

JUNE 2023



## IN THIS ISSUE

#### NEWS

President's Report	2
CEO Report	4
Fraud and a Fib	
Firm Wires Sale Proceeds to a Fraudster	6
Do Judgments Really Live Forever	
And Other Amendments to The Limitations Act	8
Celebrating Pride Week	10
FEATURE	
The Path Launches October 2023	10
A Behind the Scenes Chat	13
PRACTICE	
The Million Dollar Question	14
Coverage at a Glance	19
CLIA Coverage	23
Practice Management Quick Tips	24
WELL-BEING	
Law(yer) Strong	28
EDUCATION	
Winnipeg Articling Recruitment Guidelines	30
Call to the Bar	32
PREP and Articling Important Dates	33
NOTICES	
Court Notice	34
Discipline Notice	35
In Memoriam	36
Meeting Notice	37

Membership Changes

## FEATURED ARTICLE:



**THE PATH** *Launches October 2023* A Behind the Scenes Chat

13

#### RESOURCES

38

Practice Management Resource CPD Events and Resources

Practice Resources

Written materials

39

40

## News

## **President's Report**



WAYNE ONCHULENKO President

## What's New

#### FRAUD AND A FIB

Firm Wires Sale Proceeds to a Fraudster

#### **DO JUDGMENTS LIVE**

**FOREVER** And Other Amendments to the New Limitations Act

### THE MILLION DOLLAR QUESTION

As I embark on my year as President of your Law Society, it seemed like a good time to thank some people for their volunteerism, take a look back at some highlights, and discuss some opportunities.

I want to thank Grant Dreidger for his time on the executive and the sage advice he has provided as a bencher since 2014 and these past three years on the executive. I also want to recognize Sacha Paul particularly for his last year as President as he brought his own leadership style, or should I say flair, to the Law Society and for his hard work since 2016. Sacha became a Life Bencher, and we will continue to rely on Sacha in his capacity as Past President this year.

I would be remiss if I also did not acknowledge the hard working Law Society staff who ensure the priorities we/you choose are acted on in a fair and responsible manner. Like most entities, they have been doing more with less. They have done so while maintaining their high standards.

Because of everyone's hard work, we are in a solid financial position and have made progress on several fronts this past year.

### **Truth and Reconciliation**

The made in Manitoba version of <u>The Path</u> material, that will be available this fall, is a significant step in our obligation to participate in the Truth and Reconciliation process.

#### **Access to Justice**

The <u>Regulatory Sandbox Pilot Project</u> should allow for improved access to justice by allowing non-lawyers, through Law Society-approved entities, to provide some basic services that are currently not being provided or provided in an unregulated manner.

#### Competence

The new and improved/improving CPLED helps to protect the public by teaching basic necessary skills to our newest graduates.

#### **Diversity**

We continue to attempt to become more diverse through our bencher appointment process and through our nominating committee that fills our many volunteer positions.

#### **Health and Wellness**

Law(yer) Strong has a new Executive Director to provide a needed resource for lawyers that require a helping hand, and we have a diversion option available to lawyers who are the subject of a complaint partially or fully because of an illness.

This work is only partially complete. We will do our best to make further progress in these areas as well as others.

We are looking at ways to encourage aboriginal youth to consider a career in law so our members will become more diverse, be better able to promote reconciliation and better reflect our population.

We are discussing how we can encourage more lawyers to work outside the major centres so people living there have better access to a lawyer and thus better access to justice. We are also looking at providing better resources to those lawyers that work there now. This will also allow us to better serve and protect the public.

We were encouraged by the interest shown by many in the most recent by election. We are always looking for more people to become involved and for new ideas.

Check out the Law Society website for a <u>full</u> <u>description</u> of what we are doing and planning to do this year.

I look forward to be able to serve you this year and hope it will be a positive one for all as we continue to emerge from pandemic mode.

Please don't hesitate to reach out if you have questions or comments.

# Notice of Annual Meeting

The Annual Meeting of the Law Society of Manitoba will be held on **Thursday**, **June 22, 2023** at **12:30 p.m**. at the Law Society offices and via videoconference.

All members are invited to attend.

Please contact Pat Bourbonnais at pbourbonnais@lawsociety.mb.ca to receive the videoconference information.



## **CEO** Report



**LEAH KOSOKOWSKY** Chief Executive Officer

... the benchers received a report that revealed that many organizations are pursuing access initiatives not only as civil society organizations but also as stand-alone clinics, delivering services through lawyers and law students. The May 18, 2023 bencher meeting saw the annual changing of the guard at the Law Society whereby **Wayne Onchulenko** took over the chair of the bencher meeting from outgoing President, **Sacha Paul**. The benchers also resolved to fill two vacancies at the bencher table by officially appointing **Sarah Inness, K.C.**, who was the successful candidate in the City of Winnipeg by-election, and appointing **Chris Lange** to fill the appointed bencher position vacated by Sacha Paul as he became the Past President. We look forward to welcoming Sarah and Chris at the June bencher meeting.

The benchers also adopted the recommendations of the Nominating Committee for the chairs and memberships of the 2023-2024 committees as well as the Law Society's representatives to external organizations.

A robust discussion was held to consider options to better recruit and retain lawyers in remote areas of the province and, in particular, in northern Manitoba. Recognizing that recruitment and retention in the north is a broad issue that involves many stakeholders, the benchers have asked the Access to Justice Committee to continue to explore options and alternatives to the Law Society's forgivable loan program that has been discontinued.

In the area of access to justice, the benchers received a report that revealed that many organizations are pursuing access initiatives not only as civil society organizations but also as stand-alone clinics, delivering services through lawyers and law students. The benchers directed the Law Society to expand the definition of civil society organizations so as to incorporate the service delivery models that are being established and to ensure that there remains appropriate and proportionate regulatory oversight.



## News

Given that the PREP program has become wellestablished and has settled upon a model that allows for students to participate in a traditional nine-month program or an intensive three month accelerated program, the benchers decided to permit students who have successfully completed PREP prior to articling to complete 38 weeks of articles, rather than the usual 52 weeks. This change in policy reflects the fact that students who have successfully completed the entire PREP program can devote all of their time to articles.

Finally, the benchers welcomed guests **Dave Jackson** (CEO) and **Jon Bridge** (CFO) from the Canadian Lawyers Insurance Association. They provided an overview of the role of CLIA and the services it provides to its insureds and subscribers.



## Special Presentation

from the May Bencher Meeting



President Wayne Onchulenko presents Sacha Paul with a special gift as he transitions to the role of Past President.

## **FRAUD AND A FIB** *Firm Wires Sale Proceeds to a Fraudster*

TANA CHRISTIANSON, Director - Insurance IN COLLABORATION WITH THE AUDIT DEPARTMENT

A local law firm was acting for a corporation that was selling a piece of property. An assistant in the firm was doing the legwork.



### **The Error**

The deal closed, and it was time to send the money to the client. The assistant received instructions by email from the client, or so it appeared. The assistant did not call the client to confirm that the instructions had in fact come from the client. When it came time to requisition the funds, the assistant ticked off the box on the firm's checklist, falsely saying the current client had been called to confirm the instructions. This was a fib. The assistant had not called the client.

### **The Wire**

The funds were wired to the fraudster, based on the fraudulent instructions. Over a quarter of a million dollars went to a fraudster instead of the client.

### The Email Hack

It turned out that the client's email had been hacked. The fraudster hackers had put in place a rule in the client's email account that all emails from the client's law firm would go directly into a separate folder and skip the client's inbox. This way, the client wouldn't see emails from the law firm but the fraudster could monitor the email account, determine when the law firm was ready to send out the money, and then send instructions to the law firm to send the funds to the fraudster's bank account and not the client's.

Because the fraudster had hacked the client's email account, if the law firm had emailed the client to confirm the change in wire instructions, the fraudster would have intercepted that email and confirmed the instructions. That is why the phone call to confirm, which didn't happen, is so important.

We are trying to get the money back. However, it may be too late.





### **Phone Call Confirmations**

Do not send funds to anyone based on email instructions. Pick up the phone and make a call to the client at the phone number on your file. Not only is making the call critical, but what number you use can also make or break a fraud. DO NOT use any phone number that accompanies the email or accept any phone call initiated by your 'client' as authentic. Why? Fraudsters put phone numbers in their fraudulent emails leading right back to the perpetrator instead of the real client. Fraudsters may go one step further and call you, authorizing the fraudulent payment instructions as a way to try to thwart this control. If this sounds unlikely, consider what generative artificial intelligence can do to manipulate voice samples. If a phone call comes in from someone purporting to be the client or acting on their behalf, put your detective hat on and ask questions only the client would be able to answer, like who they saw when they last came into your office or even a pre-arranged security answer, recorded on your file (like, what is your favourite flower or first car?).

A quick call using the right phone number would have blocked this fraud. Too bad that assistant - who, by the way, has since been terminated for the fib - did not pick up the phone.

## WHAT CAN YOU DO TO AVOID FUTURE FRAUDS?

- 1. Share cyber security and awareness information with lawyers and staff, using the <u>Law Society's Cyber</u> <u>Security Resource Library</u> as a starting point;
- **2.** Educate all lawyers and staff in your firm about fraud risks directed to law firms:
  - a) Review and discuss the Law Society's recently updated <u>Fraud Awareness page</u> in the Trust Accounting Fundamentals;
  - Reference this article as a real-world example of why you need to follow these steps, as well as earlier Communique articles from June 2022, December 2022 and January 2023;
  - c) Walk through the <u>Safe Flow of Funds Guideline</u>, found in the Trust Accounting Fundamentals
- **3.** Review and discuss your firm's cheque requisition process, adding a checklist if you don't already use one. If you already have a checklist, review it to ensure key elements and risks are addressed;
- 4. Include anti-fraud awareness and training as part of orientation of all new lawyers and staff;
- **5.** Refresh existing staff knowledge by ensuring their cyber security knowledge and awareness is kept current; and
- **6.** Review your checklists as you receive new information to ensure they evolve with the ever-changing fraud techniques.

Direct communication with the client in-person or on the phone is a critical defence to this type of fraud. Never accept new or changed payment instructions by email alone. Call before you requisition.

## **DO JUDGMENTS REALLY LIVE FOREVER** And Other Amendments to the New Limitations Act

TANA CHRISTIANSON, Director - Insurance

Bill 26, <u>THE LIMITATIONS AMENDMENT AND PUBLIC OFFICERS AMENDMENT ACT</u> received royal assent on May 30, 2023.

### Do judgments live forever?

When the new *Limitations Act* came into effect last year, there were questions about how the new *Act* would apply to judgments. These amendments appear to confirm what we suspected – judgments and orders pronounced on or after October 1, 2012 live forever. The amendments add a new section 3(2).



This new section means lawyers now will not have to remember to renew judgments on collections files, but may cause headaches on transactions involving real estate. On a transaction file, judgments or orders pronounced after October 1, 2012 and subsequently registered as encumbrances on title will have to be satisfied before they can be removed from title. This may result in problems in conveying clear title or complying with financing conditions and may delay closings. So, when you see a post October 1, 2012 judgment or order on title, adjust your trust conditions and manage your client's expectations accordingly.

### **Old Section 14 Discovery Transitions**

The Amendment Act also addresses the mystery of the transition of old Section 14 discovery claims to the new regime. So, if you were not one of those litigators who did a big push to issue all discovery claims prior to September 30 last year, read these sections.

### Expiry of former limitation period

31.2 No proceeding may be commenced under this Act respecting a claim discovered before September 30, 2021, if its former limitation period expired before the claim's transition date.

#### Claims to which this section applies

<u>31.3(1)</u> Subject to section 31.2, this section applies to claims based on acts or omissions that occurred before the repeal of the former limitation period and in respect of which no proceeding was commenced before the applicable transition date.

### Claim discovered before transition date

<u>31.3(2)</u> In the case of a claim discovered before its transition date, a proceeding may be commenced under this Act, whether or not the former limitation period that applied to the claim has expired, if the proceeding is commenced before the earlier of

(a) two years after the transition date; and

(b) the day on which the former limitation period expired or would, but for its repeal, have expired or the claim's extension date, whichever is later.

#### Claim discovered on or after transition date

<u>31.3(3)</u> In the case of a claim discovered on or after its transition date, this Act applies, whether or not the former limitation period that applied has expired, as if the act or omission on which the claim is based occurred on the transition date.

### **Public Officers**

The amendments also include required changes to *The Public Officers Act* to bring that Act in line with the new regime.

So, add Bill 26, <u>THE LIMITATIONS AMENDMENT AND PUBLIC OFFICERS AMENDMENT ACT</u> to your summer reading list.

## **CELEBRATING PRIDE WEEK** *May 26 to June 4, 2023*

On Tuesday, May 30<sup>th</sup>, the Law Society co-hosted the annual reception in celebration of Pride Week, along with the Sexual Orientation and Gender Identity Community (SOGIC) subsection of the Manitoba Bar Association. Thank you to all those who attended, both members of the LGBT2SQ+ community and their allies. These have been challenging times for the Queer community in Manitoba, across the country and beyond. The Law Society stands in support of the Queer community and wishes everyone Happy Pride.



## News

## LSM in the News

Manitoba lawyers will be required to take Indigenous culture course Requirement aims to fill gaps in knowledge, advance reconciliation Sarah Petz · CBC News · Published May 26, 2023

Last month the CBC spoke to members of the the Indigenous Advisory Committee, Alissa Schacter and Jessica Saunders, about The Path and the importance of this required training for all Manitoba lawyers.

"Anyone who walks on this land should know its history," said Saunders, who is a member of Opaskwayak Cree Nation.

### **READ THE ARTICLE**



From left Alissa Schacter and Jessica Saunders







## FEATURE

## **The Path Launches October 2023**

New Mandatory Indigenous Intercultural Awareness and Competency Training Program for Manitoba

Law Society Past Presidents Sacha Paul and Anita Southall reflect on their educational experiences, changes in the law and where they hope The Path will take us.



### TO LEARN MORE

See these previously shared messages from Sacha and Anita.



Stay tuned - more information about The Path will be shared later this summer!



## THE MILLION DOLLAR QUESTION

TANA CHRISTIANSON, Director - Insurance



## Is \$1 Million Enough Professional Liability Insurance for Your Practice?

*That is the million-dollar question.* 

### Your mandatory \$1 million coverage

All insured lawyers in the Province of Manitoba have **mandatory** insurance coverage of \$1 million per claim with an annual aggregate limit of \$2 million. The \$1 million per claim limit means if a disgruntled former client presents a claim against you between July 1, 2023 and July 1, 2024, you would have coverage for up to \$1 million on that claim (defence and damages combined). The annual aggregate means if multiple unhappy clients each make separate claims against you between July 1, 2023 and July 1, 2023 and July 1, 2024, you have a total of \$2 million to cover the damage and defence costs on those claims and that once you hit that \$2 million cap, you are on your own.

### **CLIA Excess Insurance**

You should consider these limits of insurance when you decide how much is enough coverage for your practice. You can purchase excess insurance that covers you for claims that might arise after your \$1 million per claim and \$2 million aggregate limits have been exhausted. Excess coverage is available through the Law Society from the Canadian Lawyers Insurance Association (CLIA) in amounts from \$1 million to \$19 million. The online application is available here, or contact CLIA directly by email at <a href="mailto:service@clia.ca">service@clia.ca</a> for more information.

M Page 14

### **Claims Made**

Like most excess liability policies, CLIA's excess liability program is "**Claims Made**", meaning that you will need to have insurance in place when a claim is made and not when the work was done. It is not transaction-based coverage. You can't buy insurance specific to a particular file or deal. Firms that do not renew their excess insurance will not have coverage for losses reported after the expiry date of the policy. So, if you purchased coverage with a specific transaction in mind, that coverage will need to be renewed as long as the possibility of a claim still exists.

Excess insurance is different from mandatory coverage in this respect. On your mandatory coverage, as long as you had insurance at the date of the alleged error, you are covered for that claim even if, when the claim is presented, you are no longer insured, practising or alive. Mandatory coverage stays with you forever. Excess insurance does not.



#### Seamless coverage

Purchasing your excess liability coverage through CLIA provides you with seamless coverage. Your initial report to Professional Liability Claims Fund staff here in Manitoba is deemed a report to CLIA. So, if a claim that initially looked like it wasn't going anywhere suddenly and unexpectedly goes south some years later, you will still be covered, because it is considered reported to CLIA at day one.

### **Coverage in retirement**

Lawyers contemplating retirement often call us about continuing coverage. If you were insured under the mandatory coverage when you did the work, you continue to have \$1 million mandatory coverage even if you are no longer practising when a claim is made. But, depending on your practice before you retired, you may need more than that \$1 million mandatory limit of coverage to give you comfort in your retirement. CLIA is able to provide all retired, inactive lawyers with a **25% discount for excess coverage**. Check with your accountant but, for most retired lawyers, that premium would also be tax deductible.



## Things to consider when making your decision to buy excess insurance:

#### Does your client require it?

2

Some clients require proof of excess insurance. Lenders may require insurance at a level that matches a loan advance. Some government agencies or large corporations may require proof of a minimum level of insurance that is higher than the mandatory \$1 million as a condition of the retainer. You can buy excess from CLIA now or at any time throughout the year, but remember, coverage purchased with a single transaction in mind should be renewed as long as the possibility of a claim relating to that transaction still exists.

#### Do you or your partners practise in an area of law with a higher risk of many claims or of larger claims?

Some areas of law consistently result in more frequent claims. For instance, real estate files account for the highest number of claims by volume, but these are usually less costly per claim. Missed limitations on medical malpractice or personal injury files, or securities or tax law related claims, arise less frequently but damages tend to be more severe. If you or your partners do plaintiffs' work, consider the catastrophic impact of the new dismissal for delay rules. We have seen over 70 claims reported since the inception of the new rules and several firms have had to report multiple dismissal motions. When you are deciding whether to purchase excess insurance and in what amount, consider whether your practice or those of your partners and associates falls into areas of law that are high risk for frequent claims or high risk for severity.

#### **3** Do you handle large dollar value files?

You should also assess the potential quantum of damages arising out of potential claims. Valuable estates, farm transactions and family law files where the value of assets is high all have the potential to develop into large claims. Personal injury, including medical malpractice, has potentially high value if limitations are missed or claims are dismissed for delay. If you and your firm seldom deal with matters where more than \$500,000 is at issue, you may not feel such a pressing need. However, large claims continue to arise out of unforeseen areas of law. For instance, ten years ago, we did not expect to see drafting and executing wills as a top five area of law for frequency of claims. We also did not expect ineffective counsel at first instance to be a common ground of appeal in criminal law, with resulting claims.

## 4 Could large defence expenses erode your \$1 million coverage?

You should also remember that it is not only the indemnity or damage payment which might ultimately erode the limits of your insurance. Defence costs eat into your coverage limits. There have been claims in Canada where costs incurred in defending lawyers in complex legal malpractice suits have exceeded \$1 million, with the mandatory limit totally gone before damages are paid. We have had several professional liability files in Manitoba where legal defence costs were more than \$700,000 (preliminary motions, multiple parties, expensive experts and then lengthy trials, appeals and leave applications all add up). The cost of defending these claims dramatically decreases the amount left to satisfy damage awards.

#### 5 Do you have a large tolerance for personal risk?

In the United States, only two States require lawyers to have any professional liability insurance. Lawyers there 'creditor proof' themselves against claims by clients and hope that they don't make any mistakes. Consider whether you are comfortable being personally exposed to a claim that exceeds \$1 million.



### The decision is yours

You are the only one who can assess your firm's exposure to a claim or series of claims that might take you over the mandatory \$1 million limit or the annual \$2 million aggregate limit. Take some time and consider your exposure today.

The Canadian Lawyers Insurance Association (CLIA) offers excess coverage in amounts from \$1 million to \$19 million in excess of the \$1 million mandatory insurance. They also offer extended and stand-alone cyber insurance.

If you would like more information on this year's CLIA Excess Program, excess coverage for retired lawyers, or Cyber insurance, please contact CLIA by email at <u>service@clia.ca</u>.

The <u>online application</u> to apply for Voluntary Insurance products can be completed any time after June 5, 2023. The renewal period will be open until July 31, 2023. Applications submitted after that date will be prorated for coverage.

## Why Buy Your Excess Errors and Omissions Coverage from CLIA?

CLIA specializes in errors and omissions insurance (E&O) and has been providing quality affordable E&O insurance to Canadian lawyers since 1988.

CLIA is different from typical Commercial Insurers:

- 1. CLIA is not an incorporated entity, but a contractual arrangement between the Law Societies;
- **2.** As a reciprocal, CLIA can only insure the lawyers who are licensed by subscribing Law Societies. CLIA is financially supported by its subscribers through premiums collected. The subscribers are the shareholders and there are no commissions charged by CLIA;
- **3.** CLIA can tailor insurance products to meet the needs of its subscribing Law Societies' membership and ensures availability of coverage, even when the commercial market is behaving strangely;
- **4.** CLIA funds claims based on the loss experience of the program and is not directly affected by the volatility of commercial insurance markets;
- 5. Discounts may be provided to subscribing members in the form of premium credits.

### **Voluntary Excess Insurance Limits**

CLIA's Voluntary Excess Program (VEP) provides limits of up to \$19 million per claim, with a \$19 million annual aggregate. The limits available under the VEP are \$1 million, \$2 million, \$3 million, \$4 million, \$6.5 million, \$9 million, 14 million and \$19 million excess of the mandatory \$1 millon dollars.

### Cyber Insurance

CLIA offers a stand-alone cyber insurance product that protects you from claims against your firm that arise as a result of a cyber-attack. This stand-alone product gives you higher limits than the mandatory cyber coverage. The stand-alone cyber insurance can be purchased in conjunction with the excess liability coverage or on its own.

### **Referral Program**

CLIA also has a referral program. If you refer a new client to CLIA for excess E&O coverage, you receive a **10% discount** on the following years' renewal.

### **Application Process**

To learn more about CLIA's excess E&O and cyber coverages, check out <u>CLIA's website</u>. If you have any questions, please email CLIA at <u>service@clia.ca</u>.



# **COVERAGE AT A GLANCE**

TANA CHRISTIANSON, Director - Insurance

The following chart summarizes your coverage under the Canadian Lawyers Insurance Association Lawyers' Professional Liability Insurance Group Policy at a glance.

The complete Policy is available under the Insurance tab on the member's portal at the Law Society of Manitoba website. It might be a great summer beach-read. If you have any questions about the policy, please feel free to contact anyone at the Professional Liability Claims Fund.

### **Contact information:**

Tana Christianson	926-2011	email: <u>tchristianson</u>	<u>@lawsociety.mb.ca</u>
Kate Craton	926-2012	email: <u>kcraton@law</u>	<u>society.mb.ca</u>
Jim Cox	926-2024	email: <u>jcox@lawsoc</u>	<u>iety.mb.ca</u>
Will Barnstead	926-2013	email: wbarnstead@	<u>lawsociety.mb.ca</u>

	Risks	Covered - yes or no?
	Lawyers in private practice	Yes
	In-house counsel	Yes
	Legal Aid staff lawyers	Yes
МНО	Lawyers who were insured at the time of the alleged occurrence but who are now retired or in a position that does not require insurance	Yes
	Lawyers employed exclusively by the federal, provincial or municipal government	No
	Articling students	No
	Lawyers who volunteer at the Legal Help Centre or CPLED, even if otherwise exempt or retired.	Yes

continued...



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WHAT ACTIVITIES

Risks	Covered - yes or no?
Error made in the rendering of professional services to others	Yes
Services normally provided or supervised by a lawyer within the scope of the usual solicitor/client relationship	Yes
Repair costs	Yes
Services rendered in alternative dispute resolution as an arbitrator or a mediator	Yes
Services as an executor, administrator, trustee, personal representative, committee, guardian or patent or trademark agent	Yes, if connected with and incidental to your law practice
Ancillary activities (activities of a quasi-legal or non- legal nature including financial investment and accounting services, brokerage services and real estate development and appraisal)	No
Theft or misappropriation of trust funds or property	No, but see LSM Reimbursement Fund
Dishonest, fraudulent or criminal acts	No, although innocent partners may be covered
Malicious acts or omissions (such as defamation, malicious prosecution)	No, although the insurer will reimburse reasonable defence costs incurred in a successful defence
Penalties assessed against an insured under Section 163.2 of the <i>Income Tax Act</i> or under the <i>Proceeds of</i> <i>Crime (money laundering) and Terrorist Financing Act</i>	No, although the insurer will reimburse reasonable defence costs incurred in a successful defence
Fines or penalties assessed against an insured under the <i>Personal Information Protection and Electronic Documents Act</i> (PIPEDA)	No, but see LSM Cyber Liability Policy
Physical damage to tangible property	No
An insured acting in the capacity of a director or officer	No, but see LSM Directors and Officers Policy



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	Risks	Covered - yes or no?
WHAT ACTIVITIES	Damaged or loss of use of tangible or intangible property, loss of data, disclosure of confidential information from computer viruses or unauthorized interference with internet connection, network computer or telecommunication device	No, but see LSM Cyber Liability Policy
T AC	Fines or penalties	No
WHA	Punitive or exemplary damages or unpaid or unbilled legal fees or disbursements or fees that have been paid but that the insured is asked to return, even if claimed as general damages	No
	Stealing trust funds or property	No, but see LSM Reimbursement Fund
	Professional services provided in another Canadian province pursuant to the National Mobility Agreement	Yes
ERE	Professional services provided from an office outside of Canada	No
WHERE	Practise of laws of a non-Canadian jurisdiction or rendering of advice that involves, in whole or in part and directly or indirectly, the laws of a non- Canadian jurisdiction	No
EN	Mistakes made while a lawyer was insured, even if not discovered until after the lawyer retired or moved to an uninsured position	Yes
WHEN	Claims reported as soon as practicable after learning of a claim or circumstance that might give rise to a claim, however unmeritorious	Yes
× H	Claims up to \$1 million (including defence costs)	Yes
HOW MUCH	Claims over \$1 million	No, unless your firm purchased excess insurance

### SIMPLE. EFFECTIVE. BEST-IN-CLASS

Protect you and your clients against claims arising from errors and omissions. We offer best–in-class protection. Seamless transition from mandatory to excess! A report to your law society is a report to CLIA.

> CLIA IS A NOT FOR PROFIT PROGRAM DESIGNED FOR LAWYERS BY LAWYERS

## ABOUT THE PROGRAM

## RETIREE DISCOUNT

As a retiree, you remain responsible for work performed prior to retirement. We want you to be at ease during your retirement. We provide all retired inactive lawyers with a **25% discount**.

## REFERRALS

Savings for you is our thank you for helping us grow! Referrals are the best compliment you can give us. **Save 10%** on next year's renewal when you refer a client for excess liability

## MPORTANT

Like most liability policies, our **excess liability program is "Claims Made"**, meaning you will need to have insurance in place when a claim is made and not when the work was done. It is not transactional based coverage. Statutes of limitations provide for a time period in which to present claims, and firms that do not renew their insurances will not have coverage for losses reported after the expiry date of the policy. As such, coverage purchased out of the need for a single transaction will need to be purchased as long as the possibility of a claim still exists.

## NEED A FAST+EASY QUOTE?\*



\* The renewal period will be open until July 31st; applications submitted after that date will be prorated for coverage.

FOR MORE INFORMATION

WWW.CLIA.CA | SERVICE@CLIA.CA



# excess liability insurance



## 92% CUSTOMER SATISFACTION

Ninety-two percent of CLIA's survey respondents said they are either likely or very likely to recommend CLIA's excess insurance program to other lawyers

#### VOLUNTARY EXCESS PROFESSIONAL LIABILITY INSURANCE

higher excess liability limits of **14 million** and **19 million** in excess of **1 million** 

Now higher limits available! You asked we listened!

Now available: **\$1M**, **\$2M**, **\$3M**, **\$4M**, **\$6.5M** and **\$19M** excess of **\$1M**.



### NEW CYBER COVERAGE

Clia in cooperation with Ridge Canada now offering **STAND ALONE CYBER INSURANCE** protecting you from claims as a result of a cyber attack

Alberta Law Firms please refer with your Law Society for your Cyber coverage details.

## EXCESS CYBER VS MANDATORY CYBER

#### GET COVERED FOR MORE

The following coverages are not included as part of your mandatory insurance, but are included as part of the new stand-alone excess cyber insurance product:

- \$1M or \$2M Multimedia & Intellectual Property Liability
- \$1M or \$2M Privacy Regulatory Defense & Penalties
- \$1M or \$2M Reputational Damage
- Optional\$250K Electronic Theft, Computer Fraud & Telecommunications Fraud
- Optional \$250K Social Engineering Fraud
- \$1M or \$2M Dependent Network Interruption & Recovery

#### COVERED FOR HIGHER AMOUNTS

The following categories are covered under your Mandatory cyber insurance, but the CLIA stand-alone excess cyber product provides higher limits:

- Security & Privacy Liability \$1M or \$2M vs \$250K
- Network Interruption & Recovery \$1M or \$2M vs \$100K
- Event Support Expenses \$1M or \$2M vs \$100K
- Network Extortion \$1M or \$2M vs \$100K
- Bricking \$250K vs \$100K

### NEED A FAST+EASY QUOTE?





## 21% CANADIAN BUSINESSES IMPACTED BY CYBER SECURITY

Just over one in five Canadian businesses reported that they were impacted by cyber security incidents which affected their operations.

## have an urgent crisis? **24/7**

Cyber incident Breach Coach is available with CLIA's Excess cyber insurance for crisis management or legal advice

> FOR MORE INFORMATION WWW.CLIA.CA SERVICE@CLIA.CA

cyber coverage insurance



## **PRACTICE MANAGEMENT QUICK TIPS** *To Make Practice (and Life) Easier*

TANA CHRISTIANSON, Director - Insurance

Barney Christianson is the Law Society of Manitoba's Practice Management Advisor. He provides free and confidential advice to help you practice law more productively. Barney is also plugged into the network of North American practice management advisors, and collects and curates some of the best resources out there and shares them with us for Communiqué.

## Here's what Barney has to share:

## A GOOD READ

Check out this article: <u>Five Things a Lawyer</u> <u>Hates to Hear a Client Say</u> – and how to answer them.

## **USING EMAIL**

The Oregon State Bar was helping its members with practice management advice before most other Bars were aware of the topic. It has dozens of forms and practice aids available. Some are unique to Oregon or US laws but most can be adapted to our situations, saving us the need to reinvent the wheel. Check out the tips they have to offer about <u>Using Email in the Office</u>.

## RETIREMENT

Thinking about retiring? Before she retired, Vivian Hilder put together a comprehensive package that is available on the Law Society of Manitoba's Education Centre. Check it out. It's called <u>Retirement: Winding up</u> <u>a Practice</u>, and designed specifically for Manitoba lawyers.

## **PRACTICE INTERRUPTIONS**



You should have a plan in place, and updated, to manage practice interruptions, especially when the interruption is a flood (natural or from a busted pipe), fire (like the one in Slave Lake or in the adjacent building or floor), long term power outages (Portage in October 2019), tornados or other wind damage (Elie F5 tornado and, thanks to climate change, the increased risk of downdrafts, downbursts, wind shear, gust fronts, haboobs and derechos – no I did not make those up). Here is what PracticePro offers on the topic of <u>Managing Practice</u> <u>Interruptions</u>.



If you are looking for advice on how to make your practice more efficient and less aggravating, contact Barney directly at 204-857-7851 or by email at <u>barney.christianson@gmail.com</u>. And remember, Barney's practice management advice is free and confidential.



## **Speak Now or Forever Hold Your Peace**

TANA CHRISTIANSON, Director - Insurance

Your professional liability coverage under the current insurance policy will expire July 1, 2023. So, if you aware of an issue which might possibly, at some point in the future, give rise to an insurance claim against you, report it now.

### What should you report?

Report all files that have the potential to turn into a claim where:

- 1) You think you might have made an error or are concerned about a file;
  - or,
- 2) Someone is making allegations (even unmeritorious allegations) against you.

### Why should I report now?

The new insurance policy only covers claims where you had no knowledge of the claim or potential claim before July 1, 2023 and could not have reasonably foreseen that a claim might arise. That means if you want coverage and are aware of a problem or have a file keeping you up at night, report before July 1, 2023 when the current policy runs out.

### How should you report?

Call or email

Tana Christianson	204-926-2011	e-mail: <u>tchristianson@lawsociety.mb.ca</u>
Kate Craton	204-926-2012	e-mail: <u>kcraton@lawsociety.mb.ca</u>
Jim Cox	204-926-2024	e-mail: j <u>cox@lawsociety.mb.ca</u>
Will Barnstead	204-926-2013	e-mail: wbarnstead@lawsociety.mb.ca

Or, go to the <u>Member's Portal</u> on the Law Society website and fill in and submit a Claim Report form. If you would like a form mailed or e-mailed to you, contact:

Kristin Forbister	204-926-2047	e-mail: <u>kforbister@lawsociety.mb.ca</u>
Heather Vanrobaeys	204-926-2036	e-mail: <u>hvanrobaeys@lawsociety.mb.ca</u>

Late reporting can compromise your insurance coverage! So speak now or forever hold your peace.

# Great Library Monday to Friday: 8:30 a.m. to 4:30 p.m.

For assistance, please contact us by phone 204-945-1958 or email at library@lawsociety.mb.ca.



# eLex

Have you had a chance to review eLex? This is a monthly newsletter available to all members of the Law Society of Manitoba. It provides a quick summary of the state of the law in Manitoba, summarizing the latest decisions, the status of legislation, and selected articles of interest to the practising bar. It's easy to skim or read in depth. If you'd like to subscribe, let us know by emailing library@lawsociety. mb.ca.

To learn more visit: lawlibrary.ca/elex/.



The Manitoba Law Library is on Twitter!

Follow us <u>@MBLawLibrary</u> for the latest updates on essential legal information and resources.

## Well-Being







After that long winter, summer seems to have arrived in full force. The world has come alive with vibrant greens, the smell of flowers and people spending more time outside.

Law(yer) Strong's Monday Run/Walk Club has now started its second year and we have new lawyers coming out to walk or run with us all the time. Come and join us! To learn more, join our group email list by sending a request to <u>support@</u> <u>lawyerstrong-mb.ca</u>.

We will be running or walking in the Terry Fox Run on September 17<sup>th</sup> again this year and will be entering a team. Last year we were the 2nd highest fundraiser and we hope to make another positive contribution to this important cause that affects so many. We know that exercise, being outside in nature, creating friendships and giving to others are good for our mental health and build resiliency to stress. Our 'healthy lawyer' activities capture all of these benefits!

## Well-Being

## The Law(yer) Strong Team is Growing!

Last month we welcomed Paula Hamilton, formerly of the Legal Help Centre, who joins us as our new Administrative Co-ordinator. We are lucky to have Paula's experience, energy and wisdom, not to mention her sense of humour, and look forward to what we can accomplish in the coming year to build our program.

We now have almost 50 peer support volunteer lawyers and we are going to be hosting a volunteer celebration event at our new office space on June 16, learning and having fun together.

## Check our website,

### sign up for our newsletter,

and contact us to get involved and join our movement towards a thriving and connected legal community!

Contact: <u>support@lawyerstrong-mb.ca</u>.



## **Health and Wellness Resource Library**

Resources from the Law Society, Manitoba Blue Cross and other Partner Organizations



Learn More

## NEW! Digital Wellness Platform from Manitoba Blue Cross www.wellness.mb.bluecross.ca

From one central location you can now access:

- Counselling support
- Relationship learning program
- Yoga and meditation program
- Sleep assessment
- Budgeting and financial self-directed courses
- And much more

For curated content, tips and resouces to help YOU, start by taking a quick 10-minute <u>wellness assessment</u>.

## **Education**

## **RECRUITMENT GUIDELINES**

*for Articles Starting in Winnipeg in Spring/Summer 2024* 



Just a reminder about the guidelines applicable to the recruitment of students in Winnipeg for the 2024/25 articling cycle. Until 10 am on June 15th, only workplaces which have previously submitted their profiles in accordance with the guidelines can be conducting interviews and making offers.

Here is what you need to know about the interviews and making offers:

#### **Interview Period**

**8:00 a.m., Monday, June 5<sup>th</sup>, 2023, to 5:00 p.m., Tuesday, June 13<sup>th</sup>, 2023**. Interviews should not be conducted prior to 8:00 a.m. on Monday, June 5<sup>th</sup>, 2023. Firms and organizations may interview students at a location of their choosing. Both the Law Society of Manitoba and the Faculty of Law may provide space upon request. Please contact <u>lehnes@lawsociety.mb.ca</u> or <u>lisa.griffin@umanitoba.ca</u> if you require space. Firms cannot communicate with students between this **Interview Period** and the **Earliest Offer Date** described herein.

### **Eligible Students**

Approved principals or their delegates may make an offer of an articling position only to students who have, at a minimum, completed their second year of law studies. Only students who have, or will have obtained an LL.B., J.D. or CQ from the National Committee of Accreditation on or prior to June 30<sup>th</sup>, 2024 will be eligible to apply for 2024-2025 articling positions.



### Earliest Offer Date

Approved principals or their delegates may **not** make an offer of an articling position in Winnipeg for the 2024-2025 articling term **before 2:00 p.m. on Wednesday, June 14<sup>th</sup>, 2023**. Offers made on June 14<sup>th</sup>, 2023 must remain open until 10:00 a.m. of the following morning. Offers made on June 15<sup>th</sup>, 2023 can be accepted or rejected by students any time before 10:00 a.m. on June 15<sup>th</sup>, but must be responded to by that time. *Offers made after June 15<sup>th</sup>, 2022 must be responded to no later than 10:00 a.m. the following morning.* 

#### **Content of Offers**

At the time the offer is made, firms must provide students with the name and contact information of the person to whom the student should communicate acceptance or rejection of the offer. Firms are also encouraged to include pertinent information with the offer, such as the proposed start date, salary and benefits.

### **Communication of Acceptance/Rejection**

As a courtesy to firms and fellow students, students shall deal with offers received as soon as reasonably possible. Once a student has accepted an offer from one firm, the student must promptly communicate his/ her rejection to any other firm that has extended an offer to the student. Failure to promptly communicate rejection of an offer prejudices the offering firm as well as fellow students to whom subsequent offers may be made.

#### **Accepted Offers**

Once an offer has been accepted, neither the employer nor the student may withdraw from the agreement without the permission of the Chief Executive Officer of the Law Society of Manitoba.

### Offer of Articling Positions after June 15<sup>th</sup>, 2023

Firms and organizations may contact students directly to fill any unfilled articling positions. Offers made after June 15<sup>th</sup>, 2023 must remain open until 10:00 a.m. the following day, unless accepted or rejected by the student.



#### **Communication of Results**

Once an offer has been accepted, the student and the employer **must immediately** advise **both**:

- 1. Lisa Griffin; Career Development, University of Manitoba, Faculty of Law by email: <u>lisa.griffin@umanitoba.ca</u> or phone: 204-474-7932); and
- 2. Lisa Ehnes, The Law Society of Manitoba, by email: <u>lehnes@lawsociety.mb.ca</u> or phone: 204-926-2042)

## **Education**



On June 15, 2023, 79 candidates will be presented to the Court of King's Bench and take both the Barrister's and Solicitor's Oaths. Chief Justice Glenn Joyal will preside over the ceremony while Justice Marc Monnin will give his remarks to the newly called lawyers. Members of the profession are invited to attend.

### To arrange for a ticket, contact

#### Lisa Ehnes 204-926-2042 lehnes@lawsociety.mb.ca

The Law Society has also arranged for Call ceremonies outside of Winnipeg for this spring. There was a Call ceremony held in the Pas on May 29<sup>th</sup> at which three people were presented to the Court. There will be another ceremony in Brandon on June 20<sup>th</sup> at which five people will be presented to the Court.

A further call ceremony will be scheduled for the Winnipeg Law Courts this fall for those satisfying all of the eligibility requirements (52 weeks of articling and successful completion of CPLED's PREP course) over the course of the summer and early fall.

### Questions About the Call Ceremony? Contact

Joan Holmstrom, Director l Competence 204-926-2017 jholmstrom@lawsociety.mb.ca.

## **Education**

# **PREP and ARTICLING -** Important Dates

With more than one offering of the bar admission program now provided each year, and to assist with managing schedules, below you will find an overview of some of the important dates for articling students according to the applicable PREP offering.

If you have articling students in your workplace, please familiarize yourself with this table so you can be aware of the bar admission program's demands on your students. Detailed schedules can be found <u>here</u>.

	June 2022 Intake	December 2022 Intake	Accelerated PREP 2023	June 2023 Intake
June 2023	Call to the Bar Ceremony June 15 <sup>th</sup> , 2023 at RBC Convention Centre Capstone Re-Assessments	Phase Three: Virtual Firm Business Law rotation continues Criminal Law rotation opens June 24	Complete work on Phase One: Foundation Modules Phase Two: Foundation Workshops	Phase One: Foundation modules opens
July 2023		Phase Three: Virtual Firm Criminal Law rotation continues Family and Real Estate rotation opens July 26 <sup>th</sup>	Phase Three: Virtual Law Firm begins	Registration closes July 20 <sup>th</sup> Continue work on Phase One
August 2023	Capstone Re-Assessment results are issued	Phase Three is completed	Phase Three is completed and the Final Capstone is administered	Continue work on Phase One:

Notices



## NOTICE

## **COURT OF KING'S BENCH OF MANITOBA**

## RE: HEARING OF CIVIL MOTIONS DURING SUMMER COURT SESSION

During the summer court session from June 26 to September 1, 2023, the uncontested civil motions list will sit on Wednesdays and Fridays each week. Emergency matters during these days will first need to be placed on an uncontested list. Emergency matters outside those days can be arranged by contacting the Civil Motion Coordinator or, if unavailable, calling the court's off-hours emergency number.

**ISSUED BY:** 

"Original signed by Chief Justice Joyal"

The Honourable Chief Justice Glenn D. Joyal Court of King's Bench (Manitoba)

DATE: May 9, 2023





## NOTICE OF RESTRICTION Manu Batish

Until further notice, neither **MANU BATISH** nor his firm, **BATISH LAW CORPORATION**, may accept cash payments.

May 10, 2023

Leah Kosokowsky Chief Executive Officer

Issued: May 10, 2023



## **IN MEMORIAM**

**Cecil Alfred Chapman**, who passed away on March 6, 2023 at the age of 92. Mr. Chapman received his call to the Bar on September 17, 1956. He practised with Chapman, Chapman and Chapman for 26 years before relocating to British Columbia where he continued to practice law. Mr. Chapman also served as a part-time provincial court judge and Canadian citizenship judge.

**Richard Synenko**, who passed away on April 9, 2023 at the age of 70. Mr. Synenko received his call to the Bar on June 29, 1978, following which he practiced law with Alberta Justice until his retirement in 2014.

**Arnold Elia Piragoff, K.C.**, who passed away on April 10, 2023 at the age of 83. Mr. Piragoff received his call to the Bar on September 13, 1965 after which he worked both as a Crown Attorney and in private practice in Manitoba, Saskatchewan and Alberta. He resided in Alberta at the time of his death.

**Thomas Alexander Goodman, K.C.**, who passed away on April 21, 2023 at the age of 73. Mr. Goodman received his call to the Bar on June 24, 1975. He began his practice in Stonewall, Manitoba, following which he pursued his career in Winnipeg with the firm that became known as Gange Goodman & French until his retirement in 2010. Mr. Goodman was appointed King's Counsel in 1992.

## IMPORTANT REMINDER about Law Students

If you have a law student working for you or with you, the student **must** register with the Law Society.

All law students must be supervised by a lawyer. The Application to Register as a Law Student is found on our website with Part B to be completed by the supervising lawyer.

For all the information on registering as a law student, please visit our website:

Law Student Admission Requirements





## **Notice of Benchers' Meeting**

The next regular meeting of the benchers of the Law Society of Manitoba will be held on:

Thursday, June 22, 2023 at 1:00 p.m. (after the Annual General Meeting) at the Law Society offices and via videoconference.



Members of the Law Society are encouraged to attend and participate in the deliberations of the governing body.

If you wish to attend a meeting via videoconference, please contact Pat Bourbonnais at <u>pbourbonnais@lawsociety.mb.ca</u>.

Agenda and meeting minutes are published on the website here.



# Insurance Payment July 4, 2023

On June 1st, all practising members received their Professional Liability Claims Fund assessment by email.

This year's assessment is due **Tuesday**, **July 4**, **2023** and can be paid in one or two instalments.

Check your email! Your invoice is in the <u>Member's Portal</u>!



# **Membership Changes**

### **Inactive to Practising:**

April 18, 2023	M. Rita Vint
May 2, 2023	MacKenzie B. Cheater
May 8, 2023	David A. Grohmueller
May 12, 2023	Katrina A. Trask
June 1, 2023	Gary Minuk
June 1, 2023	Jana Barak

### **Practising to Inactive:**

April 17, 2023	Danelle K. Rougeau Suchy
April 17, 2023	Connor D.P. Henry
April 25, 2023	Mark G. Mason
April 25, 2023	Ryan P. Rolston
May 16, 2023	Reanna N. Blair
May 25, 2023	Christine M.E. Jeroski
May 31, 2023	Jeremiah E.C. Kopp

### **Practising to Suspended:**

May 3, 2023 Michael M. Wasylin

### New Admissions:

Update your membership information by using the <u>Member Forms</u> located in the For Lawyers, Membership Services section of the Law Society's website.

### **Practising to Non-Practising:**

April 28, 2023Ian B. ClunieMay 1, 2023Alyssa K. WiebeMay 15, 2023Nicole L. AllardJune 1, 2023MacKenzie B. Cheater
June 1, 2023 MacKenzie B. Cheater

### **Non-Practising to Practising:**

May 1, 2023	Liam O. Valgardson
May 2, 2023	Sara D. Minshull
May 15, 2023	Kendra J. Jarvinen
May 18, 2023	Steven M. Stadnyk
May 26, 2023	Anna K. Solmundson-Birch

## Suspended to Practising:

June 2, 2023

Michael M. Wasylin

Page 38

## Resources

**Practice Resources** >>>

## **NEW! EDUCATION CENTRE RESOURCES**

## Interactive Online Practice Management Assessment Tool

Our new interactive online tool, along with its companion workbooks, are designed for sole practitioners and designated representatives or those responsible for the operations of multi-lawyer firms to manage risk, review best practices and improve overall practice management.

Learn More

## Manitoba Blue Cross

**Employee Assistance and Wellness Solutions** 

**Free** and **confidential** services for practising lawyers, articling students and their families to support you with any well-being concerns, including financial stress, relationships, career transitions, mental health, addictions and more.

Support is available 24 hours per day, seven days a week throughout the year.



**Winnipeg** 204-786-8880

**Toll-Free** 1-800-590-5553

Hearing-Impaired Line 204-775-0586

# **CPD Events and Resources**

## **Upcoming Programs**

Access to Justice Week Event Video Webinar

**2023 Pitblado Lectures** *In-person at Robson Hall, Faculty of Law, University of Manitoba*  **October 25, 2023** 12:00 noon

**November 9, 2023** 9:00 a.m. Save the Date!

Save the Date!

## **Big Changes are Coming to Family Law!**

On July 1, 2023 the *Family Maintenance Act* will be repealed and replaced by *The Family Law Act* and *The Family Support Enforcement Act. The Inter-jurisdictional Support Orders Amendment Act* will also come into force. The unproclaimed Acts are available at <u>S.M. 2022, c. 15 (gov.mb.ca)</u>

Related regulations will come into force at the same time:

<u>Family Law Regulation</u> <u>Manitoba Child Support Guidelines Regulation</u> <u>Inter-jurisdictional Support Orders Regulation, amendment</u> <u>Child Support Service Regulation, amendment</u> <u>Support Enforcement Regulation</u>

**Stay tuned!** An on-demand webinar with speakers from Manitoba Justice will be available later in June to go over the new legislation, discuss its implications, and to highlight the changes to King's Bench Rule 70.

## **Practice Management Self-Assessment Tools**

These no cost tools are designed to help improve practice management, and include the recently launched interactive online assessment tool and companion workbooks.

Learn More

## Cyber Security

Access a collection of useful resources from our new <u>Cyber Security</u> page on the Education Centre. PLUS find our featured CPD on demand opportunities designed to help lawyers and law firm staff block cyber criminals:



Page 40

## *Upcoming* **IMPORTANT DATES** *At a Glance*



JUNE 15 CALL TO THE BAR RBC Convention Centre 9:00 a.m.

JUNE 22 ANNUAL MEETING AND BENCHER MEETING 12:30 p.m.

#### JULY 4

PAYMENT DUE 2023-2024 Insurance Payment

> SEPTEMBER 7 BENCHER MEETING 12:30 p.m.



**PRESIDENT** Wayne Onchulenko

VICE PRESIDENT Gerri Wiebe

CHIEF EXECUTIVE OFFICER Leah Kosokowsky

**DEPUTY CEO** Rennie Stonyk

### **Mailing Address**

200 - 260 St. Mary Ave Winnipeg, Manitoba R3C 0M6 - MAP

Telephone: 204-942-5571 Facsimile: 204-956-0624 Toll-free: 1-855-942-5571

### **Office Hours**

Monday to Friday 8:30 a.m. - 4:30 p.m.

### lawsociety.mb.ca

