



The Law Society of Manitoba

Communiqué

2.0

May 2018

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President's Report

JIM MCLANDRESS

What's in a Word?



"Monopoly" is a word that gets people's attention. It's been defined as a "market situation where one producer (or a group of producers acting in concert) controls the supply of a good or service and where the entry of new producers is prevented or highly restricted."

It's also a word the Society used in its [Strategic Plan](#). We used it in the context of a strategy the benchers believe must be explored if we are to demonstrate leadership in the advancement, promotion and facilitation of increased access to justice for all Manitobans. Specifically, the benchers determined the Society should consider giving up its monopoly in the delivery of legal services.

The Legal Profession Act permits a practising lawyer to practise law in Manitoba and provides a few very narrow exceptions of services provided by others that would not constitute the unauthorized practice of law. For example, in certain situations, agents can represent people in *Highway Traffic Act* matters and Legal Aid can delegate certain tasks that might otherwise be done by a lawyer to an employee who is not a lawyer.

Legal services are part of a broad spectrum with legal information at one end, legal advice somewhere in the middle, and legal representation at the other end. Members of the public should have a full spectrum of legal services available to them and accessible by them in order to address their legal needs. The sad reality is they don't and that has led to an access to justice crisis.

I don't think anybody would argue with the fact a large majority of Canadian legal needs are going unmet. A significant percentage of family law litigants are going to court without the benefit of any legal advice. How many of us have told prospective clients it may well not be worth pursuing a \$50,000 civil action because the costs could outstrip the claim?

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President's Report

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When the Law Society says it wants to explore “giving up the monopoly”, we’re talking about removing regulatory barriers that prevent legal services from being reasonably available at a reasonable cost. We all accept the idea you don’t need a doctor for every medical issue we face and when you go to the dentist you’ll spend far more time with the hygienist than you will with the dentist. Why should lawyering be any different? The fact is there are qualified individuals and organizations out there capable of providing specific legal services in a competent way to people who really need assistance but can’t afford what a lawyer would charge. Many of those services come in the form of work lawyers are not interested in providing anyway.

So why should the Law Society stand in the way? Instead of putting up with existing barriers to access, shouldn’t the Law Society protect the public interest by allowing certain legal services to be delivered by people who are competent to provide those services and at a reduced cost?

As you may have guessed by now, in my humble opinion it’s time for the profession to move forward on this front. Let’s focus on the future and figure out how to give the public the ability to choose from a full spectrum of legal services provided by capable people who can provide those necessary services and do so at a reasonable cost.

As always, if anyone has any feedback, I’d be happy to hear it. You can find me at jmclandress@waa.ca.

NOTICE OF BENCHERS’ MEEETING



The next regular meeting of the Benchers of the Law Society of Manitoba will be held on
Thursday, May 24, 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, June 28, 2018**
- **Friday, September 7, 2018**
- **Thursday, November 1, 2018**
- **Thursday, December 13, 2018**
- **Thursday, February 14, 2019**
- **Thursday, April 4, 2019**
- **Thursday, May 23, 2019**
- **Thursday, June 27, 2019**

The Results are In!

Bencher Election, May 2, 2018



Ballots were cast by 777 lawyers in this year's Bencher election. Two people were acclaimed with contested elections in all other districts across the province.

The successful candidates were:

CITY OF WINNIPEG ELECTORAL DISTRICT

Bueti, Kathy President Elect (deemed elected)
Troup, Lynda
Paul, Sacha
Onchulenko, Wayne
Southall, Anita
Horst, Annette
Buchwald, Richard
Wiebe, Gerri

DAUPHIN-CENTRAL ELECTORAL DISTRICT

McCarthy, Shauna Acclaimed

EASTERN ELECTORAL DISTRICT

Driedger, Grant Acclaimed

WESTERN ELECTORAL DISTRICT

Joyce, Ashley

NORTHERN ELECTORAL DISTRICT

McDonald, Theresa

The Law Society would like to thank all individuals who ran for election. It takes time, effort and courage to put one's name forward as a candidate and we appreciate all those who were willing to contribute to the important work of the benchers.

CEO Report

KRIS DANGERFIELD, CHIEF EXECUTIVE OFFICER



Another benchers meeting came and went on Thursday, April 19, 2018. We had some very special visitors attend from the Federation of Law Societies of Canada, namely President **Sheila McPherson** from Yellowknife, and **Jonathan Herman**, the CEO of the FLSC. They brought greetings and the benchers up to date on a number of national initiatives that have been keeping the Federation busy. While they enjoyed the meeting they were truly astounded by the Winnipeg Jets fever that had already hit both the City and the LSM. Here is an update on what else happened at the meeting.

There were two important reports that were approved by the benchers, each of which came from the work of a President's Special Committee. First the President's Special Committee on Communications made recommendations that the Law Society improve its communications and engagement with both the profession and the public. In the case of the profession those communications ought to focus on the role of the Law Society, its strategic plan, key initiatives and the services and resources that are available to the profession. Equally important is the need to accurately convey to members of the public the role that the Law Society

plays as the regulator of the legal profession to ensure that the public is aware that the Law Society is here to ensure that the public is treated effectively and fairly by legal service providers in Manitoba.

A second major report came from the President's Special Committee on Alternate Legal Service Providers. The mandate of the Committee was to explore giving up the profession's "monopoly" over the delivery of legal services as part of the Society's strategic objective to "demonstrate leadership in advancement, promotion and facilitation of increased access to justice for all Manitobans". This work stemmed from the acknowledgment that the vast majority of the public's legal needs (estimated to be 85%) are not being addressed by lawyers. The Committee therefore took a look at how the Law Society could facilitate the provision of affordable legal services to the public in those areas where either lawyers are not currently meeting the need, or where other service providers are actively providing advice and representation to the public. This led to recommendations that the Society seek amendments to its legislation to enable the benchers to permit other categories of service providers to provide information and advice to the public, particularly in the areas of highest need such as family law. These recommendations were adopted and will necessitate further work by the benchers to develop a framework for the provision of services either independently or through an association of lawyers and non-lawyers to ensure that the public is adequately protected. The benchers also endorsed the need to educate the profession about the use of unbundled legal services and legal coaching.

A third Committee report came from the Equity Committee. Committee Chair **Sacha Paul** reported about the enhanced ability of the Committee to focus on a range of issues including Indigenous issues and cultural competency as well as existing LSM equity policies with the arrival of our new Equity Officer **Alissa Schacter**.

The benchers also approved new rules that will result in an appointment of a lay benchers to the executive of the LSM to take place in May of each election year. This will be for a two year term as an Officer at Large. This will allow for a public representative to have ongoing input into the strategic discussions of the Law Society executive team.

The next exciting event was the election for Vice-President. Two excellent candidates put their names forward, **Karen Webb** from Brandon and **Anita Southall** from Winnipeg with Anita emerging as the new VP. No one was more happy and surprised than Anita's future daughter in law, **Kelly Jordanov**, an administrative assistant with our Audit Department.

We are Moving!

KRIS DANGERFIELD, CHIEF EXECUTIVE OFFICER

When I began practising law way back in the day, the Law Society offices were located at Lakeview Square on Carlton Street. In 1986 the benchers decided to relocate and purchased 219 Kennedy Street, which for 32 years has served the Law Society well. If the walls could talk they would have some fascinating stories to share about the changes we have seen in the regulation of the legal profession over that time. Thousands of lawyers have come through the doors, hundreds of benchers, dozens of presidents, several CEOs and a whole lot of committed and creative staff.

When we moved into this building in 1986 the world looked a whole lot different. At the time there were 1,483 practising lawyers in Manitoba. Today we have 2059 practising lawyers, an increase of nearly 40%. Our work as a regulator over the last 25 years has become increasingly more complex. We now need to manage databases, websites and electronic communications, interjurisdictional law firms, mandatory professional education, and multiple national initiatives. You can now practise law in other Canadian jurisdictions for up to 100 days. That means lawyers in those jurisdictions can practise law in Manitoba and so we have to manage that process as well, including the development of national standards such as the Model Code of Professional Conduct and the Anti Money Laundering Rules. We took the professional liability program in-house many years ago as part of a reciprocal exchange with a number of other law societies, which provides you with insurance at rates that are considerably cheaper than on the open market. And over a decade ago we developed CPLED, our pre-call admission program along with our colleagues in Alberta and Saskatchewan. The program's ever increasing class sizes have resulted in some sardine like packed classrooms on more than one occasion.

All of these initiatives require staff to develop and implement them and to support the work that you do every day to meet your clients' needs competently and ethically. They also require a place for the staff to do that work. Our staff levels have increased as our responsibilities have evolved, from 23 people in 1986 to 45 in 2018. Nearly seven years ago that growth necessitated our audit staff being relocated to a building across the street, as we simply had no room for the four auditors who support our audit function. And for the last many months two members of our professional staff have been office surfing, taking up residence in whatever empty office becomes available.

So with all that, it was time to make a move. In our new premises at 200 – 260 St. Mary Avenue, we will be able to carry on with the important work that ensures that the legal profession continues to serve the public honourably and competently. We will have a little less duct tape holding things together, a more reliable HVAC system and enough space to meet our needs well into the future.

What can you expect during the transition process? The offices at 219 Kennedy will be closed on June 21 and 22, 2018 while we make the move down the street. We will be open for business on Monday, June 25, 2018 at 260 St. Mary Avenue.

Our new mailing address will be:

**Law Society of Manitoba
200 – 260 St. Mary Avenue
Winnipeg, MB R3C 0M6**

With the exception of our auditors, who will have new telephone numbers, the rest of our contact information will remain the same.

If you have an emergency during our shutdown and require Law Society assistance, please call the Law Society's main switchboard at (204) 942-5571 and someone will respond to your concerns.

We hope that you will take the time to come and visit us in the new building.



How to Report a Cybercrime Claim

Tana Christianson, Director of Insurance



CLIA has renewed the Cyber Liability Insurance Policy which came into effect July 1, 2017. This policy protects clients when confidential information about that client is disclosed as a result of a cyberattack. The policy also assists law firms with the privacy breach notification required to be made in the event of a confidentially breach, covers destruction of law firm computer data and also addresses cyber threat and extortion costs (ransomware). A copy of the Cyber Liability Insurance Policy is on the Member's Portal under Insurance.

If your computer system is hit by cybercriminals, here's what you should do immediately:

1. disconnect the affected computer from your network. Pull the plug!!
2. contact your IT person (whether an in-house employee or an outside contractor you have on call);
3. email a description of the circumstances to cyberclaims@clia.ca, call 1-833-383-1488 (toll free if you are unable to email);
4. call the Professional Liability Claims Fund at the Law Society of Manitoba on the next business day.

CLIA has retained an outside cyber consulting firm to respond to cyber claim emails and calls. Email is the best way to ensure that prompt and appropriate resources are deployed for this situation. Your email will be assigned to the appropriate cyber professional for a response.

Contact information for the Professional Liability Claims Fund staff:

| | | |
|-------------------|--------------|---|
| Tana Christianson | 204-926-2011 | email: tchristianson@lawsociety.mb.ca |
| Jim Cox | 204-926-2024 | email: jcox@lawsociety.mb.ca |
| Kate Craton | 204-926-2012 | email: kcraton@lawsociety.mb.ca |

2018

Important Dates to Note

**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**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 18****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**

Articling Interviews Are Fast Approaching: Time to Re-Think the Meaning of “Fit”

Alissa Schacter - Equity Officer and Policy Counsel



In the last fifty years we have witnessed many significant social changes in Canada, one of which is that we have become much more diverse. This trend will continue according to Statistics Canada, which predicts that from 2006 – 2031, the foreign born population will increase four times faster than the rest of the population.¹ As well, over the last ten years, the Indigenous population grew at more than four times the rate of the non-Indigenous population and is expected to continue to grow at a much quicker rate.²

So what does this have to do with fit or articling student interviews? Various studies have shown we have a propensity to hire people who are like us. And the upper echelons of the legal profession – those who make the hiring decisions – are still predominantly white and male.

Professor Lauren Rivera of Northwestern University, Management & Organizations Department conducted interviews with 120 elite professional service firms in the U.S. (law firms, investment banks and consulting firms) and found that “Hiring is more than just a process of skills sorting; it is also a process of *cultural matching* between candidates, evaluators, and firms. Employers sought

candidates who were not only competent but also culturally similar to themselves in terms of leisure pursuits, experiences, and self-presentation styles.”³ She also found that “Concerns about shared culture...often outweighed concerns about absolute productivity.”⁴ Basically, we are predisposed to hire people who are like us because we are most comfortable with them, because we perceive they will be a good “fit”.

“Fit” is an interesting concept and one that has come under scrutiny recently. It can include many things from how much you perceive you have in common with a prospective employee, to how likeable they are, to whether you think they have the inter-personal skills to get along easily with colleagues and clients. It would be unrealistic to suggest that fit should be totally discounted, but there are good reasons for examining it more closely.

Fit can be a cover for unconscious bias

Unconscious bias refers to stereotypes that we form about certain groups without realizing it, stemming from the tendency to organize our social worlds by categorizing. We all have unconscious biases. For example, on several occasions I have gone out for dinner with my vegetarian husband where he ordered a salad and I ordered a steak. Yet when the food is brought to the table, the server has placed the steak in front of my husband and the salad in front of me. This is a benign example, but the same type of mental shortcut can have a damaging, even if unintentional, result in the case of conducting job interviews. We may feel more at ease with the candidate who plays the same sport as us, has a cottage at the same lake, looks and sounds like us or shares other similar interests or background. But fairness requires us to recognize that these factors should not unwittingly influence, or even be decisive about who to hire. Instead we should try to recognize our unconscious bias at play, and think beyond it to hire the candidate who is truly the best person for the job based on specific skills and the required qualifications. Otherwise, we risk unconsciously allowing “fit” to act as a barrier for historically marginalized groups who want to enter the legal profession.

¹ Ethnic diversity and Immigration: Diversity growing (Date modified: 2018-01-17) Retrieved from www.statcan.gc.ca/pub/11-402-x/2011000/chap/imm/imm-eng.htm on 2018-05-01

² The Daily, Aboriginal peoples in Canada: Key results from the 2016 Census (Released: 2017-10-25), Retrieved from www.statcan.gc.ca/daily-quotidien/171025/dq171025a-eng.htm on 2018-05-02

³ Lauren A. Rivera, (2012). Hiring as Cultural Matching: The Case of Elite Professional Service Firms. *American Sociological Review*, 77(6), 999-1022. Retrieved from <http://asr.sagepub.com>

⁴ *Ibid* at 1000

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Articling Interviews Are Fast Approaching: Time to Re-Think the Meaning of “Fit”

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Diversity is good for business

There are solid business reasons for wanting your firm or office to reflect the wider community that you serve; diversity has been shown to be good for business. To provide superior service to an increasingly diverse group of clients, law firms and legal departments that reflect their client base can better understand and meet their needs. When we hire someone from a different background, with different interests, they will likely have different networks from which to draw clients. They are also likely to bring a different perspective to both their work and the workplace, which can be beneficial in solving problems and overcoming challenges.

Embracing the beauty of discomfort

The familiar is easy and that is why we gravitate toward it. But to survive and thrive in our complicated and rapidly changing world, we must learn to embrace discomfort. Former CBC business journalist, Amanda Lang, wrote a book on the subject. *“The Beauty of Discomfort: How What We Avoid is What We Need”* examines the utility of discomfort and explores how highly successful people embrace and seek out discomfort as a motivating force. She posits that we can all learn to tolerate and welcome discomfort.

If you are conducting articling interviews this spring, consider how you think about “fit”. Are you unconsciously favouring candidates who are similar to you at the expense of others who may be equally or more qualified for the job, but who you wouldn’t feel as comfortable socializing with after work? “Fitting in” doesn’t necessarily mean being the “same as”.

We all suffer from unconscious bias. Although it is unintentional, unconscious bias can often be a subtle form of discrimination that can have real and harmful effects. The legal profession should reflect the increasingly diverse society it represents. By pausing to examine our biases, we can all play a role in moving toward that goal.

Steps you can take

- Thoroughly define the requirements of the job and the skills and qualifications you are looking for, and then craft interview questions that allow you to assess each candidate based on these specific criteria.
- Have a panel of several people of varying ages, genders and backgrounds conduct the interviews as this will automatically bring diverse perspectives to the process.
- Use a structured interview process in which you ask all candidates the same questions, which are geared to assessing their ability to meet the specific articling requirements.
- Ensure everyone involved in conducting interviews reviews the types of questions that you can and cannot ask candidates so that you comply with *The Human Rights Code* and the Law Society’s *Code of Professional Conduct*. See the Manitoba Human Rights Commission guidelines for [Human Rights considerations in hiring](#).
- Think about how you assess “fit” and whether your unconscious biases may be affecting your appraisal of a candidate.

Alissa Schacter
Equity Officer & Policy Counsel
204-926-2029
aschacter@lawsociety.mb.ca

FRAUD ALERT:

Law Society of Saskatchewan

Tana Christianson, Director of Insurance



The Law Society of Saskatchewan has warned its members about a serious new fraud attempt. We are passing Saskatchewan's warning along to lawyers in Manitoba. Please share this fraud warning with all staff.

The Law Society of Saskatchewan was informed about a recent fraud attempt against a Saskatchewan law firm. It was not the typical fraudulent cheque scam. The scam involved a law firm's email server being hacked and the fraudster's bank information being inserted into a legitimate chain of emails between two law firms in order to misdirect trust monies.

This fraud involved a legitimate client and a valid real estate transaction. The Saskatchewan law firm representing the seller provided their trust letter along with attachments and a copy of a void cheque to the buyer's Saskatchewan law firm via email. The very next morning, the buyer's law firm received an email from what **appeared** to be the seller's law firm, requesting the law firm deposit trust monies to a different trust bank account, due to an audit in process. Bank account details were even provided on what **appeared** to be the seller's lawyer's letterhead with the lawyer's signature. As a result, the buyer's firm completed a direct deposit of the trust monies to the new bank account and emailed confirmation to the seller's firm. Thankfully, the seller's law firm noticed the bank account discrepancy and notified the buyer's law firm immediately which allowed the buyer's law firm to stop payment on the cheque. However, an hour later could have resulted in a completely different outcome.

Some of the red flags noted include:

- Bank instructions were changed just prior to payment. Any change in banking instructions should be an Immediate red flag. Also note, it is extremely rare that activity in a trust account would be affected in any way by an audit.
- The "new" bank account was physically located in another province (i.e. outside of Saskatchewan where the law firm was located). Other than a few rare exceptions, law firms must deposit trust monies to a trust bank account located in their home province.
- All emails from the fraudster appeared to be identical to the legitimate email address, except for one email where the address contained an extra letter.
- The font of the body of the letter was not consistent with the letterhead and the closing salutation.

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FRAUD ALERT: Law Society of Saskatchewan

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In order to avoid falling for such a fraud, the following controls/actions are strongly recommended:

- Discourage/eliminate the acceptance of banking details or wire transfer instructions via email;
- If banking instructions must be received by email, you **MUST** confirm such details, **especially** any change in banking instructions, with the other party by telephone using confirmed contact information **before** disbursing monies (i.e. do not use contact information received via email);
- Keep an eye out for inconsistencies in emails (i.e. email address slightly different from known email address, details within email that are inconsistent with file, poor grammar, unexpected foreign address, contact information that does not match client file records);
- Once you know a party's email has been hacked, do not correspond with this party via email until their email is confirmed to be secure;
- Share details of this scam with all firm lawyers and staff; and
- If your law firm has been hacked, immediately contact your IT professional and **immediately** stop using email until your IT professional advises otherwise.
 1. *Stop using the email account.*
 2. *Pull the plug and disconnect the infected computer!*
 3. *Call your IT person right away.*
 4. *Email CybercrimeClaims@clia.ca and call the tollfree number: 1-833-383-1488 to access assistance under the CLIA Cyber policy*
 5. *Call the Professional Liability Claims Fund at the Law Society of Manitoba and put your insurer on notice.*

Thank you to the Law Society of Saskatchewan for letting us reproduce their fraud article

Notice of Annual Meeting

The Annual Meeting of the Law Society of Manitoba will be held on
Thursday, June 28, 2018 at 12:30 p.m.
in our new offices on, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba.
All members are invited to attend.

Lawyers for Literacy

Kris Dangerfield, Chief Executive Officer



Thanks go out to so many of you who were able to support Lawyers for Literacy, either through your participation in the event on Saturday, March 17, 2018 or by donating to a great cause. This was the 8th annual event sponsored by the Law Society of Manitoba that supports West Broadway Youth Outreach, a recreational life skills program for children between the ages of 4 to 17 who live in the West Broadway area. We had more than 60 volunteer lawyers who either read to, or were read to by, a nearly equal number of amazing kids. A total of **\$10,684.00** was raised this year, which will support a wide range of programming. This event could not happen without you!



More photos of the event on page 20-21

Remember to Report Those Claims

Tana Christianson, Director of Insurance

Your current mandatory insurance policy year runs out on July 1, 2018. If you think you have made an error when you were providing professional services to others or somebody else is making allegations that you made an error, that potential problem should be reported to the Professional Liability Claims Fund staff before July 1, 2018.

Reporting a claim after the policy year has closed can compromise your coverage, so be sure to report now before the policy year is over.

There are several ways you can report your claims:

1. You can call or email Claims Fund staff at:

| | | |
|-------------------|--------------|--|
| Tana Christianson | 204-926-2011 | tchristianson@lawsociety.mb.ca |
| Jim Cox | 204-926-2024 | jcox@lawsociety.mb.ca |
| Kate Craton | 204-926-2012 | kcraton@lawsociety.mb.ca |

2. You can go to our website www.lawsociety.mb.ca on the Member's Portal and fill-in or submit a Professional Liability Insurance Claim Report form.

3. If you would like a Professional Liability Insurance Claim Report form mailed or emailed to you contact:

| | | |
|--------------------|--------------|--|
| Heather Vanrobaeys | 204-926-2036 | hvanrobaeys@lawsociety.mb.ca |
| Kristin Forbister | 204-926-2047 | kforbister@lawsociety.mb.ca |

If you are dropping off or mailing in a Claim Report form, remember the Law Society is moving to 200 - 260 St. Mary Avenue, Winnipeg, MB R3C 0M6 on June 25, 2018.



Insurance Assessment and Exemptions

July 3, 2018

Your Annual Professional Liability Claims Fund Contribution will hit your email inbox on June 1, 2018 and must be paid by July 3, 2018. If you are required to be insured and you haven't paid by July 3rd, you will be automatically suspended.

If you are exempt from insurance because you are employed by government, don't ignore the Claims Fund Contribution email. It contains links to the Exemption Form which you must complete and return to continue to be eligible for an exemption.

And remember, if you are mailing or dropping off a cheque or Exemption Form, the Law Society is moving to 200 - 260 St. Mary Avenue, Winnipeg, MB R3C 0M6 on June 25, 2018.

Do You Need Excess Insurance?

Tana Christianson, Director of Insurance

CLIA excess insurance packages and rates will be available shortly. We will be contacting all those lawyers and firms who purchased excess insurance in the past. If you have never bought excess insurance you can contact us to obtain a New Business Application.

You and the people in your firm are the only ones who can assess your firm's exposure to a claim or a series of claims that would take you over the \$1 Million mandatory limit or the \$2 Million aggregate limit. The \$2 Million aggregate means you would be covered for two \$1 Million claims but also for a series of claims brought in one year where the cumulative amount of damages and defence costs were more than \$2 Million.

If you would like more information on this year's CLIA Excess Program and/or excess coverage for retired lawyers, please contact:

Tana Christianson

204-926-2011

tchristianson@lawsociety.mb.ca

Heather Vanrobaeys

204-926-2036

hvanrobaeys@lawsociety.mb.ca

Kristin Forbister

204-926-2047

kforbister@lawsociety.mb.ca

Dates For 2018-2019 CPLED Course Year

The CPLED course for 2018-2019 will start on Monday, September 10, 2018 with the first of three in-person instruction weeks for the year. The other in-person instruction weeks are scheduled for the weeks of December 3rd and February 4th. The remaining weeks between September 10th and March 26th will involve completing work through the online CPLED platform. There will be a winter break between December 18th and January 8th. The Call to the Bar is scheduled for June 20, 2019. (These dates and modules are subject to change.)

September 10 to 14, 2018

September 18 to October 9, 2018

October 9 to October 30, 2018

November 6 to November 27, 2018

December 3 to December 7, 2018

December 11 to December 18, 2018

January 8 to January 29, 2019

February 4 to 9, 2019

February 12 to March 5, 2019

March 5 to March 26, 2019

April, 2019

June 20, 2019

In person – Interviewing and Advising

Online – Legal Research and Writing

Online – Written Advice and Advocacy

Online – Drafting Pleadings

In person – Oral Advocacy

Online - Ethics and Professionalism

Online - Drafting Contracts

In Person – Negotiations

Online – Practice Management

Online – Client Relationship Management

Supplemental Evaluation period

Call to the Bar

In Memoriam

Gregory James Welch, who passed away on March 19, 2018 at the age of 70. Mr. Welch received his call to the Bar on May 26, 1983. He practised law in Winnipeg for 35 years as a partner, sole practitioner, and most recently as an associate of the firm Booth Dennehy LLP.

Morton Aaron Slusky, who passed away on March 23, 2018 at the age of 93. Mr. Slusky received his call to the Bar on June 2, 1951. He practised law in Winnipeg for 48 years, primarily in partnership with his brother, Irvin, in the firm known as Slusky & Slusky. Mr. Slusky retired from practice in 1999.

The Honourable Douglas Donald Everett, who passed away on March 27, 2018 at the age of 89. Mr. Everett received his call to the Bar in Manitoba on October 12, 1951. He maintained an active practising status from 1951 to 1961 while serving as an officer of Dominion Motors. From 1964 to 1983 he practised as an associate with Booth Dennehy, and in 1983 he joined Royal Canadian Securities Ltd., a parent company to several entities he had established over the years. He retired from practice in 1992. Mr. Everett served as a Senator from 1966 to 1994. In 2017 he was awarded a Doctor of Laws by the University of Manitoba.

Thomas George Hague, who passed away on March 28, 2018 at the age of 71. Mr. Hague received his call to the Bar on June 25, 1974. After one year in private practice, Mr. Hague joined the Department of Health and Social Development. He later moved to the Department of Justice, where he remained until his retirement in 2006.

Saul Mark Cherniack, Q.C., who passed away on March 30, 2018 at the age of 101. Mr. Cherniack received his call to the Bar on October 24, 1940. He was a practising member of the Law Society for 50 years, retiring in 1991. Mr. Cherniack served as an MLA from 1962 to 1981. He was appointed Queen's Counsel in 1963 and received the Order of Manitoba in 2002. Mr. Cherniack was also a recipient of Queen Elizabeth II Jubilee Medals in 1977 (Silver), 2002 (Gold), and 2012 (Diamond).



Civil Trial Scheduling Conflicts

The New Queen's Bench Rules, Practice Directions from the Court of Queen's Bench and Your Obligations Under the Code of Professional Conduct

Darcia Senft - General Counsel, Director of Policy and Ethics

In a Practice Direction dated November 7, 2017, the Court of Queen's Bench addressed comprehensive amendments to the Court of Queen's Bench Rules (Civil). The Practice Direction advised that in order to permit scheduling of trials within the required timeframe, the court will be booking multiple trials relative to the number of judges available. Similarly, it set out the general expectation that counsel would on occasion be required to overbook and schedule trials for the same time period. As a trial date approaches and it becomes apparent that more than one trial will be ready to proceed, counsel were advised of the requirement to make a motion in order to adjourn a conflicting trial.

In order to recognize the professional obligations that lawyers owe to clients while also maintaining the objectives of timely and affordable access to justice by litigants, the Practice Direction was modified on March 14, 2018 as follows:

Where counsel has booked more than one trial for the same time period, and as the trial dates approach, it is apparent to counsel that more than one of these trials is in fact proceeding, counsel must make an appointment with the Chief Justice or his designate (as directed by the Trial Coordinator at the time that the appointment is made) at least one week prior the scheduled trial dates to identify the fact that more than one of these trials is in fact proceeding. This appointment should include all counsel involved in these trials. The appointment will take place by telephone conference, unless otherwise directed by the judge.

In addressing when the referenced appointment should take place, the Practice Direction states:

*While the latest that this appointment should take place is one week prior to the scheduled trial dates, **it may be scheduled as early as the circumstances reasonably dictate.***

Pursuant to the modified Practice Direction, the court will determine which trial will proceed as well as the adjournment date of the trial that is not proceeding. This determination will be based, in part, on inquiries made of counsel and having regard to the background and nature of the actions and the impact of additional delay. Examples of the factors that may be considered are set out in some detail in the modification notice that came out on March 14, 2018.

A. Lawyers and the Administration of Justice

The objectives of timely and affordable access to justice and the principle of proportionality are behind the court's recent and comprehensive amendments to the Queen's Bench Rules, including the rules relating to civil trial scheduling. Improving timely and affordable access to justice will inevitably improve the administration of justice in Manitoba.

Under Rule 5.6-1 of the *Code of Professional Conduct* (the "Code"), lawyers have a professional obligation to encourage public respect for the administration of justice. The rule goes further and sets out that lawyers must also try to improve the administration of justice. There are various ways that lawyers can fulfil their ethical obligations. For example, when communicating with clients about the civil trial scheduling process, lawyers should explain the rationale behind the process and the ultimate objective to improve timely and affordable access to justice in the public interest.

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Civil Trial Scheduling Conflicts

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B. Manage Client Expectations

In light of the two new Practice Directions related to the scheduling of civil trials, lawyers will need to manage client expectations. Clients should be told that the court, for its part, will be overbooking trials having regard to the number of judges who are available to hear trials. As well, lawyers need to advise their clients of the court's expectation that lawyers are also expected to overbook trials. Therefore, lawyers will need to advise clients that if the client's matter is scheduled for trial, it may not actually proceed on the scheduled trial date. With respect to new client matters, this conversation should take place at the outset.

Lawyers will need to ensure that clients appreciate it may be unavoidable for trials to be adjourned. Lawyers will also need to explain that if a client's matter has been set for trial and it is then re-scheduled, there may be additional fees if the lawyer started trial preparation but will need to revisit that trial preparation at a later date. It should be made clear to clients that they may be billed for legal services rendered even where a trial does not proceed as originally scheduled. The additional legal fees would reflect counsel's need to get back "up to speed" on the file and prepare for trial.

Lawyers owe a duty, under Rule 3.2-1 of the *Code* to "provide courteous, thorough and prompt service to the client. The quality of service required of a lawyer is service which is competent, timely, conscientious, diligent, efficient and civil." However, lawyers also owe duties to the court, as officers of the court and, so, as part of managing the expectations of clients, it is important to explain that lawyers must also follow directions established by the court and that they will generally be expected to overbook trial matters. When lawyers do become overbooked, they should advise all affected clients of the conflicting trial dates so that clients are aware of the possibility that their matter may not proceed.

The modification to the Practice Direction sets out that lawyers must schedule an appointment with the court at least one week prior to conflicting trials, but it also specifically states that the required appointment **may be scheduled as early as the circumstances reasonably dictate**. The Law Society encourages counsel to schedule the necessary appointments with the court as soon as it is reasonably apparent that the conflicting matters will not resolve in advance of the scheduled trial dates.

C. Duties to Other Lawyers and Others

In addition to duties owed to clients and the courts, pursuant to Rule 7.2-1 of the *Code*, a lawyer owes responsibilities to lawyers and others with whom the lawyer has dealings to be courteous and civil and to act in good faith.

When lawyers are overbooked for upcoming conflicting trials, in addition to contacting their affected clients, they should, as soon as possible, contact counsel for the opposing parties in the matters (or the parties directly if they are self-represented) to advise of the fact that two trials are scheduled to proceed on the same dates and alert them to the possibility that an adjournment may occur.

Similarly, it would be advisable to inform potential witnesses of the fact that an adjournment may be unavoidable. The Law Society encourages lawyers to become familiar with the new Court of Queen's Bench Rules and the related Practice Directions. Lawyers must be familiar with expectations of the court and expectations relating to conduct as set out in the *Code*. It would be prudent for lawyers and firms to review existing retainer agreement precedents and other standard client communications and revise them in accordance with their professional obligations as articulated by the court and as contained within the *Code*.

Bits&Bytes

Kris Dangerfield, Chief Executive Officer



1. Congratulations go out to one of our Lay Benchers, **Dr Amarjit Arneja**, who was honoured by Doctors Manitoba on May 4, 2018 with its Distinguished Service Award. The honour recognizes services rendered to patients and the community through devotion to the highest ideals of the medical profession. For those of us who have come to know Dr. Arneja over the years this dedication to his patients and community is not at all surprising.
2. Many of you will have met **Ken Opaleke** through the years at our annual Lawyers for Literacy event that supports the work of West Broadway Youth Outreach. Ken is the tireless and incredibly energetic executive director of WBYO who was recognized for his efforts and commitment on May 13, 2018 when the Manitoba Government announced that he would be invested into the Order of Manitoba for 2018. There is no doubt that Ken has enriched the social and cultural well-being of the province in his work.
3. Speaking of WBYO, the final numbers are in from 2018 Lawyers for Literacy. Through your efforts a total of \$10,684.00 was raised to support the recreational life skills program for children who live in the West Broadway area. Lawyers for Literacy promotes literacy skills in youth aged 4 to 17 and based on the reading that I saw a whole lot of kids doing this year, it appears to be working very well.
4. I took a recent road trip to Brandon to take in the swearing in ceremony for former MBA President, Justice Scott Abel. Joining me for his first trip to Brandon (at least one that involved a tour of my childhood homes and schools) was **Dean Jonathan Black Branch**. He claimed to enjoy it but it may just have been the multiple stops at Tim Horton's. It was nice to see **Jack Cram**, one of our favorite former presidents, along with the rest of the Brandon Bar.
5. As you will have seen elsewhere in the Communiqué, we just had the 2018 election which results in a brand new slate of benchers. It is always sad to say good-bye to those who have contributed enormously to the work of the bencher table. This year is no exception. After 8 years serving as a bencher, **Dean Scaletta** was appointed a life bencher at his last meeting on April 19, 2018. He has made enormous contributions to the work of the Law Society, having chaired most committees including the President's Special Committee on Strategic Planning in 2016-2017. I know that Pat Bourbonais is going to especially miss his editorial work on our minutes which he has done diligently for years. And based on his witty farewell note to the benchers I am convinced that Dean will go on to become a successful novelist in the next chapter of this life. We also said farewell to **Serena Puranen** from Thompson, Manitoba, who completed a two year term as a bencher.





Call to the Bar

June 14, 2018

9:00 a.m.

Manitoba Centennial Concert Hall

The Law Society of Manitoba will conduct its annual Call to the Bar ceremony on Thursday, June 14, 2018 at 9:00 a.m. at the Manitoba Centennial Concert Hall. The ceremony is a special sitting of the Court of Queen's Bench. The judiciary of Manitoba will be participating, along with The Law Society of Manitoba and the Manitoba Bar Association. Members of the bar are invited to attend.

It is anticipated that 82 candidates will be presented for admission to the bar on this day. Others from the 2017-18 bar admissions class will be called to the Bar at proceedings taking place before or after June 14 and at various courts throughout Manitoba.

Guest speaker, The Honourable Madam Justice Gwen Hatch of the Manitoba Court of Queen's Bench, will address the candidates for call and admission.

The A. Montague Israels, Q.C. Memorial Prize for the outstanding bar admission course student will be presented to one of the candidates by Justice David Kroft.

If you would like to attend and participate in the procession of robed members, please contact Joan Holmstrom at 204-926-2017. Members wishing to attend but not robing are invited to sit in the audience along with the candidates' friends and family. All are asked to be seated before 9:00 a.m.

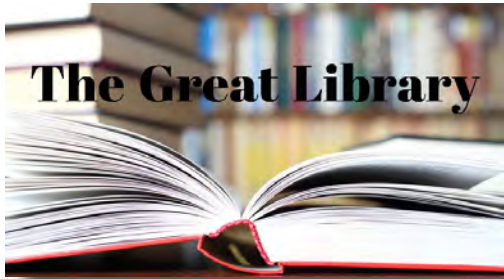
8th Annual "Lawyers for Literacy"



In Support of
West Broadway Youth Outreach







GREAT LEXPECTATIONS

Karen Sawatzky, Director of Legal Resources

It's May and that means conference time. Many professional conferences are held in the spring or early summer, including the Canadian Association of Law Libraries/Association canadienne des bibliothèques de droit (CALL/ACBD). I will be attending the conference, taking place in Halifax, Nova Scotia, from May 27 – 30, 2018. This year's theme is "Build Bridges/Broaden Our Reach". I'm looking forward to a keynote presentation from Jordan Furlong, and a Cannabis Panel featuring representatives from Nova Scotia's Dept. of Health, Dept. of Justice, and a labour and employment lawyer. There will be several sessions on artificial intelligence and how it will impact/already has impacted the law and legal research. The Courthouse and Law Society Libraries Special Interest Group will also hold a business meeting, where I can learn how my colleagues across the country are dealing with the same issues I am, like dwindling resources and use by lawyers, and a rising number of the general public who require legal assistance.

The Jets haven't been the only ones taking a road trip. I've been to a Western Bar meeting in Brandon to let them know how the library can help them, and combined that with a visit with some of the Crown prosecutors with Manitoba Justice. I'll be going to Thompson in June for the Northern Bar Annual Meeting. Meeting lawyers in person is a very effective way of getting the message out that the library is here and in business.

I'd like to introduce my new colleague, Allyssa McFadyen. Allyssa is a recent graduate from the Library and Information Technology program at Red River College. She has been working here as a student since last summer, and is now our full-time Legal Information Professional. Allyssa is looking forward to being the first point of contact for most visitors to the library.

Karen Sawatzky
ksawatzky@lawsociety.mb.ca
<http://www.lawsociety.mb.ca/manitoba-law-libraries>
www.lawlibrary.ca
204-945-1958



Membership Changes

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

Practising to Inactive:

| | |
|----------------|----------------------------|
| March 15, 2018 | Michelle S.L. Pollock-Kohn |
| March 16, 2018 | Dianne P. Pemkowski |
| March 30, 2018 | Jon M. Sigurdson |
| March 31, 2018 | Mary C.R. McAuley |
| March 31, 2018 | Judith M. Blair |
| March 31, 2018 | Patricia L. Fraser |
| March 31, 2018 | Jerry A. Dykman |
| March 31, 2018 | Almer N. Jacksteit |
| March 31, 2018 | Edward L. Warkentin |
| April 1, 2018 | Paul A. Bishoff |
| April 2, 2018 | Lawrence W. McGonigal |
| April 5, 2018 | Sharon B. Mason |
| April 11, 2018 | Susan D. Baragar |
| April 11, 2018 | Steven C. Toews |
| April 13, 2018 | Erin J. Coyne |
| April 16, 2018 | Crystal C. Robertson |
| April 23, 2018 | Kamaljit K. Bawa |

Inactive to Practising:

| | |
|----------------|-----------------------|
| March 15, 2018 | Jeremy W. Trickett |
| March 15, 2018 | Jake E. Harms |
| April 23, 2018 | Janelle A.W. Pariseau |

Non-Practising to Practising:

| | |
|----------------|------------------------|
| March 12, 2018 | Kristen K. Olson |
| March 12, 2018 | Kathleen A. Butler |
| March 26, 2018 | Georgia N.W. Couturier |
| April 1, 2018 | Pardip Nunrha |
| April 1, 2018 | Sarah S. Minshull |
| April 1, 2018 | Kathleen E. Tokaruk |
| April 19, 2018 | A. Blair Armstrong |
| April 19, 2018 | Michael J.G. Dunn |

Practising to Non-Practising:

| | |
|-------------------|---------------------------|
| December 17, 2017 | Devon J. McIntyre |
| March 13, 2018 | Erin M. Harley |
| March 23, 2018 | Christopher J. Curtis |
| March 28, 2018 | Caroline Chalut |
| March 31, 2018 | Guillaume G. Dragon |
| March 31, 2018 | Francine W.G. Lee-Matthys |
| March 31, 2018 | B. Neil Johannson |
| March 31, 2018 | Yvonne J. Peters |
| April 1, 2018 | Magdalena K. Siepka |
| April 1, 2018 | Lucia M. Stuhldrier |
| April 1, 2018 | Arnold S. Peltz |
| April 1, 2018 | Brenda L. Gunn |
| April 1, 2018 | Patricia B. Smerchanski |
| April 1, 2018 | Allison M. Kravetsky |
| April 1, 2018 | Barry C. Effler |
| April 1, 2018 | Robert L. Zaparniuk |
| April 2, 2018 | Elizabeth K.J. Laite |
| April 13, 2018 | David Soper |
| April 24, 2018 | Robin L. Zeiss |
| April 30, 2018 | Rene M. McNeill |
| April 30, 2018 | George E. Ulyatt |

New Admissions:

| | |
|----------------|-----------------------------|
| March 23, 2018 | Brandon L. Barnes |
| March 23, 2018 | Navtej (Navi) D. Dhaliwal |
| March 23, 2018 | Michael W.D. Donald |
| March 23, 2018 | Alexandria J. Winterburn |
| April 26, 2018 | Warren Z. Bravo |
| April 26, 2018 | Ogochukwa (Ogo) Ebubechukwu |
| April 26, 2018 | M. Richard J. Goulet |
| April 26, 2018 | Veena C. Gupta (Karthik) |
| April 26, 2018 | Monica E. Martalog |

Unauthorized Practice of Law in Nunavut

Over the past few years, the Law Society of Nunavut has received reports of lawyers engaging in unauthorized practice in Nunavut. In some of these instances, the lawyers said they were unaware that Nunavut was not subject to the National Mobility Agreement, and had assumed that they would be able to practise law in Nunavut for a limited period without being licensed.

Nunavut is not a signatory to the National Mobility Agreement. Instead, it abides by the Territorial Mobility Agreement. This means that in order to practice law in Nunavut, a lawyer must either:

- be a member of the Law Society of Nunavut; or
- apply for a Restricted Appearance Certificate, which allows a lawyer to actively practise law in Nunavut on up to three legal matters for one year.

It is important that anyone who wants to provide legal services in Nunavut follow the procedures of either becoming a member of the Law Society of Nunavut or applying for a Restricted Appearance Certificate. Information to apply, including fees, is available on the Law Society of Nunavut website.

If you have any questions, please contact the Law Society of Nunavut by email or at 867-979-2330.

DISCIPLINE CASE DIGEST

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

17-08 Daniel Paul Orlikow
17-09 Anand Varuun Persad



The Law Society of Manitoba

PRESIDENT
JIM McLANDRESS

VICE-PRESIDENT
KATHY BUETI

CHIEF EXECUTIVE OFFICER
KRISTIN DANGERFIELD

DIRECTOR OF REGULATION
LEAH KOSOKOWSKY

219 Kennedy Street
Winnipeg, Manitoba
R3C 1S8

Telephone: 204-942-5571
Fax: 204-956-0624

www.lawsociety.mb.ca



CPD Calendar of Events 2018

Upcoming Programs

May 23 & 30 12 noon to 1:30 pm
**Opening and Operating a Trust Account:
The Basics (2 Part CPD)**

Free Registration for 2017-18 Articling students

Part 1 (May 23) 12 noon to 1:30 pm
Core Concepts & Accounting Records

Part 2 (May 30) 12 noon to 1:30 pm
Hands-on Learning: A Practical Scenario

May 31 12 noon to 1:30 pm
Tax 101 for Commercial Lawyers

June 22 9:00 am to 4:30 pm
Northern Bar Annual CPD
Thompson, MB

Save the Date!

Annual Rural Bar Program

August 24

Central Bar Annual CPD

Location: Stride Place, Portage La Prairie

Half Day Programs

October 2

Drafting Wills 101 (Morning Session)

Estate Administration 101 (Afternoon Session)

Lunch Hour Program

October 11

Renouncing US Citizenship

Full Day Program

November 30

2018 Child Protection Program

NEW **The 2018 Pitblado Lectures Topic Announcement**

Reimagining Justice: Trust, Truths and Transformation(s)

Friday, November 2, 2018

Fort Garry Place, Grand Ballroom

www.pitbladolectures.com



Follow us on Twitter @pitbladolecture for the latest program updates