

The Law Society of Manitoba **Communiqué** **2.0**

February 2018

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President's Report

JIM MCLANDRESS

Year End Report and New Year Prognostications Part 1



The New Year, when we look back on what was and guess at what might be.

The first part is easy.

Things have been busy for the benchers.

There's been all the usual stuff of course: monitoring the four funds the LSM operates; monitoring the activities of the Admissions & Education Committee, the Complaints Investigation Committee and the Discipline Committee; rule amendments, policy development and the like. I don't mean to suggest this

is unimportant in any way; quite the contrary, the work on these issues – undertaken by benchers, volunteers and, most significantly, staff – is critically important to the effective functioning of the Law Society. But, they are routine matters undertaken year-in, year-out and are just part and parcel of good governance.

Of more interest are the bigger picture strategic issues the benchers have been dealing with.

We've approved a Strategic Plan for the Law Society. It's the first real strategic plan the Law Society has had. A version will be available on the Law Society's website soon but in the meantime here are the strategic objectives we've set to achieve over the next three years and a brief description of the associated activities:

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President's Report

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- **Competence:** Regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.
 - Implement a “Cradle to Grave” approach by assessing and addressing the competence of lawyers at all stages of practice.
 - Proactively assist lawyers and law firms to mitigate risk.
 - Proactively ensure that lawyers are fit to practise by addressing members’ capacity issues.
 - Safeguard client property.
- **Access to Justice:** Demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans.
 - Explore giving up the profession’s monopoly over the delivery of legal services.
 - Increase and improve collaboration with the courts and other justice system stakeholders to advance, promote and increase access to justice.
 - Promote the unbundling of legal services as a way to increase access to justice.
- **Equity, Diversity, and Inclusion:** Promote and improve principles of equity, diversity and inclusion in the regulation of the legal profession and in the delivery of legal services.
 - Demonstrate commitment to equity, diversity and inclusion.
 - Promote, support and facilitate equity, diversity and inclusion within the legal profession.
 - Address the Calls to Action of the Truth and Reconciliation Commission.
- **Stakeholder Confidence:** Build public and stakeholder confidence in the Law Society as the regulator of the legal profession.
 - Communicate effectively with the public and other stakeholders about the Law Society’s mandate as a regulator to protect the public interest.
 - Increase the Law Society’s engagement with and education of the public.
 - Increase the Law Society’s engagement with the profession.

We have completed an Entity Regulation pilot project. You may or may not recall that in November 2015 the LSM was given the statutory authority to regulate entities – for the preceding 138 years the Society was only able to regulate the activities of individual lawyers. Now the Society can regulate law firms. The first step in the pilot was to test a self-assessment tool developed by the prairie law societies. The tool is intended to evaluate where an entity – a law firm – stands across a number of parameters including: Competence and Capacity; Client Management; File Management and Record Keeping; Financial Management and Operational Sustainability; Relationships with Third Parties and the Administration of Justice; Equity, Diversity and Inclusion; and Access to Legal Services. Almost 30 Manitoba law firms volunteered to participate in the project. A further report and recommendations on the results of the assessment and next steps will be forthcoming this year.

In keeping with the Strategic Plan, we’ve started work on Alternative Legal Service Providers (looking at whether we ought to give up our current monopoly on the delivery of legal services to respond to the enormous access to justice problem) and on the Communications aspect of building Stakeholder Confidence. We have committees in place that are still in the early(ish) stages of their work so I won’t say more about what they’re up to, but you can expect to hear more from me about that in the spring.

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President's Report

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We've continued our close work with the Federation of Law Societies of Canada. The FLSC is not an entity most lawyers pay much attention to. However, its prominence and its value have increased every year since I first became a bencher. I know it sounds trite but – and this is true for anyone practising law today, no matter when you were called – the world we live in today is a whole lot smaller and a whole lot more complex than the world we were born into. It's no longer possible for the Law Society of Manitoba, or any Canadian law society, to go it alone. Like it or not, what happens in one jurisdiction can matter greatly to the rest. The legal profession as a whole is only as strong as its weakest link. It is inevitable that some jurisdiction will drop the ball; something will happen that will break the chain and all of the other jurisdictions will be scrambling to explain how "that couldn't ever happen here." We need the collective voice and guidance the Federation provides. Otherwise we continue with a patchwork of professional governance regimes across the country which increases the odds of a failure of one having dramatic consequences for the rest.

Space doesn't permit me to go into prognostications so I'll save that for the next Communiqué.

If anyone has any feedback, I'd be happy to hear it. You can find me at jmclandress@waa.ca.



ANNUAL MEMBER REPORT

Due April 1, 2018

Complete Online

This year's Annual Member Report is now available in the [Members' Portal](#) and is due April 1, 2018. It combines your annual report on your continuing professional development activities in 2017 and your Law Corporation renewal (for those that have them). This report must be filed by every lawyer who had practising status in Manitoba at any time in 2017.

Completing and submitting this report is mandatory. If you have provided us with your business email address, then you should have already received notification by email that your personalized online report is ready for completion. The email notification would also have contained your user ID and login instructions on how to access the Members' Portal for easy completion and filing of the report. If you have not received your email notification but believe you should have, then please contact Donna Mihalick at dmihalick@lawsociety.mb.ca or by phone at 204-926-2050. If you have not provided the Law Society with your business email address, please do so immediately.

CEO Report

KRIS DANGERFIELD, CHIEF EXECUTIVE OFFICER



The benchers met on December 14, 2017 for their last meeting of 2017 before heading into the holiday season. It was a meeting in which the theme was all about change and moving forward. The benchers received an update on the Strategic Plan that they adopted earlier in October. You will find [here](#) a link to the broad outline of the strategic plan which sets out the Society's objectives for 2017 to 2020. The plan will help to ensure that the benchers and staff stay on task with the objectives and strategies that the benchers have identified as being priorities.

The benchers received a report from the Federation of Law Societies' Working Group on some proposed model rule amendments on Anti-Money Laundering and Terrorist Financing. The existing Model Rules have been in place in Manitoba since 2008, but significant developments in the anti-money laundering and terrorist financing world have created a need to revisit existing protocols. The Law Society is seeking feedback on the Working Group's Report which you will find [here](#).

The benchers considered *in camera* an update on a potential move by the Law Society from 219 Kennedy Street to new premises. The benchers had previously approved a recommendation to proceed with an Offer to Lease and were advised

that those negotiations were now complete. As a result, the Law Society will be moving to 260 St. Mary Avenue as early as May 2018. The building at 219 Kennedy Street that we have called home since 1986 will be put on the market early this year.

The benchers received Monitoring Reports on both the Manitoba Law Library Inc. and the Competence and Education Department. The Manitoba Law Library Inc. delivers services through the Great Library and there have been significant changes there over the course of 2017. With the arrival of Karen Sawatzky as the Director of Legal Resources in January, 2017, the Library has moved forward with a renewed focus on the management of legal information in an electronic age. Enhanced electronic resources have been added which can be accessed by lawyers from their desktops. The benchers were advised that the Manitoba Law Foundation had approved a specific project grant to fund the cataloguing and digitizing of the Library's existing paper collection as well as historical Manitoba court decisions which are not currently available on line. The benchers concluded that there is a role for the Manitoba Law Library Inc. to play in making legal resources and information available through the Great Library as part of the Law Society's mandate to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers.

In the Competence and Education Monitoring Report the benchers heard about the work being done to support competence in the profession. They considered the role of mandatory CPD and determined that the Manitoba model was a relatively light touch approach that ought to be maintained. The benchers were supportive of more on-line programming, and a focus on a competency based curriculum.

The benchers received a variety of reports on Investment Compliance as well as the Financial Statements. Relative performance in both investments and in relation to operations is strong. The benchers also approved the translated rules that clarify the appointed bencher process.

The benchers then moved into their annual joint meeting with the Manitoba Bar Association where there was a great debate on whether the *Code of Professional Conduct* ought to be amended to impose an ethical obligation on lawyers to be technologically competent. Melissa Beaumont, current MBA President, spoke strongly in favour of the resolution while David Swayze (one of the most technologically savvy lawyers I know) spoke passionately in opposition to the resolution. And, then, as we always do, the group adjourned to enjoy some holiday cheer.

Meet our New Equity Officer and Policy Counsel



My name is Alissa Schacter and I am very pleased to be the Law Society of Manitoba's new Equity Officer & Policy Counsel. Some of you may know me from my work in the Law Society's Education and Competence department over the last three years. Prior to that, I had my own consulting business and spent years working in economic development.

As Equity Officer, I will provide the services previously offered by the Law Society's former Equity Ombudsperson, Brenlee Carrington. I am available to provide confidential advice, information and assistance to lawyers, articling students, support staff and clients on issues of discrimination and harassment. I will also develop equity resources and materials to support lawyers in practice and conduct educational sessions promoting equity, diversity, inclusion and respectful workplaces. Another one of my roles is to lead the Law Society's work in response to the Truth and Reconciliation Commission's Calls to Action. You can expect to hear more from me on these topics in future editions of the Communiqué.

If you have a specific issue that you would like confidential assistance with, or if you have ideas or suggestions related to promoting equity, diversity and inclusivity in the legal profession, I invite you to contact me. I can be reached by email at aschacter@lawsociety.mb.ca or phone at 204-926-2029.

Fraud Alert: Email Funds Diversion Fraud

Tana Christianson, Director of Insurance



LAWPRO, the insurer for Ontario lawyers, recently sent out an alert about a new scam targeting law firms. The fraudster uses email to impersonate a lawyer in the firm and tries to convince staff or other lawyers to wire trust or general funds to an account which is actually the fraudster's. To protect your firm from becoming the victim of an email diversion fraud, read this alert and share it with your staff.

If you are concerned you have been targeted by a fraudster, contact Tana Christianson at 204-926-2011 or tchristianson@lawsociety.mb.ca.

Click [here](#) to read the Fraud Alert.

Signing Court Orders and Consent Orders

Darcia Senft - General Counsel, Director of Policy and Ethics



From time to time, the Law Society receives questions or complaints about the signing of court orders including consent orders. Lawyers need to be aware of the ethical obligations owed to clients and the courts. At times, these obligations may come into conflict and lawyers can find themselves in challenging situations. We have spent some time considering what a lawyer should do in circumstances where an order needs to be signed but the client instructs the lawyer not to sign. Please take a moment to review the following ethical considerations that may come into play after the pronouncement of a court order or the negotiation of a consent order.

A) Court Orders

Sometimes, after an order has been pronounced, a client instructs the lawyer not to sign the form of order that is prepared. In some situations, the client fires the lawyer before the lawyer can endorse the order.

If an order has been pronounced by the court, lawyers owe a duty to sign the order in the absence of a valid objection to the form of the order. The lawyer's obligation exists even after ceasing to act or being fired by the client.

If an order has been issued by a court and your client instructs you not to sign, you should:

- Advise the client that you have an ethical obligation to sign the order (if the order, as prepared, corresponds to what was actually ordered by the court), citing obligations owed to the court as an advocate under the *Code of Professional Conduct* (Rule 5.1-1);
- If the client persists with the instructions not to sign, advise that you will have to withdraw and that you intend to sign the order; and
- If the client fires you before the order is signed, write to your (now former) client and advise of your ethical obligation to sign the order and of your intention to sign it.

The client should be made aware of the fact that although duties are owed to clients, lawyers must discharge those duties in a manner consistent with the lawyer's duties to treat the court with candour, fairness, courtesy and respect since lawyers are officers of the court.

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Signing Court Orders and Consent Orders

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B) Negotiated Consent Orders

Where an agreement has been negotiated between counsel, and a form of consent order has been prepared, if your client resiles from the agreement and instructs you not to sign the consent order, you should:

1. Advise the client of your professional obligations to give effect to the agreement that was negotiated (as agent for the client);
2. Should the client persist in giving instructions not to sign, advise that you will have to withdraw and that the client should retain new counsel;
3. Advise the client that if a consent order meant to give effect to an agreement is not signed:
 - the other party may bring an application for a declaration or seek summary judgment;
 - the lawyer will likely become a witness in any proceedings that may be taken to enforce the agreement; and
 - there may be cost consequences visited upon the client.

In these situations, lawyers should proceed cautiously because of solicitor-client privilege issues and are invited to contact the Law Society for advice.

If a client had not authorized counsel to proceed in a certain fashion, it is possible that a complaint and an insurance claim may arise. This highlights the importance of good communication. Lawyers must be clear about what they believe they are instructed to do on behalf of their clients.

Call the Law Society

If a client alleges unethical conduct on the part of the lawyer (such as an allegation that the lawyer coerced the client into an agreement) or negligent conduct (such as an allegation that the client never gave those instructions), the lawyer should contact the Insurer to seek some direction. Depending upon the facts, the Insurer may appoint counsel.

NOTICE OF RESIGNATION

TAKE NOTICE that by resolution of a Panel of the Discipline Committee of the Law Society of Manitoba, **JOHN SLAWKO PETRYSHYN** was found guilty of professional misconduct and was permitted to resign his membership with The Law Society of Manitoba and his name was struck from the Rolls of Barristers and Solicitors of the Society effective October 16, 2017.

DATED at the City of Winnipeg, in the Province of Manitoba, this 4th day of December, 2017.

Kristin Dangerfield
Chief Executive Officer

TIME TO REPORT YOUR 2017 CPD ACTIVITIES!

Eileen Derksen Mead, Director of Professional Competence

The 2017 Annual Member Report (AMR) is now open.
It must be completed by **April 1, 2018.**



Top Tips and Pitfalls to note when you complete your AMR and MCPD Report:

1. The MCPD Report is part of the AMR

The AMR includes and links to the Mandatory Continuing Professional Development (MCPD) Report. The AMR asks you to confirm that you have submitted your MCPD report – which is contained in the CPD Tracker. This is where members can report and confirm their completed CPD activities. You can access the **CPD Tracker** at any time in the main menu of the Members' Portal, located at the top left hand side of the page or you can click the direct link provided in the AMR.



2. The Members' Portal Home Page has a handy Checklist for you

Log in to Members' Portal and you will see a checklist which shows you a summary of your reports. Items in **GREEN** are completed. Items in **YELLOW** are not yet done.

3. Don't forget to Click "Submit"!

A green rectangular button with the text "Submit Report" in white, followed by a green checkmark icon.

A number of members have been surprised to find out that their CPD activities were not saved because they failed to complete the last little step...

Once you have completed the CPD Tracker and the AMR be sure to hit the Submit button at the bottom of the reports. If your report has been successfully received, this should now show as being completed on the home page checklist, with a time stamp confirming the date and time the report was submitted.

4. If you practised for any portion of 2017 you must complete the AMR

All members with active practising status at any time throughout the year must complete and submit the AMR and MCPD report, with a minimum of one CPD hour being completed for every month practised in the 2017 calendar year. If practising for 3 or more months, these CPD hours must include 1.5 EPPM hours.

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Time to Report Your 2017 CPD Activities!

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5. It's the Calendar Year...

CPD is tracked by calendar year so the 12 hours must be completed between January 1 and December 31 even though the report isn't due until April 1 of the following year.

6.. Newly Called Lawyers

If you received your Call in 2017 you are required to complete the AMR and MCPD report. However, in the year of your Call there is no minimum requirement for the number of CPD hours you must complete. If you participated in CPD, please report those activities. If you had zero activities that is acceptable.

7. EPPM (Ethics Professionalism Practice Management)

The EPPM requirement of 1.5 hours per year is not in addition to the overarching requirement of 12 CPD hours. The EPPM is included within the 12 CPD hour requirement. This means of the 12 CPD hours you have completed, 1.5 of these hours must qualify as EPPM.

8. There is No Need to Wait

Fill out the CPD Tracker throughout the year....and make sure to click submit!

9. It's your Responsibility to find Relevant CPD

The [MCPD Guiding Principles](#) define a CPD activity (in part) as any learning activity that is relevant to the professional needs of a lawyer. The Law Society does not accredit what is and is not acceptable because we feel that you are the best judge of what education you need. If you consider the many, many CPD options available you should be able to avoid CPD that you believe is not relevant. That is up to you.

10. Questions?

For any questions or concerns about the MCPD requirement please contact us at mcpd@lawsociety.mb.ca.

Did you know?

Professional development is important for everyone in your office. Programs are sometimes offered specifically for support staff, office managers, etc. If you have staff who would like to receive our upcoming program notices directly please tell them they can contact us at cpd@lawsociety.mb.ca to be added to our email list. Our next program for support staff is on March 7 [All About Anxiety: A Program for Support Staff](#)

Did you know this?

There is an [EPPM page on the Law Society website](#) which highlights upcoming programs with EPPM content. So, if you are looking specifically for those kinds of programs this is good starting place. We'd also recommend using this [chart](#) to help guide you when looking at what kind of programming is eligible and in particular which topics fall into the EPPM categories.

Disbursing Trust Money? Read On Before You Do!

A Message from the Audit Department



Have you ever made a deposit to a bank account and, at some later point, had it returned by your savings institution for insufficient funds? If this happens with a client retainer cheque that you have deposited to the trust account but have not yet disbursed, it is an inconvenience, requiring you to update your accounting records to reflect the new information and to contact your client to obtain replacement funds. But if you have disbursed any of the funds in the intervening period, it becomes an overdraft, an urgent matter that needs to be remedied immediately.

Firms who practise in the area of real estate often have a clear policy of only accepting bank drafts or certified cheques from clients to reduce the possibility of incidents of insufficient funds. Establishing and adhering to a policy of this nature, together with investigating circumstances that alert you to the possibility of a problem (i.e. being sensitive to 'red flags' when they occur), can greatly reduce the risk of funds deposited to the trust account ultimately proving to be "unavailable." However, even bank drafts and certified cheques can be forged, so you must not rely entirely on receipt of such an instrument as protection against insufficient funds.

Prior to disbursing funds from trust, lawyers are required to **confirm the available funds**. This process entails not only verification of the amount of funds shown on deposit in the client trust ledger but also confirmation of their availability. The availability of funds is confirmed, first, by ensuring the receipt has been deposited to the pooled trust account and, second, that it has cleared through the banking system. Only then can the firm be assured that the cheque will not be returned for insufficient funds. Only then are the funds available to be disbursed. This is achieved by, at minimum, establishing and adhering to firm policies regarding:

- a) acceptable methods of receipts from clients;
- b) confirmation of electronic deposits into the trust account prior to disbursement; and
- c) an appropriate hold policy on the various methods of payments, in consultation with your savings institution.

You also need to be alert to the possibility of problems (by being sensitive to 'red flags', as discussed above), and vigilant in investigating and resolving them prior to disbursing funds.

The requirement to have confirmed available funds applies to any disbursement of trust money, not just on real estate transactions.

Have firm policies already? Good, and remember to adjust them when problems arise, and review them from time to time even in the absence of problems.

If you don't have firm policies already, start by engaging with your staff and reviewing the nature of receipts and payments in your firm to determine what measures are needed. Follow that up with discussing an appropriate hold policy with your savings institution, and documenting the policies for reference by current and future staff members of your firm.

Wire Transfers? What You Need to Know about Law Society Requirements

A Message from the Audit Department

For situations where it is more appropriate to use a wire transfer to send trust funds, Law Society Rule 5-43(1)(b) requires approval from the Chief Executive Officer to disburse funds without use of a cheque. Such approval may be obtained in one of two ways:

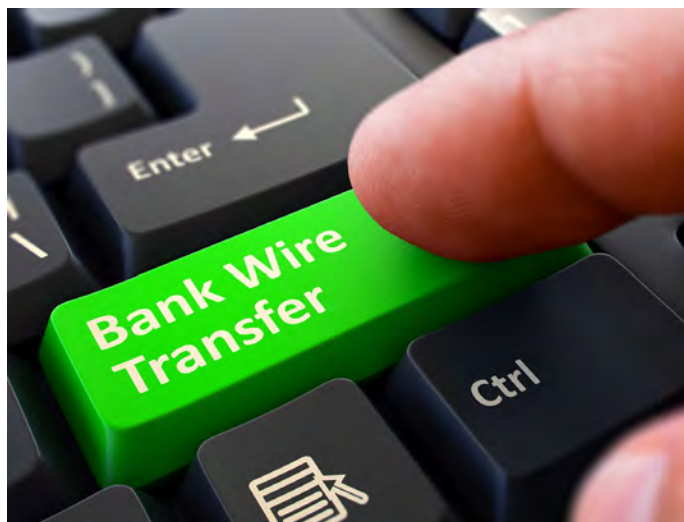
1. Firms that only occasionally need to wire funds must pre-submit an approval form – which is based on the requirements of the **recently revised** [practice direction 03-02](#) – through the Members' Portal on the Society's website; or
2. Blanket approvals of firm procedures may be requested from the Audit Department if use of a wire transfer on a fairly regular basis is expected.

So why update the wire transfer practice direction now? Much has changed in the electronic world since the practice direction originally came out, and there are many different scams out there to try to misdirect client trust funds. Many of these risks have been highlighted in past Communiqué articles, such as:

- [Manitoba Lawyer Stung – Don't Trust Anyone](#) (Oct 2016 Communiqué - page 16)
- [Fraud Alert – Beware of Wire Transfer Misdirection Attempts](#) (Mar 2017 Communiqué - page 16)
- [Saskatchewan Fraud Alert – We Could Be Next](#) (Dec 2017 Communiqué - page 4)

Because the scams and associated risks are constantly evolving, in addition to educating yourself and your staff about red flags and recent scams, it is important to be constantly alert to the risks when handling trust money and sensitive to situations or circumstances that just don't feel right. Question the unusual, and ensure that you resolve the issue(s) before releasing funds.

If you're not sure and want to discuss a situation further before proceeding, you can always contact the Law Society audit department.



2018

Important Dates to Note



February 15

12:30 p.m.
Benchers' Meeting

February 26

Annual Trust Account Report (Self-Report)
for members with December 2017 year end
FILING DEADLINE

March 9

Annual Joint Family Law Program:
*The Tough Stuff: Family Trusts, Pensions,
Professional & Family Corporation,
The Hague Convention & High Conflict Cases*

March 17

Lawyers for Literacy
West Broadway Youth Outreach

April 1

2018 Annual Member Report
FILING DEADLINE

April 1

2018 Mandatory Continuing
Professional Development (MCPD) Report
FILING DEADLINE

April 1

Law Corporation Permit
RENEWAL DEADLINE

April 2

2018/19 Practising Fee and Contributions
(or first instalment)
PAYMENT DUE

April 19

12:30 p.m.
Benchers' Meeting

April 30

Annual Trust Account Report with Accountant's
Review (Form D)
for members with December 2017 year end
FILING DEADLINE

May 2

Bencher Election

May 24

12:30 p.m.
Benchers' Meeting

June 13

PAYMENT DUE
2018/19 Practising Fee and Contributions
(or first instalment)
for students being called to the Bar
on June 14, 2018

June 14

9:00 a.m.
Call to the Bar Ceremony
Centennial Concert Hall

June 15

Deadline to file application for CLIA Excess
Professional Liability Insurance coverage

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2018

Important Dates to Note



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June 22 to 23

Northern Bar
Annual CPD and Meeting
Thompson, MB

June 28

12:30 p.m.
Annual Members' Meeting
and Benchers' meeting

July 3

2018/19 Prof. Liability Claims Fund Contribution
(or first instalment)
PAYMENT DUE

August 27

Annual Trust Account Report (Self-Report)
for members with June 2018 year end
FILING DEADLINE

September 10 to 14

CPLED classes

September 7 and 8

Western Bar
Annual CPD and Meeting
Clear Lake, Manitoba

September 25

CPLED - online modules begin

October 1

2018/2019 Practising Fee and Contributions
(2nd Instalment)
PAYMENT DUE

October 1

2018/19 Practising Fee and Contributions
(2nd Instalment)
for members called to the Bar
on June 14, 2018
PAYMENT DUE

October 31

Annual Trust Account Report
with Accountant's Review (Form D)
for members with June 2018 year end
FILING DEADLINE

November 2

2018 Pitblado Lectures

December 1

2018/19 Prof. Liability Claims Fund Contribution
(2nd Instalment)
PAYMENT DUE

December 1

2018/19 Practising Fee and Contributions
(3rd Instalment)
for members called to the Bar on June 14, 2018
PAYMENT DUE

December 3 to 7

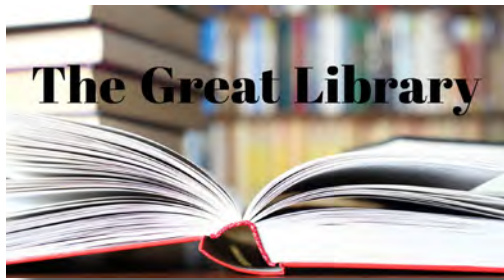
CPLED classes

Bits&Bytes

Kris Dangerfield, Chief Executive Officer



1. Happy New Year to all of my friends and colleagues. When I started practising law in the “olden golden days” as my kids like to call it, lawyers paid particular attention to the end of the calendar year when the Province announced the new Q.C. list. The last Manitoba Queen’s Counsel appointments were made in 1998 and while existing Q.C.s were able to keep their designation, we haven’t seen any new ones in some time. Many provinces though still appoint Q.C.s, so congratulations to my pal, Saskatchewan Law Society CEO, **Tim Brown**, on his recent appointment.
2. Do you know what a CLAWBIE is? I certainly didn’t until December of last year when Great LEXpectations, a legal blog written by none other than Karen Sawatzky, the Director of Legal Resources at the Great Library was nominated to win one. It is an award given out annually to acknowledge excellence in law-related commentary. In the first year of its existence Great LEXpectations was nominated for the award, and received an honourable mention. If you do not already subscribe to this publication, check it out at <http://lawlibrary.ca/about/>
3. In December’s Communiqué there was an invitation to firms and workplaces in Manitoba to participate in a mass articling interview process for those students in third year law or from other jurisdictions who are still in need of articles for the bar admission year starting this spring and summer. The plan envisioned some structure to the process of locating articling positions for those in need. As it turned out, there was little to no interest from potential employers and so the mass interview day set for February 10th was cancelled. As a result, those individuals in search of articles for this year will be returning to the practice of cold calling law firms in search of articles. They will likely also send their resumes to the Law Society so that they can be made available to workplaces that determine that they can take on an articling student. University of Manitoba students will also use the Career Office at the Faculty of Law to assist them in their search. So, if you are willing to take on an articling student to start this spring or summer, please let jholmstrom@lawsociety.mb.ca and Kristen.Fogg@umanitoba.ca know and they will be happy to connect you with the dozens – yes, you read that correctly, dozens – of individuals still in search of articles for the upcoming bar admission year.
4. There will be a bench election this May. Please think about either running or putting your name forward as part of the appointment process. Watch for more information along with the formal announcements in the next while. If you are interested in exploring the good life of a bench and want more information, please call, write or email either me or any of our current benchers.
5. For the last seven years we have raised money for West Broadway Youth Outreach, an inner-city drop-in program for kids at risk. The money means a lot to WBYO because they do amazing things with a shoestring budget, but Lawyers For Literacy is about more than money. It promotes literacy for kids who often don’t get many chances to read for fun. It gives lawyers an opportunity to hang out with an awesome group of kids and volunteers, and to see and hear some good news stories about our community and kids at risk who are on track for success. So...be part of all that. On Saturday, March 17th we will do our 8th annual Lawyers For Literacy event at a new location, Mulvey School (at the foot of the Maryland bridge). Come for an hour or two or for the whole day. If you can’t come, consider sponsoring a reader (I am available for your pledges!). WBYO also welcomes in-kind donations of books, clothing, toys and musical instruments. Contact drossol@lawsociety.mb.ca.
6. We are moving! After 32 years in our offices at 219 Kennedy Street, it is time to purge, rethink and refresh. While I confess to having a fondness of our current premises (which my friend Alan Treleaven, the Director of Education and Practice at the Law Society of British Columbia always said had “such a cottagey feel” to it) the time is right to make the move. We will finally, after seven years, be back in the same building as our audit staff. We will also have offices for those very patient staff members who have been “office surfing.” And we will have lots of room for the profession to engage with one another in our new meeting space. You will receive a more formal announcement in due course, but by the summer you should expect to find us at 260 St. Mary Avenue. We look forward to seeing you there.



GREAT LEXPECTATIONS

Karen Sawatzky, Director of Legal Resources

It's been just over a year since I arrived at the Great Library. I have observed who uses the library and what they use it for. I have noted which publications are used regularly, and where we have weaknesses in our collection. One of my criteria for purchasing is determining whether someone who regularly practises in this area could afford the product. For this reason, I have reinstated the subscription to *Practice and Procedure Before Administrative Tribunals* by Macaulay and Sprague. This is a highly sought after title, even though our subscription ended in 2014. In fact, one volume was so popular it was never returned. Fortunately, we now have the full six volume set in our reserve collection for use only in the library.

As most of you are aware, looseleaf titles are expensive to maintain. We are fortunate that one legal publisher, LexisNexis, has agreed that we may purchase the contents of a looseleaf text on an annual basis. This allows us to maintain these titles as if they were published once a year. If you're wondering if we have a text you need and whether it is updated, please check our [online catalogue](#). If there are other resources that are out of your price range that you would like us to consider, please let me know.

Karen Sawatzky

ksawatzky@lawsociety.mb.ca

<http://www.lawsociety.mb.ca/manitoba-law-libraries>

www.lawlibrary.ca

204-945-1958

NOTICE OF BENCHERS' MEEETING



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

Thursday, February 15, 2018 at 12:30 p.m.,

in the Society's classroom, 219 Kennedy Street, Winnipeg, Manitoba

The dates of future Benchers' meetings scheduled for 2018 are as follows:

- **Thursday, April 19, 2018**
- **Thursday, May 24, 2018**
- **Thursday, June 28, 2018**

Interest on Lawyers' Trust Accounts

Karen Dyck, Executive Director, Manitoba Law Foundation

Did you ever wonder why you don't receive any interest on the client funds held in your firm's pooled trust accounts?

I confess that I never thought about this when I was practising, probably because the firms I worked with already had trust accounts in place when I started. I was aware, however, that the only way clients themselves could receive interest on their funds held in the firm trust account was if those funds were placed into a separate interest-bearing account. Had I pondered this further, I might have assumed that there simply was no interest earned on money held in lawyers' pooled trust accounts. What I now know is that if I had let my mind wander in that direction, I would have arrived at the wrong conclusion.

In fact, in 1986, *The Law Society Act* was amended to provide that interest earned on pooled trust accounts in Manitoba belongs to The Manitoba Law Foundation. This provision came into effect at the same time as The Manitoba Law Foundation was established and as a result, for some 40+ years, the Foundation has been receiving interest earned on the dollars held in these accounts.

The relevant provision under the current legislation, *The Legal Profession Act* reads, in part:

Interest to foundation

50(2) Interest earned on the pooled trust account belongs to The Manitoba Law Foundation....

How does this work, you ask? If you read the rest of s. 50(2), you will note that it also creates an obligation upon lawyers responsible for pooled trust accounts to "...direct the financial institution where the account is kept to remit the interest, less accrued service or other charges pertaining to the operation of the account, to the foundation."

That direction to remit the interest (less service charges and fees) to the Foundation is provided to the relevant financial institution in the form of a Letter of Direction. The contents of the Letter of Direction are set by The Law Society and updated from time to time as required. You'll find the most recent version of the form of [Letter of Direction](#) on the Society's website.

Lawyers opening new trust accounts must provide the signed Letter of Direction to their bank or credit union, and copies to both The Law Society and to the Manitoba Law Foundation. This applies to every new trust account opened and not only when new firms are established. Helpfully, the form itself reminds you of your obligation under the *Act* and Law Society's Audit Department will ensure that you have provided them with a copy.

In the past months, a flurry of new Letters of Direction has arrived at our offices as lawyers prepare to take advantage of the recent rule amendments permitting direct transfers from trust to the land titles registry through use of restricted trust accounts. We receive these letters, often, by mail but increasingly in electronic form as well. Either is perfectly acceptable for our purposes.

What is most important is that we receive them promptly so that we can begin to monitor and ensure that the interest on balances held in those trust accounts is in fact being paid by the financial institutions holding the trust accounts. While ensuring compliance is not typically a problem, sometimes we do encounter circumstances where interest is not being paid, whether due to oversight or where accounts have been improperly coded. Your strict compliance with this obligation therefore helps to minimize the necessity for us to chase down outstanding interest owing on such accounts.

For more information about the Manitoba Law Foundation and the work we do, please visit our website (manitobalawfoundation.org).





2019-2020 Articling Recruitment Guidelines

A reminder to those workplaces in the city of Winnipeg that plan to hire articling students for the 2019-2020 year that there are strict rules in place regarding the recruitment and hiring of articling students for positions in Winnipeg.

Monday, March 26, 2018 by 4:00 p.m.

Employers are to provide information about the firm's practice, office facilities, number of available articling positions, documents required from applicants, the name of any contact persons, address to which an application ought to be sent and any other pertinent information. This information is to be given to the Faculty of Law, Career Development Office via e-mail to lisa.griffin@umanitoba.ca.

Friday, March 30, 2018

The date employer information will be posted to the Faculty of Law Career Development website.

Friday, May 11, 2018

Application Deadline for students to submit requisite information to prospective employers.

Friday, May 25, 2018 between 10:00 a.m. and 2:00 p.m.

The only time period during which offers to interview students can be made.

Monday, May 28, 2018 at 8:00 a.m. to Friday, June 1, 2018 at 5:00 p.m.

The time period during which interviews can be conducted.

Monday, June 4, 2018 at 4:00 p.m.

No offer of an articling position for the 2019-2020 year can be made before this time. Each offer must be kept open for a minimum of 24 hours (unless accepted or rejected by the student within that period).

Offers made subsequent to June 4 must remain open until 10:00 a.m. the following day unless accepted or rejected by a student.

Employers looking to hire articling students for positions in Winnipeg are encouraged to participate in this process as it provides access to the greatest number of potential applicants. People looking for articling positions that may be coming from other locales have the ability to participate in this recruitment process but may otherwise not have access to the information maintained and distributed by the Career Office at the Faculty of Law.

2018-2019 Articling Students

There are still individuals looking for articling placements for 2018-2019. Please contact jholmtrom@lawsociety.mb.ca or lisa.griffin@umanitoba.ca if you are willing to take on an articling student to start with you this spring/summer.

8th Annual “Lawyers for Literacy” In Support of West Broadway Youth Outreach



Saturday, March 17, 2018

Mulvey School - 750 Wolseley Avenue

Time: Any hour(s) you choose between 10 a.m. and 3 p.m.

For the past seven years the Law Society has supported the West Broadway Youth Outreach organization (WBYO) in a program to promote literacy skills and to raise money for their great work in the community.

WBYO is a recreational life skills program for children who live in the West Broadway area. Participants range in age from 4 to 12, as well as junior volunteers, mentors and role models aged 13 to 17 from that community. All activities are free.

This organization operates on a shoestring budget of just over \$80k for salaries, operating and supply costs. It provides services to approximately 600 area children in the summer and a similar number after school and in the evenings throughout the school year. The funding they receive comes primarily from the United Way of Winnipeg. They provide 28 structured programs after school and evenings year round, including:

- Homework club where kids are encouraged to engage in their studies and are offered incentives to do so;
- The Dreams Program through which kids are encouraged to think beyond the day-to-day and realize that they can have dreams that can be fulfilled.

So it seems to be a natural and easy fit for lawyers to adopt and support WBYO by raising some money and/or donating some time. Amazingly, Lawyers for Literacy has raised over \$86,000 in the past seven years, with over 500 lawyers participating in reading to the WBYO kids.

It may be hard to imagine what it would be like not to be able to read, or as a child, not to have had an adult who encouraged reading. We take reading and writing for granted. Unfortunately, there are many children and adults who aren't as privileged and who struggle every day to understand information written at even a basic level. Many kids do not have an adult at home who reads to them or encourages them to read by sharing with them the joy of reading. Many do not have an adult with sufficient literacy skills to help them with their homework. So, on March 17, 2018 our volunteers will have the opportunity to read with, or to, children from the West Broadway area.

The Law Society will provide pizza and drinks for the kids and volunteers.

How can you help?

- You can volunteer to read for an hour or more on March 17, 2018 to children who actually line up for a turn to read;
- You can sponsor one of your colleagues to read, or you can simply make a donation.

continued on page 19

Lawyers for Literacy

continued from page 18

How can you donate?

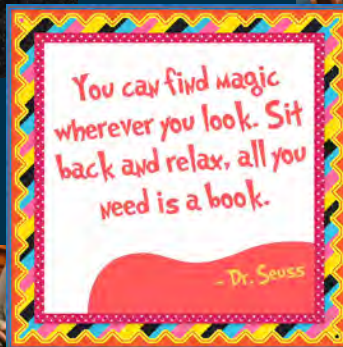
- Monetary donations can be made by cash, cheque or online donation. [Pledge forms](#) are available on the Law Society website. WBYO will provide a charitable receipt for donations of \$25.00 or more;
- Online donations can be made by using the following link <https://www.canadahelps.org/en/dn/16757> and selecting "Lawyers for Literacy" as the "Fund Your Donation Will Support";
- You can donate items. Start the new year off by recycling. West Broadway Youth Outreach welcomes donations of books, children's clothing, juice boxes for after school snacks, games, toys, and musical instruments... pretty much anything you can think of that would be of interest to a child.

We hope you can join us on Saturday, March 17, 2018 at the new location!

**Mulvey School
750 Wolseley Avenue**



For more information contact Debbie Rossol at drossol@lawsociety.mb.ca or by phone at 204-926-2048.



Membership Changes



The following members have changed their membership status effective on the date shown:

Practising to Inactive:

November 28, 2017	Denise A.M. Pambrun
November 30, 2017	Rheal E. Teffaine, Q.C.
December 1, 2017	Jason Rosenberg
December 1, 2017	Sanjay Malik
December 1, 2017	Carlyn L. Sarna
December 1, 2017	Courtney T. A. St. Croix
December 5, 2017	Susan G.B. Haas
December 9, 2017	Karen A. Diggs
December 15, 2017	Kyla E. Wills
December 16, 2017	G. Carter Cottam
December 19, 2017	Scott D. Abel
December 31, 2017	Robert G. Sly
January 9, 2018	Janet Valel

Suspended to Practising:

December 8, 2017	John L. Sinclair
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New Admissions:

December 7, 2017	Joseph G. Fiorino
December 7, 2017	Jonathan K. Boettcher

Non-Practising to Practising:

November 27, 2017	Krista D. Klassen
November 29, 2017	Teresa R.M. O'Donnell
December 1, 2017	Shelby R.T. Thomas
December 4, 2017	Natalie L.M. Roberts
December 4, 2017	Heather K. Unger
January 1, 2018	Katherine E. Loewen
January 2, 2018	Jillian R. Jerome
January 2, 2018	Roxanne M.L. Gange
January 8, 2018	Wendy E. Friesen
January 8, 2018	Betta B. Wishart

Practising to Non-Practising:

December 1, 2017	Diana C. King
December 2, 2017	Aimee E. Craft
December 15, 2017	Nancy R. Zettler
December 10, 2017	Connor J. Smith
January 1, 2018	Bruce S. Thompson

Update your membership information by using the Member Forms located in the "Forms" section on the Society's website:

<http://www.lawsociety.mb.ca/forms/members-forms>

In Memoriam

Fermie Sharon Wilder, who passed away on October 2, 2017 at the age of 65. Ms Wilder received her call to the Bar on June 25, 1981. She practised law in Winnipeg for eight years before relocating to British Columbia where she continued to practise up to the date of her death.

Andrew Patrick Kelly, who passed away on November 1, 2017 at the age of 55. Mr. Kelly received his call to the Bar on June 29, 1989. He practised as an associate with several Winnipeg firms over the duration of his career and at the time of his death was an associate of the firm Boudreau Law.

Eric Brock Irwin, who passed away on November 24, 2017 at the age of 62. Mr. Irwin received his call to the Bar on June 25, 1981. He practised law in Dauphin, Manitoba for 31 years and at the time of his death was serving his second term as Mayor of the city.

DISCIPLINE CASE DIGEST

You will find these new postings under the [Lawyer Regulation/Discipline Case Digests](#) section of the Law Society Website:

17-06 John Loring Patrick Sinclair
17-07 John Slawko Petryshyn



The Law Society of Manitoba

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JIM MCLANDRESS

VICE-PRESIDENT
KATHY BUETI

CHIEF EXECUTIVE OFFICER
KRISTIN DANGERFIELD

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LEAH KOSOKOWSKY

219 Kennedy Street
Winnipeg, Manitoba
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www.lawsociety.mb.ca

2018 ANNUAL JOINT FAMILY LAW PROGRAM

EARLY BIRD PRICING DEADLINE FRIDAY, FEBRUARY 9

THE TOUGH STUFF: FAMILY TRUSTS, PENSIONS, PROFESSIONAL & FAMILY CORPORATIONS, THE HAGUE SERVICE CONVENTION & HIGH CONFLICT CASES

By popular demand, the tough issues are this year's program focus. Attend and get answers.

How do you recognize and effectively deal with the parties in a High Conflict file before it blows up in your face?

Every judge and lawyer who has to deal with family law or child protection matters should take advantage of this opportunity to hear [Dr. Barbara Fidler](#), renowned expert on High Conflict Parenting interventions, as she shares her insights and offers practical, specific advice that works.

There are many ways to value the pension asset - which way is most fair to your client?

[Greg Gillis](#), B.Comm. H., CFA, FCIA, FSA has unparalleled pension expertise and he will explain the differences so that you can help your client make an informed choice.

Do you know how to get your client's share of the value of their spouse's holdings in the family corporation while ensuring you don't have nasty tax surprises down the road?

You will, after hearing our Manitoba panel.

What are the courts saying about Family Trusts sheltering money that could be used for support calculations? What are the tax considerations for Family Trusts?

[Lorne Wolfson](#), experienced counsel, has the answers.

Serving that spouse who isn't in Canada?

The Hague Service Convention has strict rules about service on persons in other countries. [Justice MacPhail](#) and [Tracy Morrow](#) walk you through the requirements and clear the fog.

March 9, 2018

9:00 am - 4:00 pm

**Fort Garry Place
20 Fort Street**

**Now Available
[Program Agenda](#)**

Early Bird

Registration Fee (plus GST):

Lawyer or Judge	\$335.00
MBA Member	\$275.00
Student	\$167.50

Regular Registration Fee (plus GST):

Lawyer or Judge	\$370.00
MBA Member	\$300.00
Student	\$185.00

**[Registration Closes](#)
Wednesday, February 28th**

~ 6 hours of eligible CPD activity, including 1.5 hours of EPPM ~

Jointly presented by the Law Society of Manitoba, The Court of Queen's Bench Family Division Judges and The Manitoba Bar Association, Family Law Section