



# The Law Society of Manitoba

# Communiqué

# 2.0

October 2018

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## Communiqué 2.0

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## President's Report

KATHY BUETI



Let's talk about mobility. There are many of you in the profession who will remember a time when the only way to practise law in another province or territory, even for a limited period of time, was to write that jurisdiction's transfer exams. We've come a long way since then.

Under the National Mobility Agreement, you can now practise temporarily in a reciprocal Canadian jurisdiction for up to 100 days per year and if you are wanting a permanent transfer, or are seeking to be called in another such jurisdiction, transfer examinations are no longer required in most cases. Manitoba was one of the leaders in the mobility initiative, in part

because of our unique geographical location and the presence of many regional businesses.

Mobility has benefited both the public and the profession. For example, it has enabled a more consistent approach to the regulation of lawyers with the adoption of the National Model Code of Professional Conduct, National Discipline Standards and the CPLED pre-call education program which is administered across all three Prairie Provinces.

Although we have come a long way on the mobility front, we still have a little further to go as it is not quite universal and ultimately, it is desirable to allow any lawyer to practise anywhere in Canada. Whereas most provinces and territories allow for some degree of mobility for lawyers who practise in the jurisdiction of a reciprocal governing body, the province of Quebec has expressed some concern regarding the effect that mobility may have on the appointment of Supreme Court of Canada justices.

Quebec has a unique place in our Federation as, by law, three of the nine positions on the Supreme Court must be from Quebec. Accordingly, although Quebec has demonstrated a willingness to sign on to the National Mobility Agreement, there

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## President's Report

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was some concern expressed by the Quebec government that a lawyer from another Canadian jurisdiction may practise in Quebec for a limited period of time, qualify for an appointment to the Supreme Court and potentially circumvent the statute's intent that the position be filled by a long-standing Quebec based lawyer.

As a show of good faith, the Law Society of New Brunswick has indicated that it will permit Quebec lawyers to practise in New Brunswick without requiring a reciprocal agreement from the regulators in Quebec. This is significant because New Brunswick has the largest French speaking population outside of Quebec. More recently, both the Northwest Territories and the Yukon have also resolved to permit lawyers from Quebec to practise under the mobility provisions without a reciprocal arrangement in place.

We anticipate that Manitoba will be looked to for leadership on this front not only because we have always been leaders in this forum but also because we have the second largest French speaking population outside of Quebec. A goodwill gesture similar to New Brunswick's may go a long way to creating true national mobility. At the end of the day, Quebec's concerns could be extended to any jurisdiction and, if we are all in the same boat, there truly is a level playing field. The unlimited access to practise anywhere in the country may well outweigh jurisdictional concerns.

The benchers last looked at mobility in 2014 and it may be time for them to consider it again in light of the developments in New Brunswick. We would love to have your input on this and any other areas of interest to you.

## NOTICE OF BENCHERS' MEETING



The next regular meeting of the Benchers of the Law Society of Manitoba will be held on  
**Thursday, November 1, 2018 at 12:30 p.m.**  
at the offices of the Society, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba.

The dates of future benchers' meetings scheduled for 2018 and 2019 are as follows:

- **Thursday, December 13, 2018**
- **Thursday, February 14, 2019**
- **Thursday, April 4, 2019**
- **Thursday, May 23, 2019**
- **Thursday, June 27, 2019**

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

# CEO Report

KRIS DANGERFIELD, CHIEF EXECUTIVE OFFICER



One of the highlights in the benchers world is our annual meeting at Clear Lake. We have the opportunity to get together outside of Winnipeg and to spend some quality time together, not only doing some important benchers work, but also getting to know our colleagues around the benchers table and from the Western Bar just a little bit better. This year it was particularly important as we welcomed four new benchers to the fold: **Theresa McDonald**, the newly elected benchers from The Pas (more on that elsewhere in the Communiqué), appointed benchers from Winnipeg, **Christian Monnin** and **Victoria Cornick**, and **Patricia Kloepper**, our newest lay benchers. We then began the meeting with greetings from **Mark Toews**, the newly minted President of the Manitoba Bar Association, and from **Stacy Nagle**, Executive Director.

The benchers received a range of reports from the President, the CEO and Federation Council member **David Swayze**. They also received committee reports from the Complaints Investigation and Discipline Committees as well as monitoring reports on finances and investment compliance.

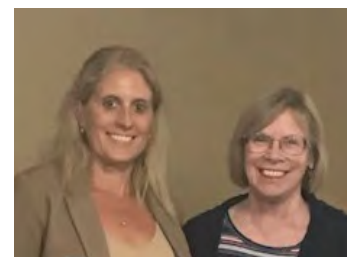
There were two significant policy items on the agenda. First, the benchers formally approved the rules that will change the way in which the Law Society has historically engaged with the profession. The Law Society has always regulated individual lawyers, but has had more limited regulatory requirements for law firms. That will change effective April 1, 2019 when all law firms will be required to register with the Law Society and to designate a responsible lawyer to receive and respond to communications from the Society on behalf of the firm. Of course lawyers have been doing that for many years by designating a lawyer to receive communications from the Law Society about complaints and insurance matters, but this amendment will broaden the scope of those communications. The registration of law firms will also facilitate the implementation of the new Trust Safety Program which will require every law firm to designate a lawyer to act as the Trust Account Supervisor (TAS) to operate the law firm's trust account(s). The TAS must be approved by the Law Society on or before April 1, 2019 and will be required to successfully complete a prescribed training module. In conjunction with those changes, the benchers also eliminated the need for lawyers to file an annual trust account report and to advise of their trust year end date.

The second significant policy item related to what we have been calling CPLED 2.0. In the 2017-2020 Strategic Plan, the benchers approved an initiative for the development and delivery of a renewed CPLED program that would be a high quality, pre-call education and assessment program. This is an initiative that we have been working on in conjunction with our partners in Alberta and Saskatchewan over the course of the last year. In March 2018, Dr. Kara Mitchelmore was hired to lead this work and the benchers received recommendations from the CPLED Board to proceed with the proposed business plan, which contemplates development costs of \$3 million spread over the next two years. The benchers approved a \$600,000 loan to CPLED on account of Manitoba's share of the development costs, which will be repaid over the course of 10 years, beginning in 2020 when the new program rolls out.



President Kathy Bueti with Marston Grindey

Two special presentations were made at the conclusion of the meeting. First, an Honourary Life Benchers Certificate was presented to **Marston Grindey** who has decided to retire as a lay benchers. Marston was first appointed a public representative in 2018 and became a lay benchers in 2011. Also honoured was **Karen Webb**, who became a benchers in 2013 and who has served on a variety of committees including as Chair of the President's Special Committee on Alternate Legal Service Providers.



Kathy Bueti and Karen Webb

The benchers then moved into a workshop described as "A Practical Understanding of Institutional Racism and How to Overcome It", presented by **Dr. Rehman Abdulrehman**. His work as a Clinical Psychologist is focused on training organizations to be more culturally competent and to create more inclusive environments and he presented some very thought provoking perspectives.

## Trust Safety Program

Leah Kosokowsky - Director of Regulation



### Proactive Approach

Recently, the Law Society benchers decided to take a more proactive approach to the regulation of trust accounts by implementing the new Trust Safety Program which will come into effect on April 1, 2019.

Under the program, lawyers must first obtain approval from the Law Society and complete an on-line trust account education program before opening and operating a trust account. Similarly, firms with existing trust accounts will be required to have a trust account supervisor approved and that person will be required to complete the education program.

### Why?

Why would the benchers take such a step? The Law Society is very proactive when it comes to licensing lawyers. We require those that wish to practise law in Manitoba to have a law degree from a recognized university, to complete the CPLED program, to

article under the supervision of a practising lawyer and, once called, to complete some annual education.

The requirements have not, however, been as proactive when it comes to lawyers who operate trust accounts. Historically, any practising lawyer has been able to open a trust account in Manitoba regardless of that individual's training in accounting, or knowledge of the trust accounting rules and record keeping requirements. So, even though the Society has a robust auditing program, it is largely reactive in nature – identifying and responding to concerns rather than preventing the problems from arising at the outset.

### Benefits

There are many benefits to the new program:

- **Reduced Risk Increases Protection of the Public** Requiring that a trust account be operated under the direction of an approved and qualified trust account supervisor reduces the risk of trust funds being mismanaged, thus better protecting the public and likely reducing the number of claims to which the profession must respond.
- **Qualified Backup** For firms who rely upon a bookkeeper or accountant for the day to day functioning of the trust account, there will be a knowledgeable lawyer who can effectively oversee that work or take over the responsibilities in the event of an unexpected departure of the bookkeeper.
- **User Pay System** The cost of monitoring firms that do not comply with the trust accounting rules will be borne by those non-compliant firms rather than the profession.
- **More Resources to Support Effective Trust Account Management** Those trust account operators whose non-compliance results in the application of a disproportionate amount of Law Society resources will no longer be permitted to have a trust account, thus freeing up resources for other purposes to benefit the public and the profession.
- **CPD at No Charge** Lawyers who take the program can do so at no charge and will receive credit toward their CPD requirements.
- **No Annual Trust Account Report Required** With the advent of the trust safety program, the benchers decided to eliminate the requirement that firms with trust accounts file a lengthy annual trust account report. Instead, a few key questions from the annual trust account report will be incorporated into the annual member report, and those questions need only be completed by the trust account supervisor.

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## Trust Safety Program

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The rules to implement this program will be finalized in the next two months and will come into effect on April 1, 2019. In the interim, the Law Society will be hosting the following lunch hour information sessions:

Session #1	December 5, 2018	The Victoria Inn, Brandon
Session #2	December 17, 2018	Law Society classroom, Winnipeg
Session #3	January 9, 2019	Law Society classroom, Winnipeg
Session #4	January 11, 2019	Webinar

While there is no charge to attend, members must [register](#) in advance in order to ensure that there is sufficient seating and to receive the reading materials.

### What else is happening?

Effective April 1, 2019, every law firm in Manitoba also will be required to register with the Law Society and to designate a practising lawyer within the firm to communicate with the society on behalf of the firm.

### Why?

In 2017, the benchers developed a three year strategic plan, a major component of which is for the Law Society to regulate proactively to protect the public interest by ensuring that legal services are delivered by competent and ethical lawyers. Among other things, the plan contemplates that the Society will proactively assist lawyers and law firms to mitigate risk. The Trust Safety Program is one example of an initiative to accomplish this goal.

A preliminary step for the benchers was to clarify the Society's ability to regulate law firms and not just individual lawyers. This will enable the Society to communicate with firms in order to provide advice, direction and resources so as to mitigate risk within the firm.

As a result, the benchers resolved to amend the definition of "law firm" within the Law Society Rules so as to align it with the definition of "law firm" in *The Legal Profession Act* and to require, as of April 1, 2019, each firm to register with the Society and designate a practising lawyer within the firm to communicate with the Society on behalf of the firm. Although the designated lawyer need not be the firm's trust account supervisor, these rules will come into effect at the same time as the Trust Safety Program requirements.



## Why Indigenous Law Matters

Alissa Schacter - Equity Officer and Policy Counsel



September 27th marked a first for the Law Society of Manitoba. On that day, we held a CPD program on Indigenous Law at Turtle Lodge on Sagkeeng First Nation, in partnership with the Manitoba Bar Association's Aboriginal law section, the Faculty of Law and the Manitoba Indigenous Law Students Association. We previously held an Indigenous legal traditions CPD at the lodge, but this one was unique in that the content and agenda were set *entirely* by Indigenous Elders and knowledge keepers. We asked the Elders to tell us what we, as lawyers, should know about Indigenous law. For the first time, we collaborated closely with Indigenous law students in planning the program, and in another first, an Indigenous Elder, Florence Paynter, gave the program its name in a traditional naming ceremony. The program name in Anishinaabemowin was Tebweta Ajiimowin – which means “to tell the truth”.

The Elders spoke about traditional teachings and laws and shared their experiences. Their stories and the powerful, rousing sounds of the drum conveyed the age-old wisdom and beauty of several Indigenous cultures. One of the most moving parts of the day occurred when four of the Indigenous law students had the chance to tell their truths. In turn, they each shared some raw personal experiences, which offered insight into their reality of straddling two worlds that sometimes conflict

with one another. These included a deeply hurtful racist comment casually delivered by a fellow student in the Common Room at Robson Hall; a young family member who was failed by the child welfare and health care system and died by suicide; the difficulty of facing questions posed by family members who were deeply disappointed by the justice system after the Stanley and Cormier verdicts; and the burden of carrying all of these issues while trying to complete law school. These weren't easy truths to hear and they weren't easy for the students to share, but they needed to be spoken and we needed to hear them.

Last month, the University of Victoria's Faculty of Law made history when it launched the world's first joint degree in common law and Indigenous law. In four years, the first class of 26 students is expected to graduate with a joint JD/JID degree (Juris Doctor/Juris Indigenarum Doctor) in common law and Indigenous legal orders. The program includes field school and community placements where students will have the opportunity to consult and work with Elders and Indigenous communities on Indigenous law.

It's fair to say that there are members of the legal profession and society at-large who wonder what this program, or holding day-long CPDs on Indigenous law means and where it's leading us. Is the ultimate aim to set up a parallel system of justice for Indigenous people in Canada? Is it to integrate elements of Indigenous law into our existing common law system? Some may ask why Indigenous law matters to the broader society at all. According to the University of Victoria Faculty of Law's website, “Students will learn how to understand Indigenous legal orders, reason with them, build institutions based on those orders, and design institutions and procedures that work in concert with other levels of Canadian law.” What is the basis for Indigenous law working “in concert” with Canadian law and how will this be achieved? There isn't a single or straight forward answer to this question. It's never easy to start down a path when you don't know exactly where it will lead you, but sometimes you know you have to begin the journey anyway. This is especially difficult for lawyers; we're trained to identify and avoid risks and we like being in control. However, this is the essence of the journey of reconciliation, which challenges us to step out of our comfort zone and be open to new approaches and different perspectives. The University of Victoria is boldly venturing down this path.

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## Why Indigenous Law Matters

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Some see reconciliation and all that it entails, including Indigenous law, as largely irrelevant to their legal practices and their lives. But the challenge of reconciling with Indigenous peoples is relevant to all of us and it requires our sustained attention and ongoing action. Indigenous peoples have told us repeatedly that they seek self-determination; they aspire to see their traditions and laws recognized, whether dealing with child protection, criminal justice or land issues. The federal government committed to wrestling with some of these difficult issues when, earlier this year, it announced its intention to develop a [Recognition and Implementation of Indigenous Rights Framework](#), consisting of legislation and policy. Although the details of the Framework remain to be seen, the federal government is trying to move the bar forward, using co-developed paths and flexible solutions.

Indigenous peoples represent the fastest growing demographic in Canada. Their success is critical to our collective success. Even though the exact destination isn't clear, and the road is long, winding and bumpy at times, we need the courage to continue taking steps, both large and small, toward reconciliation.



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*It's never easy to start down a path when you don't know exactly where it will lead you, but sometimes you know you have to begin the journey anyway.*

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## Technology and the Competent Family Law Lawyer

Tana Christianson, Director of Insurance



Jim Calloway, director of the Oklahoma Bar Association's Management Assistance Program, is a fellow of the College of Law Practice Management and the author of the excellent *Law Practice Tips Blog* for the Oklahoma Bar Association. Our own Practice Management Advisor, Barney Christianson, drew my attention to a recent article in Jim Calloway's blog called [Technology Competence for the Family Lawyer](http://jimcalloway.typepad.com/).

Jim's blog post was prompted by an article he read about a divorcing spouse's use of technology and the "Internet of Things" to torment the spouse left in the house.

Competent family law lawyers currently advise their clients on how to deal with their social media accounts (Facebook, Instagram, Snapchat, etc.) and their email passwords. Jim Calloway's blog goes further and sets out detailed steps a client should take to protect their digital privacy and security. It would be worth incorporating those steps into your retainer letter or in a file-opening handout for family law clients.

Here's a link to the blog post: <http://jimcalloway.typepad.com/>

If you practise law, you should be interested in practice management issues. Do yourself a favour and subscribe to Jim Calloway's excellent *Law Practice Tips Blog*.



### NOTICE

#### RE: Mandatory Standard Clauses for Family Division Orders

The Court recently published Version 5 of the [Mandatory Standard Clauses for Family Division Orders](#). **Version 5 of the Standard Clauses will be required commencing on October 1, 2018.**

#### ISSUED BY:

**The Honourable Madam Justice M. Rivoalen**  
Associate Chief Justice (Family Division)  
(Manitoba)

**DATE: September 4, 2018**



## Referral Fees - What You Should Know

Darcia Senft - General Counsel, Director of Policy and Ethics

From time to time, we receive questions about fee referral “pitches” and whether such fees can be paid and received without causing a lawyer to act in breach of the rules set out in the *Code of Professional Conduct*.

The *Code* has rules and commentaries that relate to the division of fees and referral fees. Rule 3.6-7 specifically prohibits a lawyer from directly or indirectly sharing, splitting, or dividing his or her fees with any person who is not a lawyer and from giving any financial or other reward for the referral of clients or client matters to any person who is not a lawyer.



From time to time lawyers receive telephone calls or emails from individuals who indicate that they want to help increase the number of new cases that the lawyer takes on. For example, a caller explains that his company will provide contact information to potential clients in whatever practice area or geographic area that the lawyer selects. It is not a directory service but some form of customized referral process that relies upon the company's technology. When asked how the company makes money from the proposed referral process, the lawyer is told that he will be required to pay a flat fee each month to the company although they will not charge a fee for each referral. The caller is from another jurisdiction and is not a Manitoba lawyer. Under the circumstances, the proposed payment system would amount to a referral scheme that no Manitoba lawyer could participate in without breaching the referenced *Code* referral fee rules. If you have become involved in this kind of an arrangement, you should revisit it in light of the *Code* restrictions.

Certain types of referral fee payments are allowed. With the exception of referrals as a result of conflicts, Rule 3.6-6 allows a lawyer who refers a matter to another lawyer because of the expertise and ability of the other lawyer to handle the matter to receive a referral fee but there are a couple of conditions that must be met. First, the fee itself must be reasonable. Second, the client must be informed about it and must consent to its payment. You might wonder what a “reasonable” fee might look like. You might also wonder why the Law Society would even care about a referral fee arrangement where the client consents.


Consider the following situation. A lawyer who does not practise in the area of family law at all meets with one of his long-standing clients who now needs a divorce. The lawyer says he doesn't practise in that area but can make a referral to a lawyer in another firm who does this work. The lawyer who accepts the domestic retainer agrees to pay 15% of all fees generated back to the lawyer who made the referral. The domestic case may take several years to complete and the client may end up paying in excess of \$40,000 to the family law lawyer. Would it be reasonable for the referring lawyer to receive \$6,000 in fees simply for making the initial referral? Even if the client purportedly “consents” to the referral fee, at the beginning of a retainer the client would have no idea how much the referring lawyer ultimately will be paid. How could consent, under those circumstances, be described as “informed?” What would the client say if he knew that in order for the domestic lawyer to keep up those anticipated long-term referral payments, she had to charge a higher hourly rate?

Where the *Code* allows payment of a referral fee from one counsel to another, it stands to reason that the fee must be fully known (i.e. quantifiable) in order for the client to provide informed consent. Before considering any kind of division of fees or fee referral payments, consult the *Code* and please call us if you have any questions about whether the contemplated arrangement is appropriate having regard to your ethical obligations.

## Bits&Bytes

Kris Dangerfield, Chief Executive Officer

1. Things can change pretty quickly over the course of a week in the bench world, especially for those who have ever practised in The Pas, Manitoba. On October 5, 2018, **Annette Horst** was appointed to the Court of Queen's Bench (Family Division). Annette has served as a benchler since May 25, 2017 after having moved to Winnipeg. Later that same week, on October 11, 2018, **Theresa McDonald** (who you will note we had *just* welcomed to the benchler table) was appointed to the Provincial Court in The Pas. I will miss having Annette's contributions and also regret the lost opportunity to work with Theresa who was able to attend only one benchler meeting. Congratulations to both of them on this achievement.
2. A shout out also goes to my former classmate **Jeff Harris**. On October 5th, he was appointed to the Court of Queen's Bench (General Division) and will sit in the City of Winnipeg. I know he will make the Class of '82 proud.
3. And finally on the judicial front, congratulations also go to **Karen Simonsen** and **Connie Petersen**, both of whom I had the pleasure to practise with far too long ago. In September, Karen was appointed to the Manitoba Court of Appeal. On October 5, 2018, Connie was appointed to the Court of Queen's Bench (Family Division). I must say that you begin to feel your age when the articling students that you once worked with are now being appointed to the bench.
4. Many of you will remember the late Aaron Berg and the important work that he did in the field of human rights. Please note that nominations are open for the 2018 Manitoba Human Rights Awards, one of which is the Aaron Berg Award. This award honours an individual or group involved in the legal profession who has contributed to the advancement of human rights through their work. You can nominate someone until November 1, 2018 using the online [nomination form](#).
5. I had a chance to sit down over coffee and a cinnamon bun with **Evans Premachuk** over the summer. Evans practised law in The Pas beginning back in the 60s. He has promised to write an article for me on the benefits of practising law beyond the perimeter and I am going to hold him to it. In the meantime, he has shared with me a photo of the winners of the 1963 Spring Manitoba Bar Association Bonspiel. If any of you practised law in Northern Manitoba and can identify some of these folks you will be the recipient of a beautiful Law Society of Manitoba toque. (Clue: they are not all lawyers.)



1963 MBA Bonspiel Winners
6. This summer we were saddened by the sudden death of Richard Scott Q.C.. Richard hailed from New Brunswick and was scheduled to become the President of the Federation of Law Societies in November of this year. Richard was a longtime Federation Council member and took great delight in sharing the same name with our former Chief Justice Richard Scott. He will be missed by his many friends and colleagues across the country. Ross Earnshaw from the Law Society of Ontario has stepped up to take on the role of FLSC President a full year earlier than he had anticipated. I know that he will be an excellent representative and I look forward to welcoming him to Manitoba for a visit.
7. We then received some sad news again this fall. On September 10, 2018, one of our former colleagues, **Tracy Lloyd**, passed away following a lengthy struggle with cancer. Tracy worked for a number of years in our Competence and Education Department as Program Counsel until she left us in 2017 as a result of her illness. Tracy was extremely talented and much liked by her many friends at the Law Society who will miss her very much.



## **GREAT LEXPECTATIONS**

Karen Sawatzky, Director of Legal Resources

Guides, Guides, Guides – over the summer, Legal Information Professional Allyssa McFadyen has been busy putting together documentation to make your life easier. There is one on how to create alerts in CanLII, so you can remember to check Manitoba decisions regularly, and one on how to search Manitoba's Hansard, pre-1996. While the content is online, it can be very difficult to search.

Allyssa has also put together a list of all the newsletters we subscribe to, as well as a brief description so you can determine whether you should be receiving it. Contact us at [library@lawsociety.mb.ca](mailto:library@lawsociety.mb.ca) with your request to be added to the distribution list.



You can find all guides at <http://lawlibrary.ca/legal-ease/>. And don't forget to subscribe to our blog at [lawlibrary.ca](http://lawlibrary.ca).

Please feel free to contact either me or Allyssa for any of your legal research needs.

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[www.lawlibrary.ca](http://www.lawlibrary.ca)  
204-945-1958

## Electronic Funds Transfers to Teranet: Some Important Reminders

A Message from the Audit Department

If you now use electronic funds transfer to make payments to Teranet Manitoba LP ("Teranet"), the Society has some important reminders regarding Law Society rules and requirements. These reminders are based on actual experience of the audit department thus far since eRegistration became available.

- 1. No electronic payments from the pooled trust account** - The new Rules do not change anything about pooled trust accounts – UNDER NO CIRCUMSTANCES SHOULD YOUR eREGISTRATION ELECTRONIC PAYMENT BE MADE FROM YOUR POOLED TRUST ACCOUNT. Instead, it must only be from a restricted trust account or a general account.
- 2. Letter of Direction** - As is the case for any new trust account, a [Letter of Direction](#) must be provided to your savings institution upon opening a restricted trust account. This letter instructs your savings institution to direct that interest earned on the account be paid to the Manitoba Law Foundation.
- 3. Notify** - A copy of the Letter of Direction must be provided to the Society's audit department and to the Foundation within thirty days of the opening of the account, in accordance with Rule 5-45.
- 4. Deposit to pooled trust account first** - All trust money must first be deposited to the pooled trust account. Money received from the client or another law firm cannot be deposited directly to the restricted trust account.
- 5. Only trust money in restricted trust account** - Only trust money may be deposited to the restricted trust account – no firm general account money. A firm wanting to use general account money to pay for Teranet services must provide the money to Teranet in some other way (general account cheque or electronic funds transfer from the general account).
- 6. Documents rejected?** - When documents submitted for eRegistration are rejected, money paid by electronic funds transfer is not returned to the originating bank account by Teranet – it is deposited to the firm's Teranet deposit account. After the necessary correction(s) have been made and the documents are being re-submitted, the payment method selected must be 'deposit account' and not electronic funds transfer if the same money is to be used for the re-filing.
- 7. Bookkeeping practices** – Common bookkeeping errors observed to date include:
  - a. not using Teranet's confirmation number for the cheque number in the restricted trust account records; and
  - b. not keeping Teranet's confirmation and eReceipt with the monthly trust reconciliations.

The Society's e-registration guide and FAQs on our [website](#) provide extensive guidance for firms when choosing a payment method for Teranet payments, and also regarding the required bookkeeping practices related to eRegistration for each method.

Now that you've been using eRegistration for a little while and have had a chance to get used to the process, it would be a good idea to refer back to our guide to ensure that you have adopted all of the necessary practices, making adjustments as needed.

Once you have read the guide and our FAQs, contact the audit department ([audit@lawsociety.mb.ca](mailto:audit@lawsociety.mb.ca)) if you still have questions.





## THE LAW SOCIETY OF MANITOBA

### Request for Proposals – Custodial Counsel

The Law Society is seeking the services of a lawyer or law firm to act as custodial counsel for a one year period commencing January 1, 2019 and ending on December 31, 2019.

When a lawyer is suspended, dies or becomes incapacitated, and no prior arrangement has been made for the management of his or her practice, the Law Society will obtain a Custodial Order, allowing us to step in to protect the interests of that lawyer's clients.

Typically, counsel is appointed the custodian of a member's practice together with a Law Society representative. The custodian is responsible for protecting clients' interests on an interim basis and generally does not do any legal work on client files except in urgent cases. Frequently the requirement to assume custodial duties arises on short notice and requires an intensive time commitment. Following the initial collection, review and assessment of files, the custodian is required to ensure that the client files and any associated trust funds are distributed in accordance with the client's instructions. Frequently the volume is such that more than one lawyer is needed to attend to that initial review and accordingly, the work is best suited to a firm, rather than to an individual lawyer. The custodian will assume signing authority over the member's trust accounts and ultimately is responsible for the disposition of client trust funds and accounting to the Law Society.

The Law Society is proposing to pay a fixed rate of \$45,000 plus taxes for the one year contract. Since 2001, we have had 37 custodial matters, with as many as six in one year and in other years there have been no custodial orders. However, on average, there are between two and three new custodial matters per year. The contract requires the lawyer/law firm to provide all custodial services in the year except where there is a conflict of interest or in the rare circumstance that specialized skills or expertise are required.

Lawyers/law firms interested in this opportunity are invited to submit a written proposal setting out their background and experience by **October 31, 2018** to the attention of:

Leah Kosokowsky, Director of Regulation  
200 – 260 St. Mary Avenue  
Winnipeg, Manitoba R3C 0M6  
or [lkosokowsky@lawsociety.mb.ca](mailto:lkosokowsky@lawsociety.mb.ca)

## In Memoriam

**Alan Alexander Adams, Q.C.**, who passed away on January 15, 2018 at the age of 93. Mr. Adams received his call to the Bar on October 1, 1947. He practised as a partner with the firm Tupper & Adams for 60 years, retiring in 2007. Mr. Adams was appointed Queen's Counsel in December, 1991 and was recognized by the Law Society in 2000 for having practised law for 50 years. He resided in British Columbia at the time of his death.

**Charles Osborne Meighen, Q.C.**, who passed away on June 21, 2018 at the age of 74. Mr. Meighen received his call to the Bar on June 26, 1968. He practised as a partner with the firm that is known today as Meighen Haddad LLP for 50 years. Mr. Meighen was appointed Queen's Counsel in December 1979.

**The Honourable Philip Langlois Ashdown**, who passed away on June 28, 2018 at the age of 91. Mr. Ashdown received his call to the Bar on July 17, 1952. He was a practising member of the Law Society for 20 years. In 1973 Mr. Ashdown was appointed a judge of the Provincial Court of Manitoba, a position he held until his retirement in 2001.

**Barry Steinfeld**, who passed away on July 20, 2018 at the age of 68. Mr. Steinfeld received his call to the Bar on June 24, 1975. He practised law in Winnipeg for 27 years with several firms, including Smordin Gindin Soronow Ludwig and Taylor McCaffrey. In 2002 Mr. Steinfeld relocated to Calgary, Alberta where he continued to practise law.

# 2018

## Important Dates to Note



### 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

## Is Your Firm Accessible?



Manitoba League  
of Persons with  
Disabilities

*The Accessibility for Manitobans Act (AMA)* became law in December, 2013. The AMA affects all Manitobans – individuals confronting barriers every day, as well as those in a position to identify, remove and prevent barriers to accessibility. The legislation is intended to proactively identify, prevent and remove barriers in five key areas of daily living: customer service; employment; information and communications; built environment; and transportation.

The deadlines for compliance are structured under a three-year period – Manitoba Government (November 2016), large public sector organizations (November 2017), and companies/organizations in the public, private and not-for-profit sectors (November 2018).

The Accessible Customer Service Standard sets out requirements for all private sector organizations with at least one employee as of **November 1, 2018**. Has your firm taken steps to comply?

To comply with the AMA's Customer Service Standard, an organization must have a minimum of 8 policies that address the requirements under the *regulation*. They do not need to be long or complicated. They include:

1. Meet the communication needs of customers, clients or members;
2. Allow assistive devices, such as wheelchairs, walkers and oxygen tanks;
3. Welcome support people, who are there to assist;
4. Welcome people with service animals;
5. Ensure accessibility is maintained as intended (ramps, wide aisles, removal of clutter);
6. Let customers, clients or members know when accessible features and services are not available;
7. Invite customers, clients or members to provide feedback; and
8. Train staff on accessible customer service, including reasonable accommodations under *The Human Rights Code*.

## *The Accessibility for Manitobans Act*

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***Accessibility standards are building blocks for making real, measurable and effective changes to accessibility.***

***Each standard will outline specific requirements and timelines for organizations that have a responsibility to eliminate barriers.***

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### Resources to Assist You with the Review and Development of Your Workplace Policies and Practice

Community partners, MLPD (Manitoba League of Persons with Disabilities) and SMD (Society for Manitobans with Disabilities) offer fee-for-service training options ranging from standard in-person or online to fully customized options.

These training options cover an overview of the AMA legislation with a focus on the Customer Service Standard, a review and comparison of the AMA with the Manitoba Human Rights Code, and detail your organizational responsibilities.

MLPD - Manitoba League of Persons with Disabilities  
(online training options)  
[http://www.mlpd.mb.ca/  
accessibility@mlpd.mb.ca](http://www.mlpd.mb.ca/accessibility@mlpd.mb.ca)

SMD – Society for Manitobans with Disabilities  
(in-person training options)  
[https://www.smd.mb.ca/  
hhiscock@smd.mb.ca](https://www.smd.mb.ca/hhiscock@smd.mb.ca)

\*\*\*\*\*

For more information, please contact:

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OR

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# Membership Changes

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

## Non-Practising to Practising:

September 5, 2018	Kathleen S. Brownell
September 10, 2018	Valerie A. Hebert
September 10, 2018	Melissa L.M. Schrader
September 11, 2018	Larissa L.L. Benham
September 17, 2018	Charles R. Huband
September 24, 2018	Miranda D. Grayson
September 26, 2018	Elizabeth R.M. McCandless
October 1, 2018	Shannon D. Benevides

### Inactive to Practising:

August 1, 2018	Michelle A.S. du Bourg
August 10, 2018	Jody Woligroski
August 20, 2018	Jason L. Clouston
September 4, 2018	Rachael T. Minuk
September 4, 2018	Carly D. Sloschower
September 5, 2018	Rebecca A. Hutchings
September 5, 2018	Brett W. Taylor
September 12, 2018	Steven M. London
October 5, 2018	Joshua Morry
October 9, 2018	Diana C. King

## Practising to Inactive:

August 5, 2018	Reneé Howard
August 8, 2018	Eugene M. Peterson
August 21, 2018	Daniel P. Orlikow
September 1, 2018	Katie H.E. Krahn
September 4, 2018	Tahira Amin Cabera
September 13, 2018	Caitlin B. Bouché
September 17, 2018	Melissa R. Danish
September 19, 2018	Tyler M. MacLean
September 27, 2018	Rajan Sharma
September 27, 2018	Hitakshi Chopra
September 28, 2018	Joanne M. Clouston
September 30, 2018	Victoria E. Lehman
October 9, 2018	Joelle C. Robinson

## Practising to Non-Practising:

July 21, 2018	Katie Dojack
August 7, 2018	Arshdeep K. Sandhu
August 16, 2018	Robert L. Patterson
August 18, 2018	G. Carter Cottam
August 30, 2018	Jacqueline A. Lowe
August 31, 2018	Thomas A. Saunders
September 4, 2018	Jeffrey M. Rabb
September 13, 2018	Peter B. Epp
September 30, 2018	Jody L. Ostapiw
October 1, 2018	Gail E. Mildren
October 1, 2018	Krystal A. Bayes
October 1, 2018	Asif Anwar
October 5, 2018	Rajeshwar S. Mangat

## New Admissions:

September 4, 2018	Alexandre R. Mireault	September 4, 2018	Sima Roy
September 4, 2018	Felicita O. Ovadjie	September 4, 2018	Ashley L.A. Stacey



## Report on Law Foundation Granting

Karen Dyck, Executive Director, The Manitoba Law Foundation



The Manitoba Law Foundation's Board of Directors recently met to allocate and approve the Foundation's statutory and discretionary grants for the 2018/2019 fiscal year. *The Legal Profession Act* provides in s.90(1) that the Foundation allocate specific portions of interest on lawyers' trust accounts received in the previous fiscal year to The Legal Aid Society of Manitoba (50% or a minimum of \$1,007,629) and The Law Society of Manitoba (16.67% or a minimum of \$335,383) for its educational purposes and to offset the cost of monitoring trust accounts.

Due in large part to increases in the prime rate in 2017, Foundation revenues for the year ending March 31, 2018 were significantly higher than has been the case in recent years. Based upon that income, the Foundation was able to allocate statutory grants for 2018/2019 as follows:

<i>The Legal Aid Services Society of Manitoba</i>	\$1,607,151
<i>The Law Society of Manitoba</i>	\$ 535,824

In addition to the required grants paid under the provisions of the Act, the Foundation also makes discretionary grants under s.90(4) and in accordance with the objects of the Foundation. These grants are allocated from the surplus at the end of the previous fiscal year after the deduction of operating expenses, mandatory grants, and, in years when revenues are sufficient and where the Reserve requires it, a contribution to the Foundation's Reserve for Future Grants.

For 2018/2019, the Foundation's board approved 12 discretionary grants totaling \$851,666 to:

Community Legal Education Association (General)	\$ 50,000
CLEA (Law Phone-In and Lawyer Referral Service)	\$ 60,000
Community Unemployed Help Centre	\$ 20,000
E.K. Williams Library (Faculty of Law)	\$ 82,000
Faculty of Law Sessional Program	\$ 95,166
Legal Help Centre	\$ 80,000
Legal Research Institute (Faculty of Law)	\$ 80,000
Manitoba Law Reform Commission	\$ 92,500
Native Law Centre (University of Saskatchewan)	\$ 12,000
Pro Bono Students Canada (Manitoba Chapter)	\$ 14,000
Public Interest Law Centre (Legal Aid Manitoba)	\$180,000
University Law Centre (Legal Aid Manitoba)	\$ 86,000

In addition, the Foundation has approved two Small Grant Applications. Dr. Michael Weinrath of University of Winnipeg's Criminal Justice Department was awarded a grant of \$4,986 for the Winnipeg Police Diversion Research Project. Level ([www.leveljustice.org/en](http://www.leveljustice.org/en)) was awarded a grant of \$7,100 for delivery of their Indigenous Youth Outreach Program in Manitoba.

Through these direct grants into the community, The Manitoba Law Foundation is able to fulfill its mission of advancing legal knowledge, fostering excellence within the legal profession and facilitating community understanding of the justice system.

For more information on the Foundation's granting or any of the organizations funded by The Manitoba Law Foundation, please visit our website ([www.manitobalawfoundation.org](http://www.manitobalawfoundation.org)) or contact us directly at: [info@manitobalawfoundation.org](mailto:info@manitobalawfoundation.org).



### Notice to the Members of the Legal Profession of Manitoba

Mark your calendars for an historic dinner with the  
Justices of the Supreme Court of Canada

**SAVE  
THE  
DATE**

Date: Thursday, September 26, 2019

Location: RBC Convention Centre, Winnipeg, MB (TBC)

Keynote Speaker: The Right Honourable Richard Wagner, PC  
Chief Justice of Canada

Save the date now so that you do not miss this special evening.

More details to follow.



### Avis aux membres de la profession juridique du Manitoba

Un dîner avec les juges de la Cour suprême du  
Canada. Notez cet événement historique  
à votre calendrier.

**RÉSERVEZ  
LA  
DATE**

Date : jeudi 26 septembre 2019

Lieu : Centre des congrès RBC, Winnipeg, MB

Conférencier d'honneur : le très hon. Richard Wagner, C.P.,  
juge en chef du Canada

Inscrivez cette date à votre calendrier pour ce qui promet  
d'être une soirée mémorable.

Plus de détails à suivre.



## The Law Society of Manitoba

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# CPD Calendar of Events 2018

## Upcoming Programs

**November 2** 8:30 am to 4:45 pm

### 2018 Pitblado Lectures

**Reimagining Justice: Trust, Truths and Transformation(s)**

**November 7** 12:00 pm to 2:00 pm

### The New Family Model:

**Processes, Rules and Prescribed Forms**

*~ Stay tuned for additional rural dates to be added ~*

**November 16** 12:00 pm to 1:00 pm

### Active Shooter – What Should you Know?

**This FREE CPD is presented in partnership with The Winnipeg Police Service**

**November 20** 9:00 am to 4:00 pm

### Drafting Wills & Estate Administration 101

**Location: Brandon, Victoria Inn**

**November 22** 12:00 pm to 1:30 pm

### Considering Cannabis:

**Reforms to Transportation Offences and Drug-Impaired Driving Offences**

## New Program Announcements

**November 30** JIKCÁÁ Á Á KECÁ {

### The 4th Annual Child Protection Program

#### 2 Session Dates Offered

#### Hot Topics in Real Estate

**December 10** 1:00 pm to 4:00 pm

**December 11** 9:00 am to 12:00 pm

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**CPD en français: À la poursuite des précédents**  
**Conseils et pièges concernant l'utilisation des modèles d'actes**

### Trust Safety Program

**4 separate session dates have been scheduled for this FREE CPD**  
**Attend in-person or via webinar**

#### Brandon ~ Victoria Inn

**December 5, 2018** 12:00 pm to 1:30 pm

#### Winnipeg ~ Law Society Classroom

**December 17, 2018** 12:00 pm to 1:30 pm

**January 9, 2019** 12:00 pm to 1:30 pm

#### Webinar ~ Your Computer Screen

**January 11, 2019** 12:00 pm to 1:00 pm

## Save the Date!

### Full Day Program

**March 15, 2019**

**2019 Annual Joint Family Law Program**

### Annual Rural Bar Program

**June 7, 2019**

**Northern Bar Annual CPD**

**Location: Flin Flon**