

**OFFICE HOURS:**

MONDAY – FRIDAY
9:00 am – 5:00 pm

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Steven Smyth & Judy Renwick

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MEMBERS:

(As of January 31, 2008)

Resident Members: 116

Non Resident Members: 125

Total Membership: 241

NEW MEMBERS:

Wei-Ming Song, Vancouver, BC

Allan Domes, Calgary, Alberta

John Mildon, Victoria, BC

Jonathan Meadows Vancouver, BC

THE YUKON AMICUS

PRESIDENT'S REPORT

Keith Parkkari, President; Law Society of Yukon

IN THE PAST I always received correspondence from the Law Society with a certain amount of trepidation. At best it meant another form to fill out and another cheque to write. At worst there was always the nagging fear that the letter contained a complaint, frivolous of course. My impression was that correspondence from the Law Society was the price to be paid for the opportunity to practice law.



Keith Parkkari

The encroachment on my time and the cost of membership was a relatively small price to pay. Even after becoming President there was always the foreboding feeling when an envelope arrived from the Law Society. These negative thoughts I am afraid are more widely shared among our membership than we care to admit. This newsletter is an attempt by the Law Society to deliver some good news.

One of the complaints I have heard is that the Law Society needs to be better at communicating with our members. This newsletter will hopefully address that complaint. I also hope it becomes something that our members look forward to receiving in their in-baskets and actually take a moment to read.

There is a lot positive happening with the Law Society and in the legal community. We continue to host relevant and educational CLE's. The trust account audit program that commenced this year will not only help

protect the public but also includes an educational component to assist our members. We are continuing our efforts to update our rules and lobby for changes to the rather archaic Legal Profession Act. The above is only a short summary of some of the things that the Law Society is continuing to work on and accomplish.

The Law Society's primary function is to protect the public. The best way to do this is to ensure we have a strong, professional and independent bar. It is my hope and the intention of the Executive that this newsletter will become a tool that helps inform, update and educate the profession. To do this we look forward to receiving both your feedback and your contributions. Contributions and input from all of our members will help make this newsletter a valuable publication.

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COUNCIL REPORT

Susan Dennehy, Council Member; Federation of Law Societies of Canada

THE FEDERATION OF LAW Societies of Canada is the national coordinating body of Canada's 14 law societies which are mandated by provincial and territorial statutes to regulate the country's 95,000 lawyers and Quebec's 3,500 notaries in the public interest. For more information about Federation go to www.flsc.ca.

MODEL RULE ON CLIENT IDENTIFICATION AND VERIFICATION REQUIREMENTS

The federal government published new client identification regulations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. They outline the steps a lawyer must take and the records they must keep to verify client identity. The Federation of Law Societies of Canada through its Anti-Money Laundering Committee has been in discussions with the Department of Finance on the subject of these regulations for the past year and expects further discussions.

Recently, the Federation has developed a model rule on client identification and verification for adoption by Law Societies. The model rule initiative is similar to the no-cash rule initiative the Federation undertook, which was instrumental in persuading the government



Susan Dennehy

investigation or prosecution by state authorities. Auditing and enforcement of record keeping would remain with Law Societies and only by court order would client records be disclosed to other agencies such as the police. At our AGM, the Executive will seek approval of a rule that mirrors the substance of the model rule.

WHAT'S NEW

Lynn Daffe, Executive Director; Law Society of Yukon

SINCE THE COMMENT HAS been made to me numerous times that "I only hear from you when you want money", hopefully this newsletter will bring a different type of communication from the Society.

We plan to keep you up to date on the comings and goings of members as well as provide advance notice about upcoming CLE's and updates from various committees. We also intend to profile one new member every issue as well as keep you up to date on new members and resignations.

Please take a look at recent changes to our website. There is a new "Notices" section which we will use to post various information updates. The "Membership" portion is being improved so that a search can be done by member name. You will be able to view (and print) a complete list of all members, "Resident" and "Non Resident" — a big improvement from viewing the names in blocks of five! Remember, all the Law Society forms are also available on our website: <http://www.lawsocietyyukon.com>

You may receive a survey from CanLII. The Canadian Legal Information Institute (CanLII) is asking random members from every jurisdiction to respond to a brief (20 question) survey. The responses will be used to provide better service to lawyers. If you are selected for the survey, your participation would be greatly appreciated.

At a meeting held October 6, 2006, the members supported the Law Society's intervention in an Appeal from the Order of The Honourable Mr. Justice Gower in the matter of Jennie Cunningham v. His Honour Judge Heino Lilles, Clinton Lance Morgan, and Her Majesty the Queen. Status as an intervenor was granted to the Law Society on February 15, 2007. The Appeal will be heard in Whitehorse in the Court of Appeal during the week of May 26 – 30, 2008. The Law Society of Yukon

that lawyers should be exempt from the reporting requirements in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

The proposed model rule will require lawyers to keep records that properly verify the identity of their clients. Under the rule a lawyer must obtain and keep all information needed to serve the client but must not obtain information which serves only to provide potential evidence against the clients in a future in-

The Federation will hold its Semi-Annual Meeting and Conference in Whitehorse March 13-15, 2008. The Federation's Executive and Council representing the 14 Law Societies will be discussing key aspects of their regulatory and licensing responsibilities.

will be represented by Mr. John J.L. Hunter, Q.C. of Hunter Litigation Chambers. Mr. Hunter agreed to represent the Law Society on a pro bono basis.

NEW MEMBER

Anne McConville

"FROM BAY ST. TO Main St." is how Justice Gower aptly summarized my path to Whitehorse at my call to the Yukon Bar in November. After graduating from the University of Toronto Law School and being called to the Bar in Ontario, I practised civil, and primarily commercial litigation in the Toronto offices of two national law firms. Over seven years later, I finally gave in to my adventurous side and headed north to join the Yukon Regional Office of the Department of Justice Canada this fall. Outside of work, I enjoy running, hiking and traveling off-the-beaten path.



Anne McConville

YUKON LAWYER'S ASSISTANCE PROGRAM

Judy Renwick, YLAP Committee

THE YUKON IS ONE of the few Canadian jurisdictions that does not have local service provision of counseling or a crisis line specifically to serve members of the Law Society. Most programs throughout Canada are funded

by Law Societies in an attempt to maintain the health and well-being of members and to avoid the high personal and financial costs associated with lost time at work and potential insurance or special fund claims.

A committee has been formed that includes the Canadian Bar Association Yukon (CBAY) Executive Director and one other CBAY member and two members appointed by the Law Society in order to set up the Yukon Lawyer's Assistance Program (YLAP).

The framework for the YLAP will be:

- a) peer counseling by telephone where callers can speak with certified counselors who are also lawyers who have experienced their own personal and professional stresses in the past, and
- b) confidential counseling services provided in the Yukon for Law Society members.

The service would allow a member of the Law Society to contact a third party service provider and arrange to attend up to four sessions per member per year. Confidential billing for these sessions would be directly from the service provider to the Law Society Office.

The pressure of the legal profession can be extreme and can take its toll. During the daily practice of law there are many factors that must be addressed, such as looming deadlines, workloads, financial and personal pressures. Counselors will help with problems relating to such things as: relationship difficulties, substance abuse, stress, fatigue, career satisfaction and anxiety.

APPOINTMENTS TO COMMITTEES

As one of the Law Society appointees, the Executive recently appointed Rick Smith to act as one of the Law Society's representatives on the Yukon Law Foundation Board. As a past recipient of a Yukon Law Foundation Scholarship, Rick brings his personal perspective and a background of active involvement in various Boards to the Law Foundation.

Due to time commitments, Lana Wickstrom recently resigned from the Social Committee. The Social Committee is now looking for a new member to help organize social events for the members. With the cancellation of the Christmas party, several people suggested a spring get together for members and their families. If you are interested in joining the Social Committee, please call the Law Society office.

SEARCHES AND SEIZURES OF DOCUMENTS FROM LAW OFFICES

Rick Buchan, Federation Law Office Search Committee

THE FEDERATION OF LAW Societies of Canada has been developing a draft Protocol on Law Office Searches, the purpose of which is to protect solicitor-client privilege in relation to police searches of law offices in circumstances where the client may not be able to assert the privilege on his or her own behalf. The current draft Protocol stands substantively as it was in August 2004. Since then, it has not been adopted, nor have there been any significant changes. Nonetheless, it is my understanding that courts in several jurisdictions have used the draft Protocol as a principled guideline to set the terms of search warrants in cases which the Protocol was designed to address.

To date, one of the principal stumbling blocks to getting the Protocol accepted has been the question of who would fund the cost of a referee appointed under the Protocol to scrutinize the documents subject to the search in order to protect solicitor-client privilege. I believe that the issue boils down to whether the Federal Department of Justice or the Provincial Attorney General will ultimately pick up the cost of the referee.

Until this and other issues are resolved so that the Protocol can move forward, if a situation were to arise in Yukon under circumstances to which it would ap-

ply, then the present draft Protocol would be a helpful starting point for submissions to the Court.

The Protocol applies to all searches and seizures and statutory demands for the production of documents or materials of, at or from a law office, whether by way of search warrant, production order, letter of demand or notice of requirement to produce from the Canada Customs and Revenue Agency, or other agency.

This Protocol applies to cases where:

1. the lawyer whose office will be searched is a target of the investigation; or
2. the documents are not precisely named in the Warrant to Search; or
3. the lawyer is not present at the time the Warrant to Search is executed to produce the documents.

If you wish to review the complete draft Protocol on Law Offices Searches, please contact the Law Society of Yukon at 668.4231.

YUKON LAW FOUNDATION UPDATE

Deana Lemke, Executive Director

THE YUKON LAW FOUNDATION has decided who will receive grant and scholarship funding this year. Each year, the Board for the foundation invites eligible students to apply for scholarships. Twice annually, the Board invites eligible individuals and organizations to submit proposals for grants from the foundation.

The Yukon Law Foundation was established under the Legal Profession Act to maintain and manage a fund primarily made up of interest accumulated on lawyers' trust accounts. All interest earned on trust accounts is paid by the banks to the Law Foundation. In turn, the Foundation funds several law-related activities and programs, such as legal education, legal research, legal aid, law reform and the maintenance of the public law library. A call for grant applications is done each spring and fall. Six grants were awarded during this round, for a total of \$78,044.33 in funding.

The Canadian Lawyers Insurance Association handbook, *Safe and Effective Practice* was written by Canadian lawyers for Canadian lawyers. It addresses topics that include time management, claims against lawyers, common recurring problems in practice, how to avoid being sued, limitation diaries and reminder systems, and disaster control. The handbook was revised in 2005 and is provided free of charge to every lawyer called in the Yukon who is insured through CLIA. If your call is years behind you or you have misplaced your copy of *Safe and Effective Practice*, please call the Law Society office and we would be pleased to provide you with a new copy.

From this amount, the Yukon Law Society received \$3,333.33, Lynn MacDiarmid received \$9,000.00, the Yukon Conservation Society received \$10,285.00, the Law Library Society of the Yukon was awarded \$40,641.00, Kim Hawkins received \$7,500.00, and the Yukon Conservation Society was awarded \$7,285.00.

Scholarship applications are invited prior to each academic school year to assist students to continue their education in law or law-related studies. In determining who will receive scholarships, the Board considers criteria such as the student's academic achievement, Yukon residency, community involvement and financial need.

This year, scholarships were awarded to four applicants, with funding totaling \$8,250. Megan Whittle received \$3,000.00, Kyle Carruthers received \$2,500.00, Robert McCulloch was awarded \$2,000.00, and Monica Frascarelli received \$750.00.

Each recipient is required to sign a letter of understanding indicating their commitment to return to the Yukon to work for at least a two-year period. If they don't return to the Yukon, the recipient agrees to pay back the funding to the Foundation.

The money earned on interest on the lawyers' trust accounts varies from year to year. This means that the amount of money that is available for grants and scholarships varies, depending on the amount of interest received during the previous fiscal year. The next call for grant applications will be in the spring of 2008.

The affairs of the Foundation are managed by a board of six directors. Three Directors are appointed by the Government of Yukon and three are appointed by the Yukon Law Society. Currently, the Board is comprised of the following members:

- Malcolm Campbell, Chair
- Tom Ulyett
- Janet Wood
- Mike Reynolds
- Lesley McCullough
- Rick Smith

Deana Lemke was hired last August as the Foundation's new Executive Director. The Board welcomes Deana and thanks Lynn Daffe for her years of dedication to and work with the Board. For more information

regarding the Yukon Law Foundation, please contact Deana at 667.7500, by fax at 393.3904, or by e-mail at execdir@yukonlawfoundation.com.

Please note that the new mailing address for the Yukon Law Foundation is:
P.O. Box 31789 Whitehorse, YT Y1A 6L3

CANLII NEWS

Anna Pugh, CanLII Board Member

LOOKING FOR THE "perfect case" to wow C.J. Veale? Trying to get that conviction overturned? Maybe you are arguing a labour case before an arbitration panel. It might be time to turn to CanLII for the case law you need.

Since its launch in March 2007, the new and improved CanLII site is becoming increasingly the top choice of lawyers for easy access to Canadian case law. CanLII offers the ability to search by jurisdiction, by court/panel, or by words or phrases.



Anna Pugh

CanLII has done away with awkward Boolean searches, and has gone one step further than most for-charge providers—the search engine (affectionately known as ELIISA), recognizes legal phrases, such as "child support" or "unreasonable search and seizure", which makes finding relevant cases faster and easier.

CanLII also has easy access to legislation, and is currently working on online tables of concordance, making it possible to review older versions of Canadian, Provincial and Territorial laws.

If all this is overwhelming, this month the CanLII desktop reference guide will be available from the Law Society of Yukon, to assist you in your online searches.

THE FUTURE OF CANLII:

At our last board meeting on October 27, 2007, a large part of the discussion centered around access to secondary materials on CanLII. Over the winter, CanLII will be looking at adding secondary material, including CLE papers, academic writings,

and other documentation to add context to the jurisprudence. Watch for updates on this in coming editions of this newsletter.

CANADIAN BAR ASSOCIATION YUKON REPORT

Lana Wickstrom, President

LOCALLY, THIS YEAR CBAY goals are to rejuvenate section activity, formalize a system for the provision of continuing legal education and educate members about the value of CBA membership through implementing the CBA National strategic plan with a local focus. To that end, we are currently doing a phone blitz to all CBAY members encouraging them to sign up for current CBAY sections including: Aboriginal Law, Administrative Law, Business Law, Criminal Law, Elder Law, Labour and Employment Law, Small Firms and Solo Practise, Public Law, Family Law, Wills and Estates Law, Civil Law, Young Lawyers and Health Law. Don't forget that with CBAY membership, you are automatically entitled to one free section sign up with a British Columbia CBA section as well!

Any CBA members who are interested in signing up for sections or have any questions or comments please feel free to contact us via our new Executive Director, Meg Smith-Tucker at cbayukon@internorth.com or see our newly updated website at www.cba.org/yukon.

CONTINUING LEGAL EDUCATION

Eugene Meehan, Q.C., Chair of the Supreme Court Practice Group, will be conducting a seminar on Strategic Legal Writing on Friday, May 9, 2008. The seminar will be held from noon to 3:30 p.m. at the Westmark Whitehorse in conference room #4. Registration details and cost will be provided later in March or contact Leslie McRae at lmcrae@nwtel.ca or 393.7787 for more information.

NAMING THE LAW SOCIETY OF YUKON'S NEWSLETTER

Since this is our fledgling issue, we thought that we would leave it up to you, our members, to name your newsletter. Any exciting ideas (or even feedback on the current name), and thoughts on whether you would prefer to see this newsletter as an electronic or hard copy version, can be directed to Lynn Daffe at lynn.daffe@lawsocietyyukon.com.