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BENCHERS' BULLETIN

Keeping BC lawyers informed

- 2 President's View: Why you should run for Bencher
- 4 CEO's Perspective: Public outreach and the public interest

NEWS

- 5 Mike Falkins
- 6 Benchers perform many roles in protecting the public interest
- 8 Business case for the retention of women in the legal profession
- 9 Legal aid renewal
- 10 PLTC: bridging the gap between law school and legal practice
- 14 Upcoming legislative amendments
- 15 Forum highlights need to look beyond wheelchair access
- 17 ADR Task Force releases discussion paper

FEATURE

- 12 Patrick Kelly – Leading by listening

PRACTICE

- 19 Practice Watch: Supreme Court of Canada hears PST appeal
- 20 Practice Tips: Scams to look out for

REGULATORY

- 22 Wirick claimant profile: the Ng family
- 22 Wirick claims update
- 23 Discipline digest



The value of volunteerism – why you should run for Bencher

by Anna K. Fung, QC

BENCHERS' BULLETIN

The Benchers' Bulletin and related newsletters are published by the Law Society of British Columbia to update BC lawyers and articulated students on policy and regulatory decisions of the Benchers, on committee and task force work and on Law Society programs and activities.

The views of the profession on improvements to the *Bulletin* are always welcome — please contact the editor at bdaisley@lsbc.org. Additional subscriptions to Law Society newsletters may be ordered at a cost of \$50.00 (plus GST) per year by contacting the subscriptions assistant at communications@lsbc.org. To review current and archived issues of the *Bulletin* online, see "Publications & Forms/Newsletters" at lawsociety.bc.ca.

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AS IN-HOUSE COUNSEL for Terasen Inc. and someone who is in the position of hiring lawyers, I am always asked by other lawyers how they can get work from clients or how to get new clients. The one sure way is to meet a wide range of people who can get to know you and your abilities by watching how you work and relate to others on boards, committees and projects where their money is not directly at stake. Build your profile through your professional and volunteer activities. Busy people are much more likely to return your phone call or email when they know you than when they don't. This may seem harsh, but I believe that saying "I'm busy" is just a convenient excuse not to do something. When people say "no," pleading that they are too busy to take on some work, I interpret that to mean it is just not an important priority for them. If it is truly a priority for you, then you will make time for it because you have to.

Because this is an election year for new Benchers, I want to encourage all of you to consider becoming a Bencher at some time during your career. Why do I say that, you ask, or more specifically, "What is in it for me?"

Five years ago, I was asked to speak to a meeting of women lawyers on "The Life of a Law Society Bencher." One of my dear friends, Anne Giardini, now vice-president and general counsel of Weyerhaeuser Canada, sent me an email. She said:

I am signing up, but I am sure that I already know what the life of a Law Society Bencher is like: port and Stilton in the tastefully appointed salons [or maybe she meant saloons] of the Law Society building, a generous clothing and personal maintenance budget, vintage wines on tap, hobnobbing with the rich and powerful. Or do I have the Law Society of BC confused with the Law Society of Upper Canada?

Well, let me start off by saying that I know nothing personally about what it's like to be a Bencher at the Law Society of Upper

Canada, but lest any of you share Anne's illusions, I'd like to tell you that while there is a bottle of port in the Benchers' lounge, I have never seen anyone drink from it, as I suspect it has been around since the Law Society first moved into the building 15 years ago. As some of you know, an opened bottle of port actually does *not* improve with age. As for Stilton, I have never seen any in the building, but we do have some questionable art left to us by past presidents. Moreover, if you have ever seen how some of us Benchers dress, you would know that there is no clothing and personal maintenance budget for the Benchers. Nor do we have any vintage wines on tap. As for hobnobbing with the rich and powerful, well, since we are talking about lawyers, it's more accurate to say, commiserating with the poor and constantly stressed.

Seriously, though, you do not and should not become a Bencher for the material perks that come with that position because, frankly, they are few and far between. Instead, you get to eat far too many stale sandwiches and drink way too much coffee to stay awake during meetings that deal with difficult and challenging issues — all at the expense of your practice and the clients who are screaming at you.

So, why does one become a Bencher? After more than nine years as a Bencher and five months as President, and as the only Bencher who practises in-house, I'd like to share three reasons for you to at least consider becoming a Bencher.

First, to widen your perspective, open your eyes and educate yourself about all aspects of the legal profession. My experience as a lawyer has always been that of someone working in big office towers in large organizations, whether they be large law firms or large companies. I knew nothing about what it was like to practise as a sole practitioner in a small town, where the idea of specialization would be laughable, where conflicts of interest rules are almost insurmountable when you are the only lawyer in town, and where the idea of

a "multidisciplinary practice" is not that of competing with the big accounting firms, but whether a lawyer can profitably join forces with the local real estate agent, car dealership, investment advisor and funeral parlour to provide one-stop shopping for their clients and thereby increase business. I was insulated from the practical realities of all this as a lawyer practising in downtown Vancouver.

Similarly, a Bencher from Smithers learns what it is like for practitioners in Vancouver to have to compete for business, the challenges from the big accounting firms, the nightmares arising from previously unlimited liability law partnerships, and the realities of national law firms having to grapple with conflicts of interest rules that were never designed to deal with national firms in the first place.

As Benchers, we deal with emerging issues and changes facing lawyers, whether they come in the form of regulation of multidisciplinary practices, specialization, improvements to the articling and admissions process, inter-jurisdictional mobility of lawyers or, heaven forbid, the concept of one national law society across Canada. These issues, while they are very important to the future of our legal profession, are not ones that we otherwise devote much time to agonizing over as we go about our daily lawyering duties. But as Benchers, you will

have the opportunity and responsibility of dealing with these issues, hopefully for the betterment of our profession and always keeping the best interests of the public in mind.

The second reason why you should consider becoming a Bencher is to remind yourself of the collegiality of the legal profession and to re-energize yourself as a lawyer.

Over the past 21 years of law practice, I have observed that even if we are practising in large firms or companies, we spend much of the time working by ourselves in our own offices. Maybe it is a result of billing by the hour, the increasing demands of clients, more competition, and the adversarial nature of the court system, but the more time we lawyers spend at our desks practising law and doing nothing but that, the more likely we are to become isolated and cut off as a profession and as individuals from one another.

As a Bencher, I have become friends with some very articulate, caring and concerned lawyer and non-lawyer Benchers from all over British Columbia — people whom I would otherwise not have had the opportunity or the good fortune to meet. From the day that I attended my first Benchers' meeting, they have welcomed me without hesitation or judgement and have shared their stories and perspectives

with me. Some of them have become almost like family to me. More importantly, the experiences we share as Benchers have confirmed to me that despite any heated debates I may have with any of my fellow Benchers, they remain my friends, and the common bond we share is that we all care passionately about the honour and integrity of the legal profession and safeguarding the public interest.

The practice of law, no matter how interesting law itself may be, can sometimes become a grind if we keep on doing the same things over and over again. The work that we do as Benchers requires us to step back from the immediacy of our daily law practice, to take a broader look and consider why we do the things that we do. The issues that we deal with as Benchers, whether they relate to improving access to legal services or protecting clients from unscrupulous lawyers, remind us why most of us entered law in the first place, and that is to help people.

This brings me to my third reason you should consider becoming a Bencher. Along with the privileges that come with being a lawyer, there are certain responsibilities, including the moral responsibility to give something back to a profession that has been good to us. One of the ways that we

continued on page 17

Arthur Harper, QC, founder of Harper Grey LLP, receives his 70-year certificate from Law Society President Anna Fung, QC at the Commemorative Certificate Luncheon on May 3. In addition to Harper, the annual event honoured 21 members with 50-year certificates and four members with 60-year certificates. Harper served as a Bencher of the Law Society and as Treasurer in 1968.





Public outreach and the public interest

By Timothy E. McGee

IN HER *PRESIDENT'S View* column for our March issue, Anna Fung, QC stressed the strategic importance of consistent and concerted public outreach by the Law Society and the need to make direct linkages with media, governments and community groups.

Recently the Society has been active in building those linkages and will continue to do so in the months ahead.

On April 21, I attended Law Day festivities hosted by the CBA (BC Branch) at the Vancouver Public Library. It was great to see so many people taking in the many exhibits and demonstrations: a citizenship court session, a mock trial, free law classes and booths, including one from the Law Society, representing a wide range of organizations associated with the justice system. The theme of this year's Law Day was access to justice, so it's perhaps not surprising that attendance and interest was so strong.

Our staff contingent represented the

Society well at the Vancouver event, fielding questions that covered all aspects of our organization, handing out our new *Guide to www.lawsociety.bc.ca*, and referring people to other resources. Chief Justice Lance Finch, Chief Justice Donald Brenner and Attorney General Wally Oppal, QC were among the many visitors to the Law Society booth over the course of the day. We were also represented at Law Day events in Victoria by Benchers Richard Stewart and June Preston, who reported similar interest by visitors and participants.

The Law Society took the lead in another community-based event on April 26, when we partnered with the BC Coalition of People with Disabilities to co-host a free public forum called *Equal Access for People with Disabilities*. Topics covered in the panel discussion moderated by *Vancouver Sun* columnist Peter McKnight included courthouse accessibility, support for independent living, breaking down barriers for people with disabilities and

overcoming challenges to achieving success in the workplace. The forum was well attended and there was an enthusiastic question-and-answer period.

Early planning is underway for another community-based event in November. The Law Society is working with the Friends of the Simon Wiesenthal Centre and the Vancouver Holocaust Education Centre to co-host an internationally acclaimed travelling exhibit in Vancouver and Victoria. *Lawyers Without Rights* tells the story of more than 10,000 German-Jewish lawyers who were summarily disbarred by the Nazis in the early 1930s. The exhibition and planned public forum will provide a powerful focal point for a discussion on the importance to the public interest of an independent Bar and judiciary.

Please check the Law Society's website for further information on these and other events as part of our program of public outreach throughout the year. ❖



Law Day in Vancouver

Alan Treleaven, Director of Education and Practice, and Stuart Cameron, Director of Professional Regulation, explain the role of the Law Society to a member of the public.

Mike Falkins

THE BENCHERS AND staff at the Law Society were saddened to learn of the passing of long-serving Lay Bencher Mike Falkins on April 23 after a long battle with cancer.

"Mike was truly dedicated to his work as a Lay Bencher and his expertise in insurance matters was a huge asset to the Law Society," said President Anna Fung, QC. "He will be sorely missed by all of us who had the good fortune to work with and get to know him."

First appointed a Lay Bencher in 2002 and reappointed two times, Mike was a member of the Practice Standards Committee for all five years and was a member of the Special Compensation Fund Committee for four years, serving as vice-chair since 2005. He also spent two years on the Executive Committee and served on several other committees and task forces.

Mike was born in 1935 and developed successful insurance brokerages in Cranbrook and Fort Nelson before moving to Victoria. There, he established an insurance business that eventually became part of Aon Reed Stenhouse, where he became senior vice-president.

He also served a number of other professional and community organizations, including as a director and past president of



Mike Falkins at a Practice Standards Committee meeting last November.

the Victoria Insurance Agents Association, as a member of the executive committee of the Insurance Brokers Association of BC, as a director of the British Columbia Systems Corporation and the Greater Victoria Library board and as a director and campaign chair for the United Way in Victoria.

Speaking to more than 150 guests at Mike's memorial service held at Victoria's Union Club, Law Society Vice-president John Hunter, QC praised Mike's work as a

Lay Bencher. "I don't know if being a Lay Bencher would be everyone's choice for their retirement years, but I can tell you it was most appreciated by those of us who have a particular concern that our legal profession function in a way that meets the public interest mandate of the Law Society."

Hunter also praised Mike's knowledge of the insurance business and the interest he took in the Lawyers Insurance Fund.

Mike continued to be active in Law Society affairs even while undergoing extensive chemotherapy and radiation treatments. He commuted regularly from Victoria and rarely missed a meeting. He was also a keen golfer who took great pride in organizing a small tournament each year for the Benchers at their policy retreat. At the March 2 Benchers meeting — the last he was able to attend — Mike volunteered once again to organize the tournament. The Benchers had hoped to have one more retreat with Mike, but it was not to be. The golf tournament will, however, now be known as the "Mike Falkins Memorial Golf Tournament."

"Mike contributed a great deal to the work of the Law Society," Hunter said at the memorial service. "I hope he took some pleasure in the work, for it was an honour and a pleasure for all of us to have known him and called him our friend." ❖

We welcome your suggestions

Help us make the *Benchers' Bulletin* the best source of information for BC lawyers by sending us your suggestions for articles.

We've recently changed the look of the *Bulletin* and expanded the scope of its perspective and content. We want to provide you with more information about Bencher decisions and activities, Law Society people (Benchers and staff), programs and operations. We want you to know what we do, why we do it, how we do it and who we are.

We also want to provide our readers with more information about the legal community. There are numerous law-related organizations whose work is important to BC lawyers and merits reporting in the *Benchers' Bulletin*. We must bear in mind, however, that our primary focus has to be the Law Society.

In addition, we want to ensure the *Benchers' Bulletin* is relevant to all lawyers regardless of where they practise or the size of their law firm.

You can help by sending any story suggestions to the Editor, Brad Daisley, at communications@lsbc.org.

Benchers perform many roles in protecting the public interest

ANYONE WHO HAS taken on the role of Bencher knows that it is much more than attending the monthly meetings. In fact, Benchers handle everything from making rules for the legal profession, to acting as advisors to lawyers in their county, conducting articulated student interviews, sitting as adjudicators on discipline and credentials hearing panels, attending special events and call ceremonies.

As a group, our Benchers contributed at least 10,000 hours of their time to serving their profession in 2006. It is a considerable commitment, going to the heart of the Benchers' role as the board of directors of the body charged with statutory responsibility for protecting the public interest in the administration of justice. But at the end of the day, most Benchers come back for a second term and many serve the

maximum four terms.

"Benchers always comment on the collegial atmosphere. It's the relationships that keep people coming back," says David Newell, who has worked with many Benchers in his eight years as the Law Society's corporate secretary. Bill Jackson, elected a Bencher in Cariboo County in 2003, echoes that point. "Being a Crown counsel from the frozen North, I thought I would be treated as a second-class citizen, but everyone has treated me so well," he comments.

In addition to their regular duties, Benchers from outside of the Lower Mainland put in many more hours on the road. To attend a one-day meeting in Vancouver, Jackson needs to tack on two extra days of travel time. With meetings happening two or three times a month, he has found himself spending 15 hours or more a week

fulfilling his duties as a Bencher. It's no small time commitment, but Jackson feels the journey is well worth it.

"The work we do at the Law Society is extremely interesting — the policy aspect, the governance aspect and the regulatory aspect," Jackson says. "Because of my experience as Crown counsel, I took to the Discipline Committee like a duck to water."

As a Crown counsel in Dawson Creek, Jackson relies on support from his employer to attend to his Bencher duties. That need for support really applies to all Benchers — from sole practitioners to partners in large Vancouver law firms.

Rita Andreone, who was elected in November 2005 in Vancouver County, continues a long tradition of Bencher service by lawyers from Lawson Lundell LLP. Two

What Benchers do

The Benchers are the Law Society's board of directors. They govern the work of the Society in accordance with the *Legal Profession Act*, set and enforce standards of professional responsibility for lawyers and preside at discipline and credentials hearings. Benchers can expect their duties to consume four or five full days a month, divided among:

- preparing for and participating in Bencher meetings (usually the first Friday of every month);
- attending the annual Benchers' retreat (weekend time commitment);
- serving on at least two or more committees and task forces (three or four hours for each meeting);

- sitting on discipline and credentials hearing panels (time commitment varies but may be two or three days a year);
- responding to ethics and practice questions from lawyers; and
- interviewing articulated students and attending call ceremonies.



Vancouver Bencher Rita Andreone goes over the finer points of the Member's Manual with articulated student Matthew Cowper.

former Law Society Presidents, Brian Wallace, QC (1993) and William Everett, QC (2004), came from the firm. As one of only six women lawyer Benchers and one of the few solicitors at the table, she often brings a different perspective to the debate.

Andreone had a pretty good idea of what the role entailed by the time she ran for election, having already served on the Discipline Committee for two years.

"My experience on the Discipline Committee had shown me that there are differences between litigator and solicitor practice and I wanted to ensure that those views were represented," says Andreone. "There are many different points of view expressed around the table, and it's very exciting to be surrounded by senior, high-profile people who I wouldn't be likely to deal with otherwise. Being a Bencher has reminded me why I became a lawyer and it has allowed me to re-connect with the profession in all of its varying forms."

Andreone says it is a tough balancing act managing her responsibilities as a mother of two, a partner in a big law firm and a Bencher. Last year she spent about 400 hours on her Bencher duties. In taking on the role of Bencher, Andreone points to the importance of a strong support network at home and at work: "I have a very busy transactional practice. I can only do my work as a Bencher because I can rely on people to look after client matters in my absence at the firm. At Lawson Lundell we have a history of high-level involvement with the Law Society, the Canadian Bar Association and the Vancouver Bar Association. It's built into our culture."

As a sole practitioner at the Bencher table, Dirk Sigalet, QC must juggle the demands of his busy practice with regular trips to Vancouver. Coming from Vernon, Sigalet notes that he has the luxury of being one of the only out-of-town Benchers who can fly to Vancouver the morning of a meeting. He dedicates about five days a month to Bencher meetings and makes up the practice time on weekends.

"I wanted to work with an organization that dealt with the profession in its entirety," said Sigalet, who was first elected in 2004. "There's a strong sense of unified purpose, collegiality and civility among the Benchers." In looking at the time commitment involved in the role, Sigalet points to the considerable support offered by Law Society staff, "The materials they prepare for us are so well researched and put together."

Despite the challenges of the job, new candidates step forward at every election. They come from around the province, from big firms and small firms, but they are united by one thing: a commitment to uphold and protect the public interest.

This commitment has not gone unnoticed by the Lay Benchers. "We see the great importance the lawyer Benchers place on addressing issues in the best interest of the public," says Lay Bencher June Preston, who was first appointed in 2001. "They come to see the law in a bigger picture, beyond what's pressing on a day-to-day basis. They measure their decisions by what is in the best interest of the public. The rule of law depends on having a body to do this." ❖

Appointments to outside bodies

CALL FOR EXPRESSIONS OF INTEREST

THE LAW SOCIETY nominates or appoints members to the boards of a variety of legal and community organizations. The following appointments will be considered in 2007:

- Legal Services Society
- BC Law Institute
- Continuing Legal Education Society (appointee must be from Kootenay district)
- BC Land Title and Survey Authority
- Law Foundation (appointee must be from the County of Nanaimo).

If you would like to be considered for any of these appointments, please send a current CV and covering letter indicating your interest to David Newell, Corporate Secretary, by mail to the Law Society office or by email to dnewell@lsbc.org.

Information about the organizations can be found on their websites.

APPOINTMENTS

Law Foundation: The Law Society has appointed Patricia Schmit, QC of Chudiak, Schmit in Quesnel, and Port Coquitlam Crown counsel Samantha Hulme to the Law Foundation's board of governors.

The Law Society appoints 12 lawyers or judges to represent geographical areas of the province to the Law Foundation board. The attorney general, who is also a governor, appoints three non-lawyers and the Canadian Bar Association (BC Branch) appoints two lawyers.

The Law Foundation is independent of the government, the Law Society and the CBA, although its governors are appointed by these bodies.

Schmit and Hulme will serve two-year terms.

CanLII: The Law Society has reappointed Catherine Best to the board of CanLII. Best was first appointed to CanLII in 2001 and has served two three-year terms. Her third term will begin October 1, 2007. ❖

Fall 2007 Bencher elections

Bencher elections are coming up this November 15. Elections are held every two years in odd-numbered years. There are 25 Benchers who are lawyers — elected by other lawyers in nine regions across BC — and up to six Lay Benchers, who are non-lawyers appointed by the Lieutenant Governor in Council (provincial Cabinet). Benchers serve two-year, renewable terms.

All members who run for Bencher must be in good standing at the time of nomination and for at least seven years of practice. A practising member must maintain his or her chief place of practice or employment in the district in which he or she seeks to be a candidate. A non-practising or retired member must reside in the district in which he or she seeks to be a candidate. All members in good standing are entitled to vote.

A call for nominations will be sent to all members later this year.

For more information on elections, see Law Society Rules 1-18 to 1-42.

Business case for the retention of women in the legal profession

WOMEN ARE ENTERING the legal profession in higher numbers than ever before, but keeping women in the profession continues to challenge law firms in BC, Canada and across North America. It is an issue that the Women in the Legal Profession Task Force has begun addressing with several initiatives, including developing a business case looking at the need to take action to recruit and retain women lawyers.

In 2005, the task force began studying the "No Glass Ceiling" program of the Bar Association of San Francisco, in which law firms choose to make a public commitment to support women lawyers. The business case development follows a meeting held in October 2006 with representatives from some of the larger Vancouver law firms and other institutions that employ lawyers to look at the need for a similar commitment program in BC.

"Senior partners at BC law firms have indicated that the conditions for the type of commitments program that exists in the US don't currently exist here," says Gavin Hume, QC, task force chair and a senior

partner at Fasken Martineau DuMoulin LLP. "But they have indicated that there is an interest in developing a BC-specific business case for the retention of women, and we are planning to develop this in consultation with BC lawyers."

Commitments under the "No Glass Ceiling" initiative include embracing the concept of part-time partners and flexible work schedules, offering networking opportunities and client development activities that include women lawyers at all levels and establishing gender-neutral billing. Results of a July 2005 San Francisco Bar Association survey showed that 63 per cent of responding firms had reached their commitments to have women make up at least 25 per cent of their partnership ranks. Sixty-nine per cent also reported having reached the goal of 25 per cent for management positions.

In the United States, larger corporations continue to put more attention on diversity, and have demanded that the services they contract with — including law firms — are equally diverse. In addition

to the "No Glass Ceiling" initiative in San Francisco, the Chicago Bar Association has launched a "Call to Action" to promote women's leadership in the legal profession. The Bar Association notes that firms with high percentages of women in leadership financially outperform organizations with low percentages.

The Law Society's equity studies of the early 1990s showed that BC women lawyers were leaving the profession in disproportionate numbers to men and that many women faced discrimination in the practice of law, difficulties accommodating work and career responsibilities and barriers to career advancement. More recent studies from across Canada and the US show that these problems persist for women lawyers.

The Benchers struck the Women in the Legal Profession Task Force in December 2004 to update the studies, address equity and diversity in the legal profession and develop policy recommendations.

The business case is expected to be released in the fall. ♦

In Brief

JUDICIAL APPOINTMENTS

THE HONOURABLE G. Bruce Butler has been appointed a judge of the Supreme Court of BC. He replaces Mr. Justice V.R. Curtis (Vancouver) who elected to become a supernumerary judge.

The Honourable J. Keith Bracken, a judge of the Provincial Court in Duncan, has been appointed a judge of the Supreme Court. He replaces Mr. Justice R.G.D. Wilson (Victoria) who elected to become a supernumerary judge.

The Honourable Douglas Allan Betton has been appointed a Judge of the Provincial Court. A welcoming ceremony and reception will be held in Vernon on Friday, June 8 at 5 pm at the Provincial Court,

3001 – 27th Street, courtroom 301.

FIRST NATIONS LEGAL CLINIC

The UBC First Nations Legal Clinic celebrated its 11th anniversary on April 13 at the Vancouver Aboriginal Friendship Centre. The clinic delivers legal services to First Nations communities, while offering UBC law students opportunities to learn substantive legal principles and practice skills.

2007 LAW SOCIETY SCHOLARSHIP

Lorne Neudorf, a graduate of the University of Victoria faculty of law, has been awarded the Law Society's 2007 Scholarship. The annual \$12,000 scholarship is awarded to assist students in completing graduate studies that will benefit the individual,

the province and the legal profession. Neudorf's planned thesis will examine judicial independence and its practical significance to the relationship between the judiciary and the legislative and executive branches of government.

REAL ESTATE LEGISLATIVE AMENDMENT

A recent amendment to the *Real Estate Development Marketing Act* may impact lawyers who act as trustees under s. 18 of REMDA. This amendment will require a developer to have deposit insurance in place and to verify in writing that the purchaser has no rescission rights under s. 21 of the Act before a trustee can release the purchaser's deposit. ♦

Legal aid renewal

THE LEGAL SERVICES Society's plan for a legal aid program that helps clients reach stable and valued solutions to their legal problems is heading into a new phase, says the society's executive director.

"Six years ago, the Legal Services Society was in a crisis situation," LSS Executive Director Mark Benton told the Law Society's Benchers at their April 5 meeting. "Today we can see the progress we've made, and we have a clear sense of where we're going."

What's next is legal aid renewal — a new strategic priority "to ensure the society's services meet client needs," explained Geoffrey Cowper, QC, who chairs the LSS board of directors. "We must meet the challenge of determining what we do best, what is of enduring value, and what clients need. And we need to look at how we can best equip lawyers to serve our clients as we move into the future."

A few years ago, the challenges were obvious as the Legal Services Society re-framed its services to respond to reduced resources. Since then, it has had several successes, ranging from legal aid tariff improvements to new quality assurance initiatives and innovative programs such as family duty counsel, LawLINE, and the

family law website.

Cowper, a partner at Fasken Martineau DuMoulin LLP, noted that the society has learned important lessons from programs such as family duty counsel, which began as a limited service when reduced funding limited the services that could be offered to family law clients.

"The results were a complete surprise," Cowper said. "Thorough evaluations show limited services such as family duty counsel can get excellent results and early, enduring, and valued solutions for clients. We learned that we get better, longer-lasting results when clients are closer to the driver's seat."

Cowper emphasized that the society still firmly believes lawyers often do their best work when they stand as advocates between the client and the state. "But we must be mindful of what clients want and need, and remember that after their legal process is finished, they should return to their families and to society better able to manage their day-to-day lives."

"We need to look at how to be good lawyers and make a positive difference for clients. We need to re-examine, for example, our role in helping chronic offenders — not just with their immediate legal

issue, but with helping them get on track so they won't require our services again and again."

Cowper recalled some of the moving stories told by lawyers at a recent LSS awards dinner held to honour outstanding services. "It's clear that the things we professionals remember as our best efforts are where we have made a positive difference in people's lives. LSS wants to help more of our lawyers to be able to say that the work they did for our clients enriched their own lives and careers."

To achieve this, added Benton, the Legal Services Society must "provide lawyers with broader resources and support so they can take a more integrated approach to solving clients' legal problems."

"This isn't to undermine our responsibility to represent clients when that's what they need; rather it's to reach into a broader domain to get the best possible results for them," he explained.

Cowper said LSS will roll out several concrete strategies over the coming months to achieve the goal of serving client needs and will be asking for comments and suggestions from all those in the justice system. ♦

Benefiting clients

LSS is developing strategies for legal aid renewal in BC. These strategies will build on the society's recent successes to ensure programs in all areas of law benefit clients. This involves developing concrete steps to ensure legal aid:

- helps clients reach positive, lasting solutions to their legal problems;
- forms part of a holistic approach to meeting clients' overall needs in a broad social context;
- encourages clients to participate constructively in solving or avoiding legal problems; and
- is available where, and when, clients need the services.



Mark Benton and Geoff Cowper, QC discuss legal aid renewal on the streets of Vancouver. Geoff was first appointed to the LSS board in 1997 and has been its chair since 2005. Mark joined LSS in 1983 and was appointed executive director in 2002. He is acknowledged as an authority on the right to counsel and a leader for his work in Crown agency administration and governance.

PLTC: bridging the gap between law school and legal practice

RECENT GRADUATES OF the Law Society's Professional Legal Training Course (PLTC) give high marks to the program, an independent assessment completed late last year concludes.

"We're quite pleased with the results," says Lynn Burns, the Law Society deputy director who oversees the program. "The response to our own course evaluations also showed high student satisfaction."

PLTC helps articulated students make the transition from law school to legal practice. Taught by experienced lawyers, PLTC uses case files and model transactions that replicate as closely as possible what students will experience during articles and when practising. Successful completion of the intensive, 10-week course is one of the conditions law school graduates must meet to practise law in British Columbia.

In 2006, the Law Foundation of BC,

whose partial funding for PLTC has helped keep PLTC fees unchanged for many years, carried out an independent assessment of the program and found solid support among former students.

Those surveyed gave particularly high marks to PLTC's practical skills programs, such as contract drafting and interviewing. Also ranked high were the instructors and the feedback they provide to students.

Survey respondents commented "very favourably" on PLTC's teaching of professional responsibility issues, ethical obligations and practice management topics — subjects that are not always part of the standard law school curriculum. The majority of former students surveyed also said they continued to use their course materials in their practices.

"While the results are great, we're always looking for ways to improve," says Lynn, who works with a team of eight core

instructors (four staff lawyers and four practising lawyers). Their work is supplemented by an in-house tutor, a legal editor, a coordinator, administrative support and more than 300 practitioners who volunteer their time to teach specialized topics or give the students feedback on their skills.

Course material and lesson plans are updated annually. For example, in 2006, PLTC's alternative dispute resolution lesson plans were completely revised, including new mediation and negotiation videos from Stanford University and the International Institute for Conflict Resolution.

"Some of the best ideas for improvement come from guest instructors, students and former students," Lynn notes. "If you have ideas for how PLTC can continue to be a leader in legal skills education, contact me at the Law Society." ♦

Call for volunteers

If you graduated from PLTC in 2004 or earlier, it's time to come back as a volunteer.

You only need to donate a few hours of your time to judge a mock trial, talk about your law practice or take the students through a business or real estate transaction.

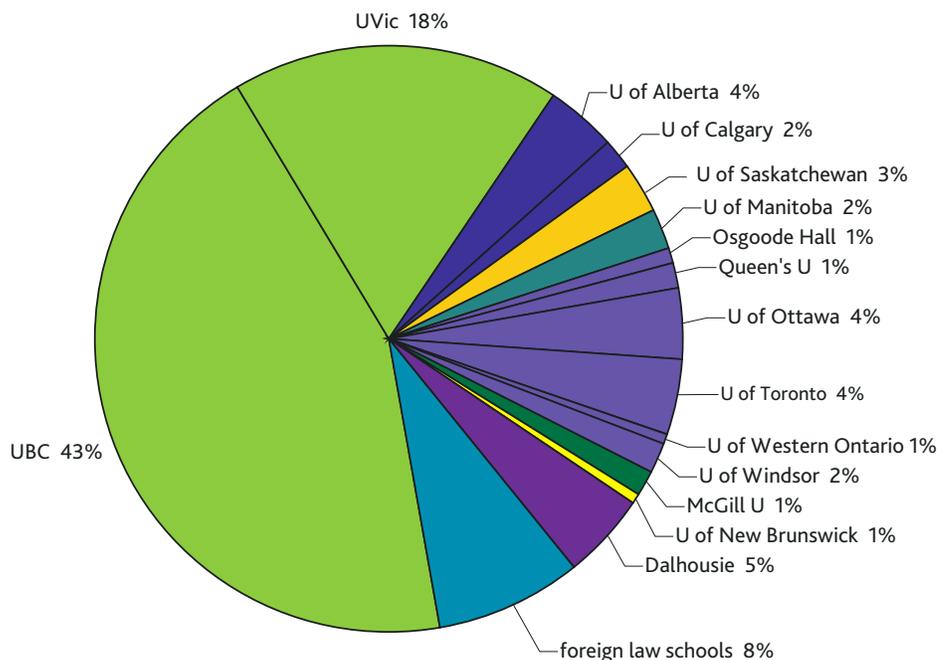
Teaching notes are provided, so preparation is not onerous and your time counts toward your annual professional development report.

If you want to help, contact Lynn Burns at lburns@lsbc.org or 604 697-5808.

Lynn Burns, Deputy Director of PLTC



LAW SCHOOL GRADUATES ATTENDING PLTC



PLTC enrolment

PLTC enrolment over the last five years has gone from a low of 309 to a high of 354 in 2006; preliminary figures for 2007 are even higher.

There is room for 400 students per year in four sessions — 120 in each of the summer, spring and fall programs held at the Law Society building in Vancouver and an additional 40 in a summer session at the University of Victoria.

Recently, the majority of students or their firms have been asking for the summer session, resulting in a greater demand than can be accommodated and some empty seats in the other sessions.

"Suddenly everyone seems to want the summer," says Lynn Burns, the program head. "It's right after law school and won't interrupt articles, law firms aren't as busy at that time of year and larger firms already have a full complement of summer students on staff filling their student offices."

PLTC's policy is to give summer admission priority to students who will be articling outside the Lower Mainland. This is so they won't have to move to another city after law school then come back to Vancouver for the course later, incurring unnecessary accommodation expenses. Firms with only one student are also given summer registration priority. "We are asking local firms that hire multiple students, because they have no accommodation issues, to spread them out evenly over the three sessions," Lynn explains.

Lynn and her team are working on initiatives to encourage firms with two or more students to structure their articling rotation in a way that permits their students to attend any one of the three annual PLTC sessions, not just the summer session. "We have classroom space that sits empty in the spring and fall sessions," she says. "We'd like to see it used to capacity."

Credentials rule amended

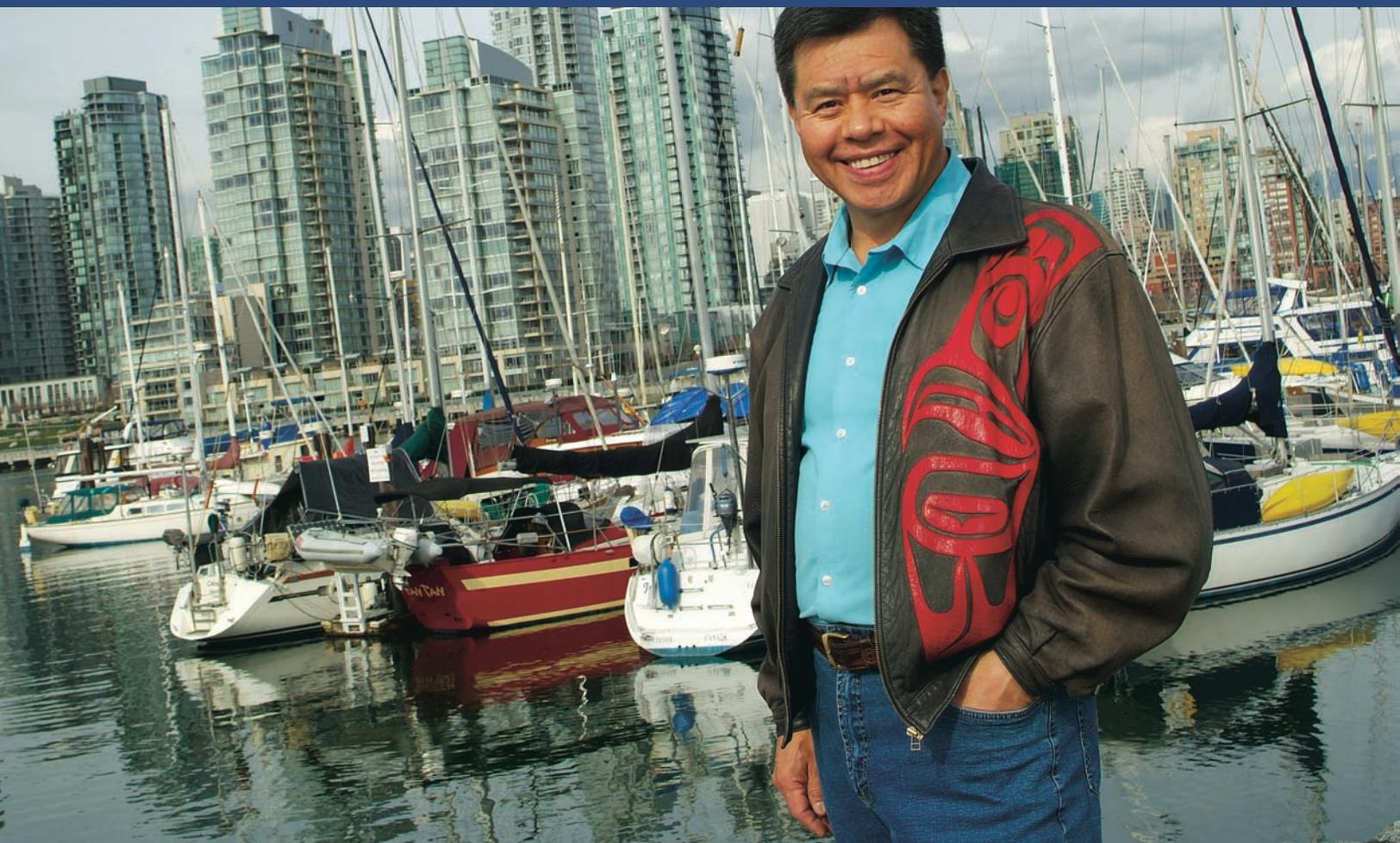
THE BENCHERS RECENTLY approved the recommendation of the Regulatory Policy Committee to amend Law Society Rule 2-45, allowing the Credentials Committee to require students initially exempted from the Professional Legal Training Course to attend some or all of the training course and to complete some or all of the assessments.

Rule 2-44(6) permits an articulated student who has successfully completed a Bar admission course in another Canadian jurisdiction or has practised law in a common law jurisdiction outside Canada for at least five years to apply for exemption from all or part of PLTC. In practice, the rule generally applies to lawyers from foreign jurisdictions, since almost all graduates of other Canadian Bar admission programs will have qualified to practise in another Canadian jurisdiction and accordingly may transfer to BC under the National Mobility Agreement.

The Credentials Committee generally exempts qualified applicants under Rule 2-44(6) from attending PLTC and from completing the assessments, but requires them to pass the PLTC examinations. If an exempt student fails an examination, the Rules do not authorize the committee to require the student to attend PLTC before rewriting the test.

The Credentials Committee has concluded that formal PLTC education would benefit some exempt students, and would also protect the public interest should they ultimately succeed and be permitted to practise law in BC.

This rule change is reflected on the Law Society website (Publications & Forms / Act, Rules and Handbook) and will be included in the next *Member's Manual* amendment package. ❖



Patrick Kelly — leading by listening

IMMEDIATELY UPON HIS appointment as a Lay Bencher by the provincial government in July 2002, Patrick Kelly began applying the qualities that have marked him as a special person since childhood: a deeply reflective nature, fuelled in equal parts by determination and enthusiasm.

"I found myself on the Special Compensation Fund Committee, immersed in the panel work of reviewing dozens of claims by innocent homeowners for devastating losses arising from the fraudulent actions of former lawyer Martin Wirick," Patrick recalls. "It was both unnerving and thrilling working alongside experienced Benchers on matters that clearly went to the heart of the Law Society's mandate to protect the public interest. I was impressed by how quickly the Law Society moved to restore the losses wrongfully suffered by innocent purchasers."

Patrick Kelly is a member of the Leq:amel First Nation in the Sto:lo Nation

(part of the Coast Salish). He grew up at Harrison and Deroche in a family of 11 children, and credits his grandmother, T'esots (also known as Margaret Pennier), as key to his development as a leader. "She was a strong, spiritual person, a gentle but persuasive teacher, and had a very powerful influence on me," he says.

"When I was 21 she took me aside one day and told me that I had shown the ability to think deeply, along with a good sense of responsibility and heart and to apply those qualities to helping my family and my community. She also told me that I had a responsibility to apply my abilities with humility and patience. She said again and again that, when dealing with issues, I must learn to lead by listening carefully to what people are really saying and then help them find lasting solutions."

On January 18, 2003, 800 family and community members gathered in the Charlie family longhouse in Chehalis for

a traditional Sto:lo naming ceremony. Patrick's grand-uncle Johnny Leon (Margaret Pennier's brother) granted Patrick the male version of his grandmother's traditional name — T'esots'en. A speaker at the ceremony informed Patrick that his name meant to look deep in the heart before speaking to people. Dr. David Suzuki, also a ceremony speaker, reflected on how important the naming tradition was in carrying important values through the generations. Patrick says, "All along, Gramma knew my qualities better than I did. I feel very fortunate to be able to carry on the tradition of her teachings."

Over the years Patrick has applied his grandmother's leadership lessons through his executive and board roles with a number of community, non-profit, private and public organizations. Following a term as Executive Director of the BC Chapter of

continued on page 17

The Lay Benchers

IN ADDITION TO Patrick Kelly, the Law Society has five other Lay Benchers.

Ken Dobell has served as a Lay Bench-er since 2006. He is currently vice-chair of the Complainants' Review Committee and a member of the Discipline Committee.

Dobell comes to the role of Lay Bench-er with an impressive record of ser-vice. He is a director of VANOC and 2010 Legacies Now, and is a former director of the Canadian Council for Public-Private Partnerships. He served as the deputy min-ister to the Premier and Cabinet Secretary (2001- 2005), and remains a special advi-sor to the Premier on a contract basis. From 1999 to 2001 he was CEO of the Greater Vancouver Transportation Authority.

Dobell has received a number of awards, including the Lieutenant Govern-or's Award for Excellence in Public Service, the Municipal Officers of BC Professional Award and the BC Human Resources Man-agement Association Award of Excellence.

Barbara Levesque was appointed a Lay Bench-er in 2006. She is a member of the Credentials Committee, the Unauthorized

Practice Committee and the Access to Justice Committee.

Levesque is the executive director of the John Howard Society of the North Okanagan/Kootenay area, where she works to prevent crime and promote in-volvement in the justice system. She also works as a consultant with InContext Con-sulting and Research in Vernon. She has been actively involved in the community for many years, working with non-profit agencies and all levels of government — municipal, provincial, federal and First Nations. She has considerable experience with building community capacity for civic engagement, including work with the Premier's Congress on Aging and Senior's Issues, the Social Economy and Social En-terprise BC Regional Forums and the Office of the Public Guardian and Trustee.

June Preston was first appointed a Lay Bench-er of the Law Society in 2001. She is currently a member of the Access to Justice Committee, the Independence and Self-Governance Committee, the Practice Standards Committee, the Women in the

Legal Profession Task Force and the Finan-cial Planning Subcommittee.

Preston graduated with a Master of Social Work from the University of Calgary. She recently retired as the director of fam-ily education services for the Vancouver Island Health Authority in Victoria. In 2002, Preston received an international award for her work with adoptive families and she has been recognized by her pro-fession as Social Worker of the Year. She has served a wide range of other commu-nity organizations, including as secretary-treasurer and founding member of the BC Adoption Network, as past vice-president of the Adoption Council of Canada and as a board member of the BC Council for Families.

Dr. Maelor Vallance has served the Law Society as a Lay Bench-er since 2002. He is currently chair of the Complainants' Review Committee and a member of the Discipline Committee, Lawyer Education Committee and Family Law Task Force.

continued on page 21



Appointment of Lay Benchers

Lay Benchers are appointed by the Lieutenant Governor in Council (provincial Cabinet) following a merit-based selection process by the Board Resourcing and Development Office. There are more than 300 authorities, commissions, corporations and other orga-nizations to which the government makes appointments. These positions are advertised on the BRDO's website and the public are invited to apply.

The BRDO asks organizations to which it makes appointments to provide a list of the specific skills or attributes needed for the position. The Law Society, however, has been very careful to avoid participating in the selection of Lay Benchers so that the public can have full confidence that Lay Benchers bring a truly independent voice to the table. Be-cause of this "hands off" approach, the Law Society does not provide BRDO with specific selection criteria but instead relies upon the general selection criteria BRDO uses for all appointments.

Lay Benchers are appointed for terms of two years, that run parallel to the terms of elected Benchers. They may serve up to four full or partial terms, after which they are designated as Life Benchers in the same way that an elected Bench-er becomes a Life Bench-er.

The Lay Benchers (left to right): Ken Dobell, Michael Falkins (recently deceased, see page 5), Dr. Maelor Vallance, June Preston, Patrick Kelly and Barbara Levesque.

Upcoming legislative amendments



FOUR AMENDMENTS TO the *Legal Profession Act*, introduced for first reading by Attorney General Wally Oppal, QC in the Legislature on April 25, will make the Law Society's regulatory programs more effective.

The amendments are the result of an ongoing collaboration between the government and the Law Society to further enhance public confidence in the justice system.

"The Attorney General has identified, as one of his primary goals, the need to improve public confidence in the justice system," said Law Society President Anna Fung, QC. "The Law Society shares this goal and we look forward to continuing our collaboration with the government to achieve the goal."

The four amendments are:

Custodianships: Currently, the *Legal Profession Act* does not permit the Law Society to be appointed as a custodian of a lawyer's practice. When a lawyer is unable to continue practising and has not made appropriate arrangements for his or her clients, the Law Society usually applies under s. 50 of the Act to the BC Supreme Court for the appointment of a custodian.

The Law Society has determined that in some cases it would be more efficient to have a staff lawyer appointed as the custodian. To facilitate this, it is necessary to amend the legislation to allow the Society to be appointed as the custodian and to carry out the custodian's powers through a lawyer employed or retained by the Society for that purpose.

The Law Society handles about 15 custodianships a year.

Practice standards: Changes to the Act will allow the Law Society to impose remedial programs and practice restrictions on lawyers who do not cooperate with remedial efforts. Existing legislation only allows the Society to *recommend* remediation and restrictions. This hinders the Society's ability to regulate the legal profession in the public interest.

While the Practice Standards Committee deals with only a small percentage of BC lawyers, and the vast majority of those lawyers readily agree with the committee's recommendations, a small minority of lawyers either refuse or fail to carry out the recommendations.

Quorum for Bencher reviews: The *Legal Profession Act* contains no provisions permitting a Bencher review of a regulatory decision to continue if the Benchers lose quorum. The quorum for the Benchers is seven. Because of conflicts, disqualification rules and Bencher availability, it is often necessary to sit a bare quorum on reviews of discipline and credentials decisions.

If a Bencher reaches the end of his or her elected or appointed term, resigns (for example, upon being appointed to the Bench) or passes away before the conclusion of the review, the Benchers lose quorum and are unable to continue. The only option is to recommence the review at considerable cost and inconvenience, not only to the Law Society but to the lawyers and witnesses involved. It also results in a delay in resolving the complaint.

On three occasions in recent years, the Law Society has had to recommence a review. One involved a Lay Bencher who was not reappointed at the end her term. Another involved an elected Bencher whose

term expired before the conclusion of the appeal. In the third case, the Benchers lost quorum when one member was appointed to the Bench. On two other occasions, when government-appointed Lay Benchers reached the end of their terms, the reviews were able to continue only because the government agreed to delay the appointment of new Lay Benchers until the two reviews were completed. This required the government to rescind the Order-in-Council making the appointments and then re-enact the Order-in-Council.

The amendments will allow the Benchers to continue a review if they lose quorum provided at least five members remain.

"THE ATTORNEY GENERAL HAS IDENTIFIED, AS ONE OF HIS PRIMARY GOALS, THE NEED TO IMPROVE PUBLIC CONFIDENCE IN THE JUSTICE SYSTEM," SAID LAW SOCIETY PRESIDENT ANNA FUNG, QC. "THE LAW SOCIETY SHARES THIS GOAL AND WE LOOK FORWARD TO CONTINUING OUR COLLABORATION WITH THE GOVERNMENT TO ACHIEVE THE GOAL."

Evidence outside BC: The amendments will also allow Law Society hearing panels to obtain evidence outside BC. As the practice of law becomes more inter-provincial and international, the Law Society encounters, and is likely to encounter more often, situations where it is necessary to obtain evidence outside the province in order to prosecute alleged discipline violations.

The amendments are part of Bill 33, *Attorney General Statutes Amendment Act, 2007*. In the normal course, the legislation should be proclaimed in force by the end of May.

Bill 33 also includes several "house-keeping" amendments to the *Legal Profession Act*. Copies of the amended *Legal Profession Act* will be circulated to the profession with the next issue of the *Benchers' Bulletin*. For an updated version of the Act, see the Law Society's website. ❖

Forum highlights need to look beyond wheelchair access

"IMAGINE IF YOU were unable to hear auditory language completely — how that would impact your daily life," said Susan Masters, executive director of the Western Institute for the Deaf and Hard of Hearing, at the Law Society's April 26 public forum, *Equal Access for People with Disabilities*. "The telephone would not be a tool; it would become a barrier to effective communication. Think about the educational system — how would you learn the language of the culture without having heard it? How would you receive instruction on the job site?"

Speaking to about 150 people at the forum, Masters called for a broader perspective in looking at accessibility for people with disabilities.

"Considerable information is available on barrier-free design, but there is very little material that deals specifically with the design needs of people who are deaf and hard of hearing," she noted. "For example, an intercom entry system is frequently mentioned as a useful and necessary accommodation for people with mobility disabilities without any acknowledgment that such systems pose a barrier to people who are deaf and hard of hearing."

Moderated by *Vancouver Sun* columnist Peter McKnight, the forum brought together a panel of legal and other experts to look at opening doors for people with disabilities — in the courtroom, in the workplace and in the legal profession.

Lila Quastel, an occupational therapist and chair of the Law Society's Disability Research Working Group, called for a cross-disability perspective in looking at courthouse accessibility. She said that

while Court Services has done a good job of addressing the big picture, she found many "glitches" in her analysis of courthouse accessibility across BC. For example, a new courthouse in Prince George got high marks for barrier-free design, but lost marks for having a double-door system that presents challenges for people in wheelchairs.

Audience members also pointed out that attending and participating in court proceedings presents a major challenge for the deaf and hard of hearing. They called for sign language interpretation and on-screen captioning — a real-time transcript of the discussion — to be made available during court proceedings. In hosting the forum, the Law Society provided these services to assist the deaf and hard of hearing.

Paul Gauthier, a community capacity coordinator with the BC Paraplegic Association who lives with cerebral palsy, said that looking at accessibility is pointless if people with disabilities don't have the support they need to even "make it out of bed." Gauthier, who grew up in a group home, noted that when he moved out on his own it was a struggle to get the support he needed. After identifying this need in his own life, Gauthier helped to create the Choices in Support for Independent Living Program (CSIL) to assist others looking for similar support. The three-time Paralympian and gold medal winner in boccia ball noted that the personal attendant he was able to hire through the program not only helped him to achieve a successful career, but also allowed him to take on competitive boccia. Gauthier

underscored how the program is designed around helping people with disabilities to achieve their goals, rather than focusing on the disability.

As the final panellist of the evening, Bill Morley shared his personal journey towards a successful career in law. Today a lawyer and partner at Fasken Martineau DuMoulin LLP, Morley recalled the choice he made 33 years ago after a car accident changed his life. While recovering at the hospital, Morley decided to reach out for support so that he could write his high school exams and graduate. That choice was just the beginning of his path to leading a full and active life with a disability. Today, he helps other accident victims regain their independence.

The Law Society began working with an advisory group of lawyers with disabilities in 1996 to identify and find ways of helping people with disabilities to become lawyers. "We realized that reaching out to people with disabilities on a broad scale was absolutely essential," said Art Vertlieb, QC, chair of the Equity and Diversity Committee in his closing remarks. "And that means promoting full participation for people with disabilities in all aspects of the community — at home, in the workplace and in the legal system."

Equal Access for People with Disabilities was presented by the Law Society in partnership with the BC Coalition of People with Disabilities and in association with the Western Institute for the Deaf and Hard of Hearing, the BC Paraplegic Association, CBC and *The Vancouver Sun*. ❖



Law Institute appoints new executive director

THE CREATION OF the British Columbia Law Institute in 1997 under the leadership of Arthur Close, QC, signalled a new era for law reform in British Columbia, and another one is set to begin with the appointment of a new executive director this spring. After 35 years as the public face of the Law Reform Commission and the Law Institute, Close handed over the reins to Jim Emmerton, who brings an entirely new background from the world of corporate law.

Called to the Ontario Bar in 1975, Emmerton has served as a senior executive and corporate counsel with several national and international companies, including as senior vice-president, corporate development and general counsel with Methanex and as vice-president and general counsel of John Labatt Limited. In these roles, he had many dealings with international business and legal issues in countries such as Italy, France, the United States, New Zealand, Trinidad and Qatar.

Ron Skolrood, a member of the Law Institute board and chair of the hiring committee that selected Emmerton, notes that

while Emmerton's appointment does not signal a change in direction, it is clear he will bring a different perspective to law reform. Emmerton, who has been involved in a volunteer capacity with the White Rock Hospice Society and as a founding member of the Better Business Bureau in London, Ontario, says that his interest in law reform stems from a desire to make a contribution to society.

"There's a continuing need for law reform in British Columbia," Emmerton said. "My goal is to continue Arthur's legacy of delivering the highest quality in legal research and writing on law reform."

Emmerton's current focus is on developing a new strategic plan for the Law Institute, which will include rolling out several major projects. For example, the Institute will look at a review of the *Commercial Tenancy Act*. He notes that the Institute is also looking at building sustainable funding. One option could be to establish a foundation, which would not only provide more stability for the Law Institute, but also help support other law reform bodies.

"Jim doesn't have a classic law reform background, but he has always had a keen interest in the issue of law reform," said Skolrood. "We needed someone who could lead the strategic planning process that we are embarking on and Jim's extensive knowledge in organizational structure and administration will be a huge asset as we move forward."

Emmerton also plans to promote more contact and collaboration with the practising Bar and to broaden the Institute's public outreach through an expanded community relations program.

"It's difficult to plan for the future when funding is not secure. Jim's work to build a sustainable funding model will really strengthen law reform in BC," said Skolrood. "Under his leadership we also plan to expand our relationships with key stakeholders. The recent demise of the federal Law Reform Commission has underscored the importance of engaging government, the legal community and the public at large in support of law reform." ❖

The British Columbia Law Institute

The British Columbia Law Institute is a non-profit organization dedicated to law reform. It was created in January 1997 by incorporation under the provincial *Society Act*.

The Institute's mandate is to promote the clarification and simplification of the law and its adaptation to modern social needs; to promote improvement of the administration of justice and respect for the rule of law; and to promote and carry out scholarly legal research. The Institute was created as a successor to the Law Reform Commission of BC, which was first established in 1969.

The by-laws of the Institute provide that it is composed of 14 members: two appointed by the attorney general, the Law Society and the Canadian Bar Association, BC Branch and one each appointed by the faculties of law at the University of BC and the University of Victoria. The six remaining members are appointed by the members as a group. Every member of the Institute is also a director. Nanaimo lawyer and UBC lecturer Peter Ramsay, QC and UBC law professor emeritus James MacIntyre, QC are the Law Society's nominees. Arthur Close, QC, retired executive director of the Law Institute, will continue as a member of the board.

"My goal is to continue Arthur's legacy of delivering the highest quality in legal research and writing on law reform."

– Jim Emmerton



ADR Task Force releases discussion paper

THE ALTERNATIVE DISPUTE Resolution Task Force is seeking comment from interested members of the profession and the public on its recently released report, *Lawyers as Dispute Resolution Professionals: A Discussion Paper*.

Presented to the Benchers at their May 4, 2007 meeting by task force chair

Ralston Alexander, QC, the report summarizes leading research conducted in BC and other jurisdictions and presents 38 recommendations — largely in relation to guidance and regulation of lawyers' work as mediators and as counsel to parties in alternative dispute resolution.

The Alternative Dispute Resolution

Task Force report has been posted on the Law Society's website (lawsociety.bc.ca). Comments should be submitted before September 14, 2007 to Jeffrey Hoskins, General Counsel / Director of Policy and Legal Services, at the Law Society, or by email to jhoskins@lsbc.org. ❖

President's View ... from page 3

can do that is to serve as a Bencher.

There is a quote, attributed to Albert Einstein, that I keep by my desk at work:

A hundred times a day I remind myself that my inner and outer life depends on the labours of other men [and I would add, women], living and dead, and that I must exert myself in order to give in the measure as I have received and am receiving.

I count myself lucky to be a lawyer in a free and democratic society. I think that it is important for each one of us to do what we can to improve the future of the legal profession for the many lawyers who will come after us — to safeguard the honour and integrity of the profession and to protect the public from unscrupulous or unethical lawyers. As a Bencher you will have the opportunity and the responsibility of doing so.

Currently, we have 25 elected Bench-

ers, of whom only six are women, and until the recent death of our dear friend and colleague Mike Falkins, six Lay Benchers, of whom only two are women. There is a dearth of solicitors' voices, as well as big firm representatives, around the Bencher table. Only six of the 25 elected Benchers are from large downtown law firms. So far as I know, I am the first and only in-house counsel to have been elected Bencher, but I certainly hope that I am not the last. The Benchers are comprised predominantly of litigators and small firm or sole practitioners, which means that the perspectives of other types of practice do not always make it to the forefront of the discussions around the Bencher table.

Yes, being a Bencher is time-consuming and you will need the support and encouragement of your colleagues, friends, family and your firm. Yes, some of the issues you will deal with will be difficult, challenging, and even controversial and unpopular at times. Yes, there will be times

when you question why you ever decided to become a Bencher in the first place, as your clients or your bosses are screaming at you for something that they want done right away. Yes, you will gain some extra pounds from all the food you will consume in the course of being a Bencher.

But you will also gain renewed appreciation for the selflessness of lawyers and benefit from the knowledge that your work as a Bencher ensures the continued confidence that the public has in a competent and ethical legal profession. You will have a voice and a say in the future direction of the legal profession in BC through the policies that you will set as a Bencher, whether they relate to expansion or contraction of conflicts of interest rules, or to multidisciplinary practices. You will also gain many new friends along the way and get to see parts of British Columbia that you may never have seen before. I promise you that, if you do decide to become a Bencher, you will never regret doing so. ❖

Patrick Kelly ... from page 12

the Canadian Council for Aboriginal Business, he was manager, cultural relations and corporate training in BC Hydro's Aboriginal Relations department from 1993 through 1997, and served as treaty representative for the Leq:amel First Nation from 1998 to 2001. In March 2001, Patrick became director of strategic planning and communications for Indian and Northern Affairs Canada (INAC), BC Region — the first aboriginal planning and communications director in INAC's history. Earlier this year Patrick left INAC and established a consulting practice, applying his skills and experience in community planning,

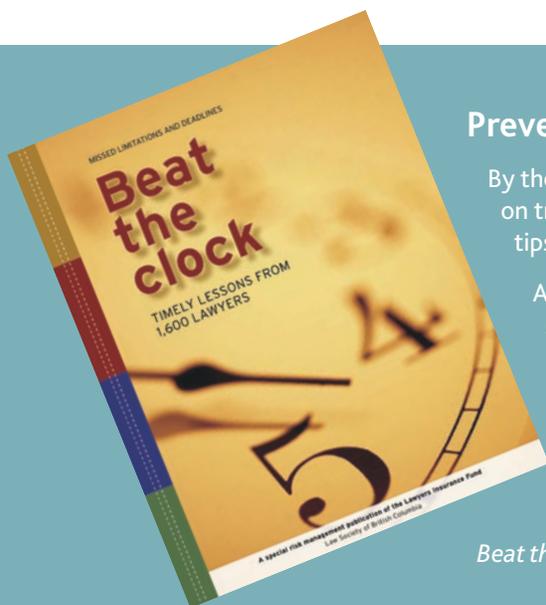
organizational development, facilitation and communication.

"I am very blessed to have a loving and enduring relationship with my wonderful wife of 20 years, Sheila Brown," Patrick says. "Our blended family also includes five children: Saul, Maggie, Dara, Patrick Jr. and Chelsea."

Not surprisingly, Patrick has been an active Lay Bencher, serving on numerous committees and panels. In 2006, he was vice-chair of the Equity and Diversity Committee and served on the Practice Standards Committee. He was elected by the other Lay Benchers to serve on the 2007 Executive Committee — assisting the Law

Society in addressing strategic issues, establishing priorities for the assignment of Society financial, staff and volunteer resources, and planning Bencher meetings. His committee experience also includes Finance and Planning, Special Compensation Fund, Ethics, Independence and Self-Governance, Regulatory Policy and the Paralegal Task Force.

"I am very pleased," says Patrick, "to be able to play a small part in helping the Law Society provide an invaluable service in protecting the public interest in the administration of justice in BC, a role I've seen clearly and consistently demonstrated by all Benchers." ❖



Prevent missing a deadline ever — or ever again

By the time you finish reading *Beat the clock: Timely lessons from 1600 lawyers*, you should be on track to avoid missing a deadline ever— or ever again. Covering over 70 risk management tips, the guide is a must-read for all BC lawyers.

All lawyers in private practice will find a copy of the guide enclosed with this issue of the *Benchers Bulletin*. The guide, along with the “Limitations and Deadlines Quick Reference List,” can also be downloaded from the Lawyers Insurance Fund section of the Law Society website (go to Risk Management).

The Lawyers Insurance Fund would like your feedback on the guide. Visit alt.lawsociety.bc.ca/survey/missseddeadlines.cfm to fill out a short survey and we will send you a small token of our appreciation (while supplies last).

Beat the clock is the first guide of its kind in North America.

Contingent fee agreements

THE BENCHERS HAVE amended the contingent fee rules to clarify that the maximum limits apply only to trial work and not to appeals.

The amendments, which were adopted at the April Benchers meeting, also change the information that must be included in all contingent fee agreements.

Law Society Rule 8-2 limits a lawyer’s fee in a personal injury matter involving a motor vehicle to 33 1/3 per cent of the claim and to 40 per cent in personal injury claims not involving a motor vehicle.

When it was implemented in 1990, the rule was intended to apply only to trial work, leaving lawyers and their clients free to make a separate agreement for appeals.

While the original wording of Rule 8-2 suggested it only applied to trial, this has not always been clear either to lawyers or their clients. To ensure certainty, the amended Rule 8-2 now specifically states that the limits apply only to trial.

The amendments also change the wording that must be included in all contingent fee agreements in personal injury matters to expressly inform clients that the fee is limited to trial. The required wording, which must be prominently placed in all contingent fee agreements, is set out in Rule 8-4. ❖

Electronic signatures on land title documents

THE LAW SOCIETY wishes to remind lawyers of their obligations when granted the right to affix a digital signature to documents to be filed in the Land Title Office.

The Law Society has become aware of a lawyer who permitted a member of his staff to affix his digital signature to land title documents contrary to the *Land Title Act*.

Land title documents such as the Form A transfer and the Form B mortgage include the standard notice that:

Your digital signature is a representation that you are a subscriber as defined in the *Land Title Act*, RSBC c.250 and that you have applied your digital signature in accordance with s. 168.3, and a true copy, or a copy of that true copy, is in your possession.

“Subscriber” is defined in s. 168.1 of the *Land Title Act* as:

- an individual who is authorized by a certificate to sign
- (a) electronic applications and instruments under this Part, and
- (b) electronic returns under the *Property Transfer Tax Act*;

In addition, s. 168.3(2) of the Act states:

An electronic instrument is signed for the purposes of this section when a subscriber incorporates his or her

electronic signature into the instrument in accordance with the requirements established by the director.

Lawyers should be aware that it is an offence under s. 168.9 of the *Land Title Act* to incorporate your digital signature into an electronic instrument or electronic application without first complying with the provisions of Part 10.1 of the Act. It is also an offence to incorporate the electronic signature of another person into an electronic application or electronic instrument. Juricert also retains the right to revoke the right to use a digital signature if the signature is misused.

The Land Title and Survey Authority has informed the Law Society that where it learns of circumstantial evidence that a lawyer has permitted another person to affix a digital signature, the LTSA may, in some cases, warn the lawyer about the conduct and, if the conduct is repeated, instruct Juricert to revoke the lawyer’s right to use the digital signature.

Failure to comply with the digital signature requirements of the *Land Title Act* could result in title fraud and it is important that all lawyers observe those requirements strictly. ❖

Practice Watch, by Barbara Buchanan, Practice Advisor

Supreme Court of Canada hears PST appeal

THE LAW SOCIETY appeared before the Supreme Court of Canada on March 21, 2007 as an intervenor in *Christie v. The Attorney General of BC* 2005 BCCA 631. The full court of nine judges heard the appeal. Judgment has been reserved.

The current order of the BC Court of Appeal declares that the tax on legal services is unconstitutional to the extent that it purports to tax legal services related to the determination of rights and obligations by courts of law or independent administrative tribunals.

The Law Society website and the Consumer Taxation Branch website contain information about the treatment of PST on lawyers' accounts in light of the BCCA ruling. This information may change following the Supreme Court of Canada's decision.

GST ON DISBURSEMENTS

The Law Society's practice advisors receive many calls about the applicability of GST to lawyers' disbursements. Detailed

information about this is contained in the Canada Revenue Agency's *GST/HST Policy Statement P-209R*, which is available on the CRA's website at www.cra-arc.gc.ca. If you have a general inquiry regarding the

THE CURRENT ORDER OF THE BC COURT OF APPEAL DECLARES THAT THE TAX ON LEGAL SERVICES IS UNCONSTITUTIONAL TO THE EXTENT THAT IT PURPORTS TO TAX LEGAL SERVICES RELATED TO THE DETERMINATION OF RIGHTS AND OBLIGATIONS BY COURTS OF LAW OR INDEPENDENT ADMINISTRATIVE TRIBUNALS.

policy statement or the treatment of GST on a disbursement, contact CRA's GST/HST Rulings Centre at 1-800-959-8287 (English) or 1-800-959-8296 (French).

LAW FIRM NAMES – SOLE PROPRIETORS

When choosing a firm name, lawyers should consider the marketing provisions

in Chapter 14 of the *Professional Conduct Handbook*. Lawyers practising as sole practitioners should not choose a firm name that suggests that more than one lawyer makes up the firm. For example, the following names would be improper for a sole practitioner:

- Smith & Company, Barristers & Solicitors
- Smith, Jones and Black, Barristers & Solicitors
- Smith and Partners
- Smith and Associates.

The following names would not be improper:

- Smith & Company, with Bill Smith shown with the words "Barrister & Solicitor"
- Smith, Jones and Black, with Bill Smith shown with the words "Barrister & Solicitor"
- Smith Law Group. ❖

Notices from the courts



THE BC COURT of Appeal has issued three notices:

1. In any civil case, counsel may prepare a Condensed Book, to assist the Court of Appeal during the oral hearing of the appeal.
2. In addition to the provisions set out in Form 10 of the *Court of Appeal Rules (Civil)*, factums, including the electronic copy of the factum, filed in the Court of Appeal, must be printed in 12 point Arial typeface.
3. Factums in criminal appeals must comply with Criminal Appeal Rule 10 and Form 6. In addition to the provisions set out in Form 6, factums, including the electronic copy of the factum filed in the Court of Appeal, must be printed in 12 point Arial typeface and must not exceed 30 pages in length, unless a justice otherwise orders.

For more information, see the Court's website at www.courts.gov.bc.ca/ca (Act, Rules and Practice Notes).



The Supreme Court of BC has issued two notices:

1. Effective April 1, all applications for desk taxations of trustees' statement of receipts and disbursements under the *Bankruptcy and Insolvency Act (BIA)* must be made using documents prepared according to a template.
2. Commencing May 15, the Court will adopt a standard form of order for receivership orders made pursuant to the BIA and pursuant to s. 39 of the *Law and Equity Act*.

For more information, see the Court's website at www.courts.gov.bc.ca/sc (Practice Directions and Notices). ❖

Practice Tips, by Dave Bilinsky, Practice Management Advisor
with assistance from Paul Willms, Assistant Manager, Audit & Investigations

Scams to look out for

♪ *They got the money, hey
You know they got away
They headed down south and they're still
running today
Singin' go on take the money and run...* ♪

Words and music by S. Miller,
recorded by the Steve Miller Band

ANYONE WHO USES email probably finds internet scams hard to miss, but you may not be aware that many schemes are specifically targeted to lawyers. Study up to ensure you know how to avoid some of the common scams and suspicious schemes that we have seen attempted on lawyers in 2006.

NO OBVIOUS LEGAL SERVICES

A "registered investment advisor" forwarded an email to a lawyer's office soliciting "receivables clerks/associates" to "receive the investment funds from our clients into your designated account, reconcile the payments if required and transfer the funds into our investment accounts... You will receive a three per cent commission from the gross amount of each transfer that you forward to us." This scheme tries to involve the lawyer in a fraud perpetrated on investors. The key feature is that little or no legal service is being rendered and the lawyer's only function is to provide a trust account transfer point.

IDENTITY THEFT

A BC lawyer received a fax purporting to be from the US Internal Revenue Service advising that he was a "non-resident alien" and asking him to complete the accompanying form. The fax appended a bogus document — similar to a standard IRS form — that asked for his name, date of birth, banking details and other personal information. The scam was designed to facilitate identity theft and to make it possible to access the lawyer's bank accounts.

PROCESSING FEE SCAM

A lawyer received, via email, a letter purporting to be from a law firm in Malaysia.

This letter requested the lawyer's assistance in "distributing the money left behind by my client before it is confiscated or declared unserviceable by the bank where this deposit valued at \$19 million is lodged. The bank has issued me a notice to contact the next of kin, or the account will be confiscated." The recipient lawyer did not follow up on the letter; however, if he had, the Malaysian "lawyer" would have doubtless required some up-front "good faith" processing fees prior to the release of the alleged funds.

NIGERIAN LETTER SCAMS

We have seen numerous variations of the Nigerian letter scam. This swindle usually involves a request for assistance in transferring a large sum of money



in exchange for a large payment. The victim is asked for an up-front "good faith" payment and the con artist quickly disappears. The fact patterns in this con are often designed to evoke both sympathy and greed in the victim. Some examples include a widow looking for assistance in transferring millions to charity,

a BC lawyer in England trying to locate the beneficiaries of a \$12 million estate and, with no hint of irony, a bank employee who was simply looking for a BC lawyer willing to set up a bank account so he could steal several million dollars from a dead man's account.

OUTRIGHT FORGERY

A fraudster attempted to negotiate a forged trust cheque. This particular individual went to the extent of setting up a 1-800 number and listing it in the payer portion of the cheque in the event someone called to verify the cheque's authenticity. Fortunately, in this case, the bank inquired directly with the lawyer and the fraud was unsuccessful.

◆
These are just some of the examples drawn from our files. We have seen many other attempted frauds and scams following similar scenarios of tragic deaths, exorbitant amounts, missing beneficiaries, oppres-

sive currency laws and others. A lawyer is well advised to be on guard. *"The error of Diogenes lay in the fact that he omitted to notice that every man is both an honest man and a dishonest man."* (G.K. Chesterton)

No lawyer wants to be taken in by someone who is still running today. ❖

TD Canada Trust adopts Western Law Societies Conveyancing Protocol

TD CANADA TRUST becomes the latest national lender to adopt the Western Law Societies Conveyancing Protocol.

The conveyancing protocol was established in 2001 by the law societies in the four western provinces. Each of the law societies has adopted a version of the protocol that is tailored for use in that jurisdiction. In BC, the protocol provides that a lawyer who acts for a financial institution is permitted to advise the institution (through a

THIS PROTOCOL HELPS STREAMLINE PROCESS AND COSTS FOR MORTGAGE LENDERS. ALTHOUGH SOME ADDITIONAL PRACTICE STANDARDS ARE SET FOR BC LAWYERS IN ISSUING PROTOCOL OPINIONS, NOTHING IN THE PROTOCOL OTHERWISE DIMINISHES OR CHANGES THE USUAL PRACTICES OF PRUDENT LAW FIRMS OR THE STANDARD OF CARE FOR LAWYERS ACTING ON MORTGAGE TRANSACTIONS.

short, standard form opinion) that, if there are no known building location defects on a property, the institution need not obtain an up-to-date building location survey as a condition of funding a mortgage loan. If the financial institution relies on a protocol opinion to fund a mortgage and suffers an actual loss as a result of an unknown building location defect that would have

been disclosed by an up-to-date survey, the Lawyers Insurance Fund will, on behalf of the lawyer, accept liability and, as appropriate, pay the cost of repair or any actual loss suffered. In other provinces, the protocol also addresses specific problems related to the release of mortgage and purchase funds on closing.

This protocol helps to streamline process and reduce costs for mortgage lenders. Although some additional practice standards are set for BC lawyers in issuing protocol opinions, nothing in the protocol otherwise diminishes or changes the usual practices of prudent law firms or the standard of care for lawyers acting on mortgage transactions.

In agreeing to accept opinions under the protocol, TD Canada Trust joins national lenders, including the Royal Bank, the Bank of Montreal and Canadian Western Bank.

The BC version of the Western Law Societies Conveyancing Protocol and background information are available under "Practice Support / Articles" on the Law Society website at lawsociety.bc.ca. For comments or questions about the protocol, contact lawyer David Newell at the Law Society (dnewell@lsbc.org). Insurance coverage questions should be directed to Surindar Nijjar at the Lawyers Insurance Fund (snijjar@lsbc.org). ❖

Lay Benchers ... from page 13

Vallance, supervisor of the psychiatric outpatient department at St. Paul's Hospital in Vancouver, is also a clinical professor emeritus with the UBC faculty of medicine. Prior to his current position, Vallance operated his own private practice in general and forensic psychiatry and he was the clinical director of the Department of Psychiatry at the Vancouver Hospital and

Health Sciences Centre. He has frequently appeared as an expert witness in court cases.

The Law Society would like to recognize the dedicated service of Lay Benchers **Michael Falkins**, who passed away this April after a long battle with cancer. Mike was appointed Lay Benchers in 2002. See page 5 for more information about Mike's important contribution to protecting the public interest. ❖

Services for members

Practice and ethics advisors

Practice management advice – Contact David J. (Dave) Bilinsky, Practice Management Advisor, to discuss practice management issues, with an emphasis on technology, strategic planning, finance, productivity and career satisfaction. Email: daveb@lsbc.org Tel: 604 605-5331 or 1-800-903-5300.

Practice and ethics advice – Contact Barbara Buchanan, Practice Advisor, to discuss professional conduct issues in practice, including questions on undertakings, confidentiality and privilege, conflicts, courtroom and tribunal conduct and responsibility, withdrawal, solicitors' liens, client relationships and lawyer-lawyer relationships. Tel: 604 697-5816 or 1-800-903-5300 Email: advisor@lsbc.org.

Ethics advice – Contact Jack Olsen, staff lawyer for the Ethics Committee to discuss ethical issues, interpretation of the *Professional Conduct Handbook* or matters for referral to the Committee. Tel: 604 443-5711 or 1-800-903-5300 Email: jolsen@lsbc.org.

All communications with Law Society practice and ethics advisors are strictly confidential, except in cases of trust fund shortages.



Interlock Member Assistance Program – Confidential counselling and referral services by professional counsellors on a wide range of personal, family and work-related concerns. Services are funded by, but completely independent of, the Law Society and provided at no cost to individual BC lawyers and articulated students and their immediate families: Tel: 604 431-8200 or 1-800-663-9099.



Lawyers Assistance Program (LAP) – Confidential peer support, counselling, referrals and interventions for lawyers, their families, support staff and articulated students suffering from alcohol or chemical dependencies, stress, depression or other personal problems. Based on the concept of "lawyers helping lawyers," LAP's services are funded by, but completely independent of, the Law Society and provided at no cost to individual lawyers: Tel: 604 685-2171 or 1-888-685-2171.



Equity Ombudsperson – Confidential assistance with the resolution of harassment and discrimination concerns of lawyers, articulated students, articling applicants and staff in law firms or other legal workplaces. Contact Equity Ombudsperson, Anne Bhanu Chopra: Tel: 604 687-2344 Email: achopra1@novuscom.net.

Wirick claimant profile: the Ng family

IN JULY 2001 Allan and Sanlly Ng moved into their new Vancouver home with their two pre-school children and Allan's parents. Allan and Sanlly were excited to have more space; they had shared a Vancouver apartment with Allan's parents since the senior Ngs' arrival from China in 1995.

About a year later Allan and Sanlly received a letter from their lawyer, advising them that two mortgages worth nearly \$400,000 were still registered against their new home, ahead of the mortgage held by their own bank. The letter also advised that the vendor's lawyer, Martin Wirick, had apparently released the net sale proceeds without discharging those two prior mortgages, in breach of his undertakings.

"We couldn't understand that letter," Sanlly recalls. "When I took it to my

employer for his explanation, I was confused and frightened. In Chinese culture, the home is the family's anchor. We will sacrifice food and clothing to protect the security of our home."

Allan and Sanlly were both raised in the Chinese city of Guangzhou, home to more than 3.3 million people. A trained teacher, Sanlly moved to Vancouver in 1990. Soon, she was working as a cashier in the Granville Island Market by day and studying English by night. Allan followed Sanlly to Vancouver in 1993 and they married the following year. A business college graduate, Allan quickly found work — first delivering for a restaurant, and then driving a truck and managing delivery routes for a local produce company.

Allan and Sanlly submitted their

compensation claim to the Law Society in October 2002. In just over a year, the Special Compensation Fund Committee completed its investigation and committed to restoring the Ngs and their bank to the positions they would have held had Wirick honoured his undertakings.

"We were very relieved and very grateful to the Law Society for its fair and fast handling of our claim," Allan said. "We knew from newspapers and television that many people had suffered losses through Mr. Wirick's actions, and that the Law Society had received hundred of claims, totalling millions of dollars. We had lost faith in lawyers. The way the Law Society has responded to those claims, including ours, has restored our trust in the legal profession."❖



The Ng family in front of their Vancouver home.

Wirick claims update

THE LAW SOCIETY'S Special Compensation Fund Committee has now considered all of the claims related to Martin Wirick's misappropriations. Only 23 claims that were adjourned after initial review remain. The adjourned claims are worth \$696,000.

| Wirick Special Compensation Fund Claims to April 11, 2007 | |
|---|-----------|
| Total number of claims received to date | 556 |
| Total number of claims withdrawn | 60 |
| Total amount claimed (minus withdrawn claims) | \$75 m |
| Number of claims considered to date | 496 |
| Total value of claims considered (including adjourned claims) | \$75 m |
| Amount of compensation approved* | \$42.1 m |
| Number of claims adjourned after initial review | 23 |
| Value of adjourned claims | \$696,000 |
| Value of claims still to be decided | \$696,000 |

*Not all claims need to be compensated in order to restore the claimants to the position they should have been in had Wirick honoured his undertakings. For example, a homeowner who discovered Wirick failed to discharge a \$100,000 mortgage would claim compensation in that amount as would the financial institution that funded the loan and the homeowner's own mortgage lender. The result would be three claims totalling \$300,000, but only one has to be paid to restore the parties to the positions they had bargained for.❖

Discipline digest

FOR THE FULL text of discipline decisions, visit the Regulation & Insurance/Regulatory Hearings section of the Law Society website at lawsocty.bc.ca.

MIMI MANKIU LUK

Richmond, BC

Called to the Bar: August 31, 1990

Suspended: October 24, 2005

Discipline hearing: January 8, 2007

Panel: Leon Getz, QC

Report issued: March 9, 2007 (2007 LSBC 13)

Counsel: Brian McKinley for the Law Society and Christopher Hinkson, QC for Mimi Mankiu Luk

FACTS

In late 2000, VW retained Mimi Mankiu Luk to obtain a divorce. Luk filed the necessary court documents on January 12, 2001. Three months later, Luk received a notice from the court advising that the documents had been rejected. Luk did nothing further on the file. VW ultimately retained another lawyer who obtained the divorce in August 2005.

In September 2001, DS retained Luk to prepare and file a change of name application for her son. DS complained to the Law Society in July 2003 that she had not received the change of name certificate from Luk. In response to queries from the Law Society, Luk stated she had filed the change of name application in October 2001 and that the delay was the result of confusion at the Vital Statistics office caused by two applications with similar names. To corroborate her story, Luk provided a photocopy of a cheque she claimed was payment for the filing fee. Further investigation by the Law Society determined that the photocopy was of the front and back of two different cheques.

On October 24, 2005, Luk was suspended pursuant to s. 39 of the *Legal Profession Act* pending hearing of a citation against her.

ADMISSION AND PENALTY

Luk admitted professional misconduct in attempting to mislead the Law Society by providing a false document; failing to provide a reasonable quality of service to her client in the divorce matter; and by failing to take the necessary steps to advance the matter in a timely fashion. Pursuant to Law Society Rule 4-22, the hearing panel accepted Luk's admission and proposed penalty of an 18-month suspension to commence retroactively on October 24, 2005 and costs of \$8,000. Should Luk resume practice, the panel ordered that she must:

1. practise only in a capacity approved by the Practice Standards Committee;
2. provide an undertaking to respond to the Law Society within 14 days of receiving a request for response;
3. undergo a practice review within the first three months and comply with all of the recommendations of the Practice Standards Committee;

4. continue to be treated by a psychiatrist and provide treatment reports every three months to the Practice Standards Committee; and
5. complete the small firm practice course within six months of the date of the hearing panel decision.

DAVID JOHN MARTIN

Vancouver, BC

Called to the Bar: September 26, 1986 (BC) and April 6, 1979 (Ontario)

Bencher review: October 19, 2006

Benchers: James Vilvang, QC, Chair, Dirk Sigalet, QC, Leon Getz, QC, Robert Punnett, Thelma O'Grady, Richard N. Stewart and Ronald Tindale

Report issued: April 11, 2007 (2007 LSBC 20)

Counsel: William Berardino, QC and Pamela Cyr for the Law Society, and Josiah Wood, QC for David John Martin

BACKGROUND

In the decision of the hearing panel (facts and verdict: 2005 LSBC 16, penalty: 2006 LSBC 15; *Discipline Digest* 2006: No. 3) David John Martin was found guilty of professional misconduct for failing to adequately review the accounts of a client's children whom he had hired to assist him in the Air India case. A hearing panel ordered that he be reprimanded, that he be suspended for six months and that he pay costs of \$35,000.

On review, Martin argued that the hearing panel's decision on penalty could only be justified if the misconduct was intentional, involved dishonesty or evidenced moral turpitude. He also argued that the hearing panel erred by failing to distinguish between negligent and fraudulent conduct and by imposing a penalty that was too severe.

The Law Society and Martin agreed that the applicant's misconduct did not involve dishonesty or deceit, was not intentional and was not characterized by moral turpitude.

DECISION

The Benchers found that Martin's failure to adequately supervise the work of the client's children and to appreciate the warning signs that their accounts were fraudulent, amounted to gross, culpable neglect. After reviewing prior decisions, the Benchers concluded that without a finding of dishonesty, repetitive acts of deceit or negligence, or significant personal or professional conduct issues, a suspension was not warranted.

Accordingly, the Benchers ordered that Martin:

1. be reprimanded;
2. be fined \$20,000 to be paid by May 1, 2007; and
3. pay the costs of these proceedings in the sum of \$35,000.❖

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