the legal profession.

### **New Media**

The Law Society is committed to making CPD accessible to all of our members, regardless of their geographic location. As part of that initiative we video record most of our live CPD sessions and make those recordings available to our members on DVD and via cpdonline. A number of live in person sessions are also simultaneously available via webinar or teleconference.

We are beginning to offer e-Courses which are self-paced interactive online learning modules. Our first e-Course, *New Rights, New Obligations: An Introduction to the Family Homes on Reserves and Matrimonial Interests or Rights Act (FHRMIRA)* is available for free.

### **eLaw Electronic Update Series**

The eLaw electronic update series is another tool to enhance the competence of Manitoba lawyers.

Subscribing lawyers receive free regular email updates on cases, legislation, regulatory changes, and educational resources in 7 broad practice areas:

1. Property & Succession
2. Business Law
3. Family Law
4. Criminal Law
5. Litigation
6. Practice Management
7. Labour and Employment

# PROFESSIONAL LIABILITY CLAIMS FUND

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The Professional Liability Claims Fund of the Law Society of Manitoba provides professional liability insurance coverage to all Manitoba lawyers except those who are exempt under the Legal Profession Act. The Professional Liability Claims Fund undergoes an independent actuarial valuation to establish the program's actuarial liabilities and surplus position and recommend the appropriate insurance assessment. This process of independent actuarial advice and collecting sufficient funds for each policy year ensures that expected losses will be fully funded and allows for an adequate surplus to cover unexpected claims development. In the 2017-2018 fiscal year, the insurance assessment was levied at \$1,645 plus applicable sales taxes, including for the first time, cyber liability coverage.

The Law Society and eight other provincial and territorial Law Societies participate in the Canadian Lawyers Insurance Association (CLIA), a reciprocal insurance exchange. CLIA issues a comprehensive Policy of Insurance to the Law Society as Named Insured and members of the Law Society as Insureds. The Policy insures lawyers for damages and legal costs of up to \$1 Million per error

and \$2 Million annually for claims alleging errors or omissions made in the course of providing professional services to others. When a claim made against a lawyer is paid, that lawyer pays a deductible ranging from \$5,000 to \$20,000, depending on the lawyer's paid claims experience in the previous five year period.

The Law Society has a Professional Liability Claims Fund Committee which deals with policy matters affecting the insurance program as they arise.

During the 2016/2017 fiscal year, the Insurance Program paid claims totalling \$1,544,109 in damages and \$374,563 in legal defence costs. This compares to \$943,354 in claims and \$474,976 in legal defence costs paid during the previous fiscal year.

The Professional Liability Claims Fund also funds various loss prevention initiatives including a retainer agreement with Bjorn (Barney) Christianson, Q.C. to provide free practice advisory services to members on a broad range of practice management areas.

## REIMBURSEMENT FUND

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The Reimbursement Fund (the "Fund") was established in 1943 to compensate clients for losses resulting from the misappropriation or conversion by lawyers of client funds or property. This Fund is maintained solely for the benefit of clients who suffer losses through the dishonesty of lawyers. It is financed by an annual assessment on all practicing lawyers within the province. In the 2017-2018 fiscal year, all practicing lawyers paid the sum of \$500 into the Fund. The Law Society maintains insurance in the amount of \$10 million on the Fund.

The initial payout on any approved claim is limited to \$100,000. At the end of a fiscal year, if the total awards do not exceed the annual retention (\$1 million) plus the insurance on the Fund, then the balance unpaid on any approved claim will be paid out together with interest at *The Court of Queen's Bench Act* prejudgment interest

rates from the date of the initial payment. If the aggregate claims awards exceed the annual retention plus the insurance coverage, payments in excess of \$100,000 will be prorated. There is a limit on recovery of \$300,000 per file. There is no limit on the number of claims an individual may bring.

Reimbursement Fund claims guidelines are considered in deciding whether to approve a claim. Claimants are provided with an application form and a copy of the payment guidelines which set out the terms for the submission, consideration and payment of claims.

In the 2017-2018 fiscal year \$15,200 was paid out of the Reimbursement Fund. The Fund recovered \$103,975, leaving a net amount of \$88,777.

# AUDIT PROGRAM

As part of the practice of law, lawyers are routinely required to hold funds in trust on behalf of their clients. For example, a lawyer may hold funds related to a real estate transaction or as a settlement between parties. Trust funds also include retainer funds provided by a client for future legal fees and disbursements. Trust funds do not belong to the lawyer and are, therefore, specific rules established to ensure these funds are properly safeguarded.

The Audit Department monitors compliance with the Law Society's regulations through two main processes:

- The Spot Audit Program
- Annual Trust Account Reports

## Spot Audit Program

Since lawyers are required to keep their trust and general account records up to date at all times, the spot audit is generally conducted without prior notice to a firm so that the auditor will observe the law firm's records in their usual state. There are four types of audits conducted:

- 1) *New Firm audits* are generally conducted within the first year of a firm opening its first trust account;
- 2) *Regular audits* are conducted of all Manitoba law firms on a rotational basis;
- 3) *Priority audits* are conducted of firms having a history of trust account problems, or if information received by the Law Society suggests a law firm is of higher risk and should be audited earlier than the regular rotation. This category of audit also includes inspections, triggered by failure to file an Annual Trust Account Report (discussed in more detail below); and
- 4) *Closing audits*, implemented formally in 2015-2016 as a separate category of audits, are conducted when a firm is closing a trust account and the firm has a history of trust account problems or has been identified as being of higher risk.

During the fiscal year ended March 31, 2018, the following audits were completed:

Regular Audits	63
New Audits	14
Priority Audits	6
Closing Audits	<u>5</u>
Total	88

The total of 88 audits, as well as the composition of the various types of audits completed, is largely the same as in 2017 and 2016.

## Results of Audits

During the past year, 94% of the audits completed showed that members were generally complying with the Law Society's accounting requirements and properly handling client trust funds. The other 6% of members audited showed many and/or serious accounting deficiencies or mishandling of trust funds. These results are largely similar to the last two years.

## Investigations

In comparison to a spot audit, an investigation involves more extensive and in-depth audit procedures of the law firm's records. An investigation may be initiated as a result of a complaint or other information received from outside the Law Society. Alternatively a spot audit may evolve into a full investigation due to the initial audit uncovering serious deficiencies or conduct issues. In some cases the misconduct involves a misappropriation of trust funds.

In 2017, the audit department completed 2 investigations.

## Annual Trust Account Report

Law firms are required to file an *Annual Trust Account Report* in order to provide the Law Society with yearly information regarding their trust and general accounts, their accounting systems and their compliance with the rules. The report will take the form of either a "Self-Report" or a "Form D with Accountant's Review". Most firms are permitted to file a "Self-Report", which requires the member to complete a questionnaire and provide a month-end trust reconciliation and supporting documents. However, a relatively small number of firms are required to file a Form D, due to past poor audit results and/or a history of discipline matters. The Form D requires the member to retain an independent professional accountant to review the records and test for compliance with the rules. The Law Society auditors review the Annual Trust Account Reports in detail and if need be, write to the law firm outlining the necessary changes. A report indicating problems may trigger a spot audit. In addition, if a member does not file their Annual Trust Account Report by the required due date, the Law Society may conduct an inspection to determine if the law firm is complying with the rules. The law firm is responsible for the costs associated with this type of inspection.

## Other Activities of the Audit Department

The Audit Department works closely with the Discipline Department and the Complaints Resolution Department regarding members with trust account related issues. This also includes providing custodial assistance where a member has been suspended, disbarred or has passed away without a succession plan.

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In recent years, the Audit Department has added or formalized alternative monitoring practices. Specifically in 2013-2014, the Early Monitoring Program (“EMP”) was implemented as a way of initiating early contact with members who open a trust account. This contact takes place prior to a new firm audit. In 2015-2016, the Ongoing Monitoring Program (“OMP”) became a formalization of an earlier process where firms that require follow up sooner than the next audit or Annual Trust Account Report are monitored for specific issues. In the 2018 fiscal period, 15 firms were monitored as part of the EMP, and 2 in the OMP, representing a slight reduction in both categories in comparison to the prior two years.

In addition to the above, the auditors respond to a wide range of queries from lawyers and their support staff regarding trust accounting and related matters.

The Audit Department also provides more formal educational assistance to the Professional Education and Competence Department by providing materials for CPLED.

### **New in 2017 – Electronic Transfer of Funds to Teranet Manitoba LP (The Property Registry)**

In December 2017, Teranet Manitoba LP or The Property Registry (“Teranet”) released a platform for electronic registration for land titles transactions, as well as the related process of electronic transfer of funds. To accommodate electronic transfer of trust funds, in September, 2017 the benchers approved rules that allowed for the adoption of a model that establishes a new type of trust account in Manitoba. Called a restricted trust account, it allows a form of electronic payment for the sole purpose of providing trust funds to Teranet for electronic registration. The audit department has been involved with extensive education efforts for the profession related to the new rules, with numerous live CPD sessions co-presented with Teranet in the fall of 2017 and still available on DVD from the Society’s Professional Education & Competence Department.

### **Upcoming Changes – New Trust Compliance Program**

The benchers of the Law Society have recently approved the principles for significant changes that impact trust fund handling processes and trust account management for law firms. In February, 2017 the principles for a new Trust Compliance Program were approved, which will be administered by the audit department. The fundamental principle of the program is that having a trust account is a privilege and not a right. As such, lawyers will have to apply for permission, complete an online course and pass an examination prior to opening a trust account. For practitioners or firms already operating a trust account when the program goes into effect, a transitional period will be provided to comply with the approval and education requirements. The Society continues to work on preparing to implement this program, and draft rules related to this program will be before the benchers in the coming months.



## The Benchers of The Law Society of Manitoba 2017-2018

**Front Row: (L to R)** Dr. Jonathan Black-Branch, Roberta Campbell, *Past President*, Kris Dangerfield, *Chief Executive Officer*, James McLandress, *President*, Leah Kosokowsky, *Director of Regulation* **Second Row:** Shauna McCarthy, Serena Puranen, Susan Boulter, Wayne Onchulenko, Marston Grindey, Sacha Paul, Miriam Browne **Third Row:** Lynda Troup, Grant Driedger, Katherine Bueti, Sharyne Hamm, Omar Siddiqui **On Stairs:** Vincent Sinclair, Neil Cohen, Brian McLeod, Anita Southall, Ashley Joyce, Dean Scaletta **Absent:** Dr. Amarjit Arneja, Richard Buchwald, Joel Refvik, Karen Webb

### Officers (appointed April 27, 2017)

President:	James E. McLandress
Vice-President:	Katherine L. Bueti
Past President:	Roberta L. Campbell

## Benchers

(elected for a two year term on May 4, 2016)

### Winnipeg Electoral District

Richard D. Buchwald  
Katherine L. Bueti  
Annette J. R. Horst<sup>1</sup>  
James E. McLandress  
Wayne M. Onchulenko  
Dean I. Scaletta  
Anita L. M. Southall  
Lynda K. Troup

### Eastern Electoral District

Grant M. Driedger

### Dauphin-Central Electoral District

Sauna L. McCarthy

### Northern Electoral District

Serena J. Puranen

### Western Electoral District

Ashley T. Joyce

### Appointed Benchers

(appointed for a two year term effective July 1, 2016)

Sacha R. Paul  
Omar A. Siddiqui  
Vincent G. Sinclair  
Karen L. Webb

### Lay Benchers

(appointed for a two year term on August 29, 2016)

Dr. Amarjit Arneja  
Susan Boulter  
Miriam Browne  
Neil Cohen  
Marston Grindey  
Brian McLeod

### Faculty Bencher

Dean Jonathan Black-Branch

### Student Bencher

Sharyne M. Hamm<sup>2</sup>  
Joel A.E. Refvik<sup>3</sup>

<sup>1</sup> Became a bencher in May, 2017

<sup>2</sup> Ceased to be student bencher in September 2017

<sup>3</sup> Became Student Bencher September, 2017

## Life Benchers

### Winnipeg Electoral District

Hon. Douglas N. Abra  
Hon. Laurie P. Allen  
Douglas A. Bedford  
Ted E. Bock  
Gregory G. Brodsky, Q.C.  
Roberta L. Campbell  
Master Karen L. Clearwater  
Jennifer A. Cooper, Q.C.  
J. George Dangerfield, Q.C.  
Richard K. Deeley, Q.C.  
Hon. Robert A. Dewar  
Douglas E. Finkbeiner, Q.C.  
David G. Frayer, Q.C.  
Hon. Martin H. Freedman  
William S. Gange  
Sidney Green, Q.C.  
Hon. John P. Guy  
William G. Haight  
Hon. Barbara M. Hamilton  
Irene A. Hamilton  
Jeffrey B. Hirsch  
Paul L. Jensen  
Hon. Timothy J.P. Killeen  
Bryan D. Klein  
Christina V. Kopynsky, Q.C.  
Hon. David J. Kroft  
Heather S. Leonoff, Q.C.

Colin R. MacArthur, Q.C.  
Hon. E. Alan D. MacInnes  
Grant L. Mitchell, Q.C.  
Hon. Peter S. Morse  
E. William Olson, Q.C.  
Chrys Pappas, Q.C.  
Brian A. Pauls  
Herbert J. Peters  
Hon. Robert L. Pollack  
G. Patrick S. Riley  
Hon. Perry W. Schulman  
Hon. Richard J. Scott  
Hon. Vern I. Simonsen  
Garth H. Smorang, Q.C.  
Hon. Lori T. Spivak  
Hon. P. Colleen Suche  
Helga D. Van Iderstine  
Douglas G. Ward, Q.C.  
Hymie Weinstein, Q.C.  
Gavin M. Wood

### Eastern Electoral District

Peter J. E. Cole, Q.C.  
John E. Neufeld, Q.C.  
Jon van der Krabben  
Lewis D. Wasel

### Central Electoral District

John (Jack) D. Cram  
Bjorn Christianson, Q.C.  
Gary R. Gilmour  
Gordon J. Hoeschen  
Brock G. Lee, Q.C.  
Diane H. Stevenson  
David E. Swayze

### Northern Electoral District

Gordon D. Bates  
John M. Ginnell, Q.C.  
David N. Gray  
Donald R. Knight, Q.C.

### Dauphin Electoral District

Hon. John A. Menzies  
Alan J. Semchuk

### Western Electoral District

George N. Bass, Q.C.  
Hon. John H. Combs  
Patricia L. Fraser  
Hon. William R. Johnston  
Hon. Donald M. Little  
Col. Wolfgang W.A. Riedel, Q.C.  
Norman H. Sims, Q.C.



# COMMITTEES

## Standing Committees

Note: The President and Vice-President are ex-officio members of all committees except the Admissions and Education Appeals Subcommittee and the Discipline Committee.

◆ Denotes Life Bencher

\*Denotes Volunteer

\*\*Denotes Public Representative

• Denotes Stakeholder Representative

### Admissions and Education Committee

Dean Scaletta (Chairperson)  
Richard Buchwald (Vice-Chair)  
Kim Antonio\*  
Dean Jonathan Black-Branch  
Miriam Browne  
Joyce Dalmyn\*  
Kyle Dear\*  
Sharyn Hamm<sup>1</sup>  
Annette Horst  
Elliot Leven\*  
Karine Pelletier\*  
Joel Refvik<sup>2</sup>  
Vincent Sinclair

### Admissions and Education Appeals Subcommittee

Dean Scaletta (Chairperson)  
Richard Buchwald (Vice-Chair)  
Kim Antonio\*  
Dean Jonathan Black-Branch  
Miriam Browne  
Joyce Dalmyn\*  
Kyle Dear\*  
Lorne Gibson\*\*  
Sharyn Hamm<sup>3</sup>  
Annette Horst  
Elliot Leven\*  
Lynne McCarthy\*\*  
Kenneth Molloy\*\*  
Maureen Morrison\*\*  
Carmen Nedohin\*\*  
Sandra Oakley\*\*  
Karine Pelletier\*  
Joel Refvik<sup>4</sup>  
Keely Richmond\*\*  
Vincent Sinclair  
Jim Wolfe\*\*

### Complaints Investigation Committee

Lynda Troup (Chairperson)  
Wayne Onchulenko (Vice-Chair)  
Jeremy Akerstream\*

Susan Boulter  
Miriam Browne  
Peter Cole, Q.C.◆  
Grant Driedger  
Ashley Joyce  
Shauna McCarthy  
Elizabeth Murray\*  
Helga Van Iderstine◆

### Discipline Committee

Hon. Richard Scott◆ (Chairperson)  
Anita Southall (Vice-Chair)  
Ted Bock◆ (Conflicts)  
Dr. Amarjit Arneja  
Gordon Bates◆  
Douglas Bedford◆  
Victor Bellay\*  
Susan Boulter<sup>5</sup>  
Miriam Browne<sup>6</sup>  
Dean Jonathan Black-Branch  
Richard Buchwald  
Roberta Campbell◆  
Bjorn Christianson, Q.C.◆  
Neil Cohen  
John Cram◆  
Richard Deeley, Q.C.◆  
Donald Douglas\*  
Lori Ferguson Sain\*  
Douglas Finkbeiner, Q.C.◆  
Michael Finlayson\*  
Catherine Finnbogason\*  
Patricia Fraser◆  
William Gange◆  
Lorne Gibson\*\*  
Gary Gilmour◆  
Jennifer Goldenberg\*  
Richard Good\*  
David Gray◆  
Marston Grindey  
William Haight◆  
Irene Hamilton◆  
James Hedley\*

Jeff Hirsch◆  
Annette Horst  
Eric Irwin<sup>7</sup>  
Jake Janzen\*  
Donald Knight, Q.C.◆  
Christina Kopynsky, Q.C. <sup>8</sup>  
Brock Lee, Q.C.◆  
Ellen Leibl, Q.C.\*  
Heather Leonoff, Q.C.◆  
Lynne McCarthy\*\*  
Brian McLeod  
Grant Mitchell, Q.C.◆  
Kenneth Molloy\*\*  
Maureen Morrison\*\*  
Carmen Nedohin\*\*  
John Neufeld, Q.C.◆  
Sandra Oakley\*\*  
Sacha Paul  
Brian Pauls◆  
Herbert Peters◆  
Serena Puranen  
Vivian Rachlis\*  
Keely Richmond\*\*  
G. Patrick Riley◆  
Dean Scaletta  
Harvey Secter\*  
Alan Semchuk◆  
James Shaw\*  
Omar Siddiqui  
Norman Sims, Q.C.◆  
Vincent Sinclair  
Garth Smorang, Q.C.◆  
Grant Stefanson\*  
Diane Stevenson◆  
Wendy Stewart◆  
David Swayze◆  
Mark Toews\*  
Catherine Tolton\*  
Lorna Turnbull\*  
Jon van der Krabben◆  
Karen Webb  
Jim Wolfe\*\*

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## Standing Committees

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### Equity Committee

Sacha Paul (Chairperson)  
 Anita Southall (Vice-Chair)  
 Dean Jonathan Black-Branch  
 Brian McLeod  
 Elissa Neville\*  
 Karine Pelletier\*  
 Sandra Phillips\*  
 Jessica Saunders\*  
 Omar Siddiqui  
 Sandra Phillips\*  
 Dean Lorna Turnbull<sup>13</sup>

### Practice and Ethics Committee

Anita Southall (Chairperson)  
 Grant Driedger (Vice-Chair)  
 Jeremy Akerstream\*  
 Jeannelle Allard\*  
 Kevin Antonyshyn\*  
 Alexandra Aquila\*  
 Susan Baragar\*  
 Gurdeep Chahal\*  
 Carolina Fridman\*  
 Eli Goldenberg\*  
 Anthony Kavanagh\*  
 Sharon Kravetsky\*  
 Sidney Laviolette\*  
 Elliot Leven\*  
 Alison McCullough-Butchart\*  
 Daniel Minuk\*  
 Bryton Moen\*  
 Robert Pellizzaro\*  
 Pam Reilly\*  
 Paramjit Singh\*  
 Kimberly Soul\*  
 Mira Thow\*  
 Norman Yusim\*  
 Gene Zazelenchuk\*

### Professional Liability Claims Fund Committee

Shauna McCarthy (Chairperson)  
 Vincent Sinclair (Vice-Chair)  
 Richard Buchwald  
 Kelly Dixon\*  
 Rachel Margolis\*  
 Omar Siddiqui  
 Faron Trippier\*  
 Bradley Zander\*

### Reimbursement Fund Claims Committee

Ashley Joyce (Chairperson)  
 Omar Siddiqui (Vice-Chair)  
 Dr. Amarjit Arneja  
 Kelly Dixon\*  
 Kirsty Elgert\*  
 Issie Frost\*  
 Marston Grindey  
 Serena Puranen  
 Gordon Schumacher\*

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**Special Committees/Working Groups**

**Access to Justice Steering Committee**

Neil Cohen (Co-Chairperson)  
 Karen Webb (Co-Chairperson)  
 Dean Jonathan Black-Branch●  
 Irene Hamilton◆  
 Jeff Hirsch◆  
 Cynthia Lau●  
 Samuel Raposo●  
 Diane Redsky●  
 Associate Chief Justice Marianne Rivoalen●  
 Lavonne Ross●  
 Sr. Lesley Sacouman●

**Access to Stakeholders Sub-Committee**

Neil Cohen (Chairperson)  
 Karen Webb (Vice-Chair)  
 Dean Jonathan Black-Branch●  
 Natasha Brown●<sup>9</sup>  
 Shauna Curtin●  
 Karen Dyck●  
 Bruce Gammon●  
 Paula Hamilton●<sup>10</sup>  
 Jeff Hirsch◆  
 Hon. Gerald Jewers●  
 Associate Chief Judge Anne Krahn●  
 Julyda Lagimodiere●  
 Cynthia Lau●  
 Heather Leonoff, Q.C.◆●  
 Damarys Ramirez●  
 Nalini Reddy●<sup>11</sup>  
 Associate Chief Justice Marianne Rivoalen●  
 Lavonne Ross●  
 Ainslie Schroeder●<sup>12</sup>  
 Janet Sigurdson●  
 Mary Troszko●

**Conveyancing Practices Committee**

Herbert Peters◆ (Chairperson)  
 Ned Brown\*  
 Gurdeep Chahal\*  
 Barry Effler\*  
 David Golub\*<sup>13</sup>  
 Gordon Hoeschen◆  
 John Jones\*  
 Bruce King\*  
 John Neufeld, Q.C.◆  
 Jeffrey Shypit\*

**Investment Committee**

Wayne Onchulenko (Chairperson)  
 Brian Lerner\* (Vice-Chair)  
 Irene Hamilton◆  
 Brian McLeod  
 Dean Scaletta  
 David Swayze◆

**Richard J. Scott Award Selection Committee**

Hon. Richard Scott◆ (Chairperson)  
 Neil Cohen  
 James McLandress  
 Justice Freda Steel\*  
 Helga Van Iderstine◆

**The President's Special Committee on Alternate Legal Service Providers**

Karen Webb (Chairperson)  
 Lynda Troup (Vice-Chair)  
 Dr. Amarjit Arneja  
 Ted Bock◆  
 Susan Boulter  
 Roberta Campbell◆  
 Neil Cohen  
 Richard Good\*  
 Annette Horst  
 Christian Monnin\*  
 Sacha Paul  
 Vincent Sinclair  
 Kusham Sharma<sup>14</sup>

**The President's Special Committee on Communications**

Grant Driedger (Chairperson)  
 Dean Scaletta (Vice-Chair)  
 Miriam Browne  
 Shauna McCarthy  
 Brian McLeod  
 Wayne Onchulenko  
 Vivian Rachlis\*  
 Sean Shore\*  
 Jon van der Krabben◆  
 Sherri Walsh\*

<sup>1</sup> Ceased to be a Committee member in September 2017  
<sup>2</sup> Became a Committee member in September 2016  
<sup>3</sup> See Endnote 1  
<sup>4</sup> See Endnote 2  
<sup>5</sup> Ceased to be a Committee member in July 2017  
<sup>6</sup> Ceased to be a Committee member in July 2017  
<sup>7</sup> Ceased to be a Committee member in November 2017  
<sup>8</sup> Ceased to be a Committee member in August 2017  
<sup>9</sup> Ceased to be a Committee member in August 2017  
<sup>10</sup> Became a Committee member in August 2017  
<sup>11</sup> Ceased to be a Committee member in September 2017  
<sup>12</sup> Became a Committee member in September 2017  
<sup>13</sup> Ceased to be a Committee member in August 2017  
<sup>14</sup> Ceased to be a Committee member in February 2018

## **Executive and Administration**

Chief Executive Officer	Kristin Dangerfield
Assistant to Chief Executive Officer and Benchers	Pat Bourbonnais
Director of Regulation	Leah C. Kosokowsky
Assistant to Director of Regulation and Family Law Access Centre Administrator	Debra Rossol
Director of Policy and Ethics and General Counsel	Darcia C. Senft
Equity Officer and Policy Counsel	Alissa R. Schacter <sup>1</sup>
Chief Financial Officer	Colleen D. Malone
Assistant to Chief Financial Officer	Carol Hiebert
Office Manager	Grace Page
Director of Information Technology	Sean Rivera
Director of Information Systems Development	Simon Young
Office Clerk	Dana Earley
Office Receptionist	Shari Lough

## **Admissions and Membership Department**

Director of Admissions and Membership	Richard C.M. Porcher
Assistant to Director	Donna Mihalick
Administrative Assistant	Darlene Douglas
Administrative Assistant	Kelly Jordanov

## **Discipline/Prosecutions Department**

Hearing Counsel	Rocky H. Kravetsky
Assistant to Hearing Counsel	Anna Brown <sup>7</sup>
Assistant to Discipline Committee	Lee-Ann Harrison

## **Complaints Resolution Department**

Director of Complaints Resolution	Noelia Bernardo
Legal Counsel	Susan D. Billinkoff
Legal Counsel	Christopher C. Donaldson
Legal Counsel	Jennifer L. Houser
Paralegal	Stefanie Krochak
Fee Arbitration Coordinator	Debra Rossol
Assistant to Director and Legal Counsel	Corinne Penner

## **Insurance Department**

Director of Insurance	Tana P. Christianson
Counsel	Kathleen M.T. Craton
Counsel	James A. Cox
Assistant to Director and Counsel	Heather Vanrobaeys
Assistant to Director and Counsel	Kristin Forbister

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**Professional Education and Competence Department**

Director of Education  
Director of Professional Competence  
Counsel - Online Education  
Counsel - Publications  
Program Counsel  
Program Counsel  
Continuing Professional Development  
Registrar  
Programs and Communication Assistant  
Programs and Registration Assistant  
Programs and Publication Assistant

Joan M. Holmstrom  
Eileen S. Derksen Mead  
Ian F. Blomeley  
Ellen J. Henry  
Vivian Hilder<sup>2</sup>  
Betta Wishart<sup>3</sup>  
Alissa R. Schacter<sup>4</sup>  
Lisa Ehnes  
Deirdre O'Reilly  
Kirsty Hyduk  
Laura Ziemanski

**Audit Department**

Director of Audit  
Auditor/Inspector  
Auditor/Inspector  
Auditor/Inspector  
Assistant to Auditor/Inspectors

Kathy L. Levacque  
Sandra A. Alleyne  
Jing Feng  
Deborah Metcalfe  
Kelly Jordanov

<sup>1</sup> *Became Equity Officer in December 2017*

<sup>2</sup> *Joined the Law Society in September 2017*

<sup>3</sup> *Joined the Law Society in January 2018*

<sup>4</sup> *See Endnote 1*