

are both protected and empowered by our democratic legal system. Today, essential democratic elements include components such as the separation of three branches of power, the active participation of citizens, political tolerance and many others. The first references the necessity of disassociating the judicial, executive and legislative branches of government which play imperative roles in altering or interpreting the law. The second addresses the participation of citizens and their fueling of the democratic system in participating in voting, elections, volunteering, taxes, etc. Political tolerance, finally, infers the vitality of protecting the minority. In a system which centralizes the majority opinion and decision, democracy is only upheld so long as the minority view is as well protected. These values serve as some

examples of that which allows us to operate as a just society far more evolved than that of King John's — one which the nobles who pressed for the Magna Carta's triumph likely envisioned. The principles of our democratic system are debatably the most vital outcome of the Magna Carta's signing; it is comprised of both the aforementioned concepts of human rights and the rule of law and extends far beyond such in defining what our society needs to operate in order to maintain its freedom and justice.

Human history has a tendency to rely on itself in order to create itself. The Magna Carta has spurred innumerable evolutionary legislatures, actions, attitudes and ideologies that have cumulatively created the proud legal system our society upholds today. The legal system

in effect in 21st-century Canada has developed to encompass five greater functions than it ever once did: establish rules of conduct, provide a system of enforcement, protect rights and freedoms, protect society, and resolve disputes. This type of punctiliousness in addressing the way Canadian citizens are governed is illustrious of the vibrant and progressive legal system we have cultivated. Beginning with the rule of law, growing to address human rights, and finally enacting crucial and underlying democratic freedoms, the evolution of Canadian law, government and our court system is dependent on one sagacious event: the Magna Carta of 1215, the foundation on which our modern legal system not only exists, but thrives. ❖

## Unauthorized practice of law

*UNDER THE LEGAL Profession Act, only trained, qualified lawyers (or articulated students or paralegals under a lawyer's supervision) may provide legal services and advice to the public, as others are not regulated, nor are they required to carry insurance to compensate clients for errors and omissions in the legal work or for theft by unscrupulous individuals marketing legal services.*

*When the Law Society receives complaints about an unqualified or untrained person purporting to provide legal services, the Society will investigate and take appropriate action if there is a potential for harm to the public.*

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Between February 12 and May 17, 2016, the Law Society obtained undertakings from 10 individuals and businesses not to engage in the practice of law.

The Law Society also obtained orders prohibiting the following individuals from engaging in the unauthorized practice of law:

### **Ralph Charles Goodwin**

On December 11, 2015, Mr. Justice Macintosh found Ralph Charles Goodwin, of Duncan, BC, in contempt of the injunction

order of Mr. Justice Greyell pronounced March 28, 2013. The court found that, on various websites, Goodwin had offered legal services to the public and represented himself as "Law Speaker," "Chancellor of Laws" and other titles connoting that he was entitled or qualified to engage in the practice of law contrary to the order of Mr. Justice Greyell. In addition, Goodwin failed to inform the Law Society of his involvement in the legal matters of others as the injunction required.

The court ordered Goodwin to remove various websites on or before December 25, 2015. After Goodwin failed to remove the various websites, on February 3, 2016, Mr. Justice Macintosh ordered Goodwin to be incarcerated for 30 days without remission. Mr. Justice Macintosh also ordered that Goodwin remove the offending websites within 30 days of his release. The court awarded the Law Society \$5,519.87 in costs. (February 2, 2016)

### **Michael Helfrich, aka Marvin Helfrich**

Madam Justice Gerow found Michael Helfrich, also known as Marvin Helfrich, of North Vancouver, in contempt for having engaged in the practice of law contrary to

a 2013 injunction order. Helfrich, who is a former lawyer from Oregon, admitted to having appeared as an advocate in court, negotiated the settlement of a claim for damages, drafted pleadings and documents for a bankruptcy proceeding and given procedural and substantive legal advice to third parties contrary to the injunction. Pursuant to the order, Helfrich must pay a \$5,000 fine and perform 100 hours of community work service in a field not related to law or accounting. Helfrich must also pay \$5,500 in restitution to a person for whom he provided legal services and must pay the Law Society \$6,500 in costs.

The court also expanded the 2013 injunction to prohibit Helfrich from performing any activities that constitute the practice of law regardless of whether he charges a fee, including assisting with corporate documents, and also from representing himself as a lawyer or in any other manner that connotes that he is qualified or entitled to practise law. Helfrich is also prohibited from commencing, prosecuting or defending a proceeding in any court, unless he is representing himself in the proceeding, acting without counsel solely on his own behalf. (May 9, 2016) ❖

## Articling offers by downtown Vancouver firms to stay open to August 12

ALL OFFERS OF articling positions made this year by law firms with offices in downtown Vancouver must remain open until 8 am on Friday, August 12, 2016. Downtown Vancouver is defined as the area in the city of Vancouver west of Carrall Street and north of False Creek.

Set by the Credentials Committee under Rule 2-58, the deadline applies to offers made to both first- and second-year law students. The deadline does not affect offers made to third-year law students or offers of summer positions (temporary

articles).

If the offer is not accepted, the firm can make a new offer to another student within the same day. Law firms cannot ask students whether they would accept an offer if an offer was made, as this places students in the very position Rule 2-58 is intended to prevent. If a law student advises that he or she has accepted another offer before August 12, the firm can consider its offer rejected.

If a third party advises a lawyer that a student has accepted another offer, the

lawyer must confirm this information with the student. Should circumstances arise that require the withdrawal of an articling offer prior to August 12, the lawyer must receive prior approval from the Credentials Committee. The committee may consider conflicts of interest or other factors that reflect on a student's suitability as an articulated student in deciding whether to allow the lawyer to withdraw the offer.

For further information, contact Member Services at 604.605.5311. ❖

## In brief

### 2015 REPORT ON PERFORMANCE AND FINANCIAL STATEMENTS



THE LAW SOCIETY'S [2015 Report on Performance](#) and [audited financial statements](#) are available online. Our annual report

provides a progress update on strategic initiatives in the first year of our 2015-2017 Strategic Plan.

For the ninth year, we also review key performance measures for our core regulatory functions to evaluate the overall effectiveness of Law Society programs. These performance measures form a critical part of our regulatory transparency, informing the public, government, the media and the legal community about how we are meeting our regulatory obligations.

### TWU APPEAL PROCEEDINGS

THE LAW SOCIETY'S appeal of the decision in *TWU v. The Law Society of BC* was heard by a panel of five justices in the BC Court of Appeal from June 1 to 3, 2016. At the time of publication of the *Benchers' Bulletin*, the

justices had not issued their decision.

Check the Law Society's website for more up-to-date information.

### JUDICIAL APPOINTMENTS

**Catherine Ann Crockett** has been appointed a judge of the Provincial Court in Campbell River.

**Brian Harvey** has been appointed a judge of the Provincial Court in Nanaimo.

**Judge Melissa Gillespie** has been appointed an Associate Chief Judge of the Provincial Court, replacing **Associate Chief Judge Nancy Phillips**, who has completed her term and will return to sitting duties.

**Judge Susan Wishart** has been appointed an Associate Chief Judge of the Provincial Court. ❖



*Self-represented litigant Jennifer Muller at the Vancouver Law Courts*

Photo: Ron Sangha Productions Ltd.

## Overcoming resistance to limited representation

WHEN JENNIFER MULLER was served notice that her former partner had filed a civil claim in the Supreme Court of BC seeking 50 per cent custody of their two-year-old daughter, she was caught by surprise and was determined to contest the claim. She did what she assumed anyone would do in her situation: she hired a lawyer.

After interviewing three candidates, Muller settled on a lawyer who seemed concerned about her case and who affirmed Muller's belief that hiring a lawyer to see the case through to trial was the right decision. "I was feeling under threat, afraid of what the future might hold. When I hired the lawyer, I remember feeling an

immense sense of relief," Muller recalls.

That relief, however, soon gave way to another source of anxiety. Within six weeks Muller received a bill for just over \$20,000. Within four months, the total had climbed to more than \$50,000. Muller could no longer afford her lawyer. Still nowhere near resolving the custody dispute, she was on her own.

Muller is hardly the exception. In the Provincial Court of BC last year, 41 per cent of appearances in family cases were self-represented (as were 18 per cent in the adult criminal division, and 65 per cent in small claims appearances). In the Supreme Court of BC last year, 36 per cent

of appearances in family law proceedings involved self-represented litigants.

Like Muller, the majority of those litigants were not self-represented by choice, but by necessity. According to a 2013 research paper by University of Windsor law professor Julie Macfarlane, "By far the most consistently cited reason for self-representation was the inability to afford to retain, or to continue to retain, legal counsel." Of the 259 self-represented litigants Macfarlane interviewed for her study, 53 per cent had been represented by counsel earlier in their action.

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Left to navigate the court system on her own, Muller was distraught. “I was terrified by the thought that I might lose my daughter,” she recalls. “I know now that losing custody was not an option, but at the time I felt so vulnerable. I felt that without a lawyer to represent me anything could happen.”

Muller sought the services of a lawyer who could at least offer some limited advice and help her figure out which forms she needed to file, how to fill them out and how to comport herself when appearing before a judge. She Googled “lawyer” and “Vancouver” and started making calls, only to find that no lawyer was willing to help her on an hourly basis as a consultant or advisor. Finally, on the suggestion of a friend, she contacted Mark Lecovin, a Vancouver lawyer specializing in family law, who agreed to help her, albeit reluctantly. She met with him for two hours every other week, paying \$350 an hour for his advice.

In all, Muller’s case would span 13 months and she would appear before eight different judges. Most of those appearances were interim hearings: a judge would make a temporary custody order lasting six or eight weeks, and Muller would have to reapply to have the order continue or to make changes to it. For the first couple of hearings, Muller was represented by the lawyer she had initially hired. Thereafter, she appeared on her own behalf, guided by advice from Lecovin for her final two or three appearances.

Muller recalls one appearance before a judge, where she was seeking permission to make a deposition. “I was meticulous in all my written statements, was painstaking in getting it right,” she recalls. At one point during the hearing, Muller cited a rule and the judge asked her for the rule’s index number. “I had the book in a bag by my feet and I asked if I could look it up,” Muller recalls. “He said, ‘No, go home and come back when you know the rules.’”

When her case was finally heard in court, Muller appeared on her own behalf, with the benefit of Lecovin’s advice. She faced expert legal counsel representing the opposing side.

Muller was ultimately unsuccessful, but she was fortunate to have found a lawyer who saved her from appearing in court entirely on her own. While the courts track

numbers of litigants representing themselves, there is no way of knowing how many, unable to find help navigating the process, simply give up in frustration. Full representation is of course preferable, but some legal counsel is certainly better than none.

Nanaimo lawyer Denice Barrie can attest that, in some circumstances, a few hours of advice and coaching can even be enough to guide a self-represented litigant to success in the courtroom.

Barrie articulated in Ontario and launched her career as a sole practitioner offering a range of services, including wills and estates, real estate and some family law. After moving to BC, she joined a roster of lawyers providing limited legal advice at the Justice Access Centre in Nanaimo. At first she was skeptical: “I started out thinking that this was a Band-Aid service provided by the province in an attempt to backfill

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*I realized that, with some strategic support, if you’re there at the right time and the right place, and you can offer some coaching and support, people can do a lot on their own.*

— Nanaimo lawyer Denice Barrie

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for cuts to legal aid, that everybody needs a lawyer,” she explains.

One experience changed Barrie’s perspective. A forestry worker with little education had been laid off and had fallen \$60,000 in arrears in his child support payments. With just a few hours of advice, Barrie helped him prepare an application to retroactively change the support order and present it in the Supreme Court of BC. The application was successful.

“I realized that, with some strategic support, if you’re there at the right time and the right place, and you can offer some coaching and support, people can do a lot on their own,” Barrie recalls.

Barrie went on to restructure her practice. Through her company, Waymark Law, she now offers “unbundled” legal services — of the kind she offered the forestry worker — for \$250 an hour, coaching for \$150 an hour and legal research for \$75 an hour. When the occasional client asks her to represent them in court, Barrie will

handle the case through her other business, a separate law corporation, and represent the client at a rate of \$250 an hour, with a maximum retainer of \$2,500.

Barrie understands that unbundled services alone are not the solution to insufficient access to legal representation in the courts. “Of course, on balance, experienced counsel has an advantage,” she says. “But I have had clients who fared extremely well against experienced counsel.” She explains that self-represented clients who do well tend to be educated and motivated to learn about the court system, and to have the time required to prepare their case and present it in court.

Barrie also understands that her model will not suit every lawyer. “People go to law school for a reason, and it’s not usually because they want to be a coach. Most like taking over and running a case.” However, she derives immense personal satisfaction from empowering her clients and believes there are similarly inclined lawyers who would benefit from a business model similar to hers.

The kind of “unbundled” legal services that Barrie has built her practice around — and that Muller received from Lecovin — are often more formally known as limited scope representation, where a lawyer provides legal services for part, but not all, of a client’s legal matter. The Law Society made limited scope retainers possible in 2008 with changes to the Law Society Rules, and the provision of such services was further facilitated by amendments to the *Code of Professional Conduct for British Columbia* in 2013. Those amendments were aimed at addressing lawyers’ concerns, such as potential conflict of interest or being held responsible for matters beyond the scope of the agreement.

Nevertheless, for self-represented litigants it remains very difficult, if not impossible, to find a lawyer offering such services. While lawyers cite various reasons for reluctance to offer limited scope representation — such as concerns about adequate remuneration, or the potential for client complaints — ultimately, the biggest obstacle may be outdated attitudes about law and the role of lawyers.

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Having begun his career as a general litigator with a big Toronto firm, Kelowna