

July 2, 2014

The Praecepte,

Victoria's Legal Newsletter

This newsletter is published by the VBA six times a year. It provides members of the local Bar with information about VBA events, the activities of its members and issues of importance to you. Comments can be emailed to legh@sll.ca

INSIGHTS INTO THE LOCAL BAR

We try to keep members informed on any developments within the local Bar. If you become aware of any members changing firms, passing away, receiving awards, or any issue that may be of general interest, please tell us.

The Honourable Mr. Justice Ken Murphy passed away recently and a memorial gathering was held for him on May 22, 2014 at the Victoria Golf Club.

Josiah Wood passed away quite suddenly on June 9, 2014 after a brief fight with cancer.

Mary Mouat QC. was appointed to the board of directors for the Victoria Foundation.

The CBABC President's Medal was recently awarded to **Tino Di Bella**, about whom President Crawford said, "*I can think of no lawyer in British Columbia who has committed as many volunteer hours to the important work of law reform. He is a most deserving recipient.*"

The vote instigated by **Mike Mulligan** against the decision to allow Trinity Western University graduates to be allowed to be admitted to the bar, resulted in an unprecedented vote of 3210 vs 968 in favour of a motion calling on the benchers to reverse their decision. All this at a cost of about \$150,000.00 and of course the now pending litigation costs.

Hemminger Schmid is no longer; they have hit the big leagues and are now: **Hemminger Law Group, Law Corporation**

Richard Stewart QC, has retired, almost entirely as of July 1, 2014

Dennis Murray QC is also going to retire and become a harbour ferry boat captain.

Acheson Whitley Sweeney Foley is losing **Kevin Whitley** to retirement.

Gary Coad is on the cusp of taking down his shingle, maybe in August.

Michelle Kinney has joined Cassels Murray

Nicole Bresser is joining Devlin Gailus

The robes for pregnant lawyers are now with **Heather Jaeb**; these are shared in the VBA – who knew? Now you do.

Jeffery Hartman has moved to Vancouver but remains with Hart Legal

Spier & Company Law is pleased to welcome **Timothy M. Summers** to their team as of June 1, 2014.

The online Duhaime's Law Dictionary, authored by **Lloyd Duhaime**, is now referenced by the Bodleian Law Library, Faculty of Law, University of Oxford Law Library and the Squire Law Library, Faculty of Law, University of Cambridge. (Somewhat inaccurate information was published last issue)

Jesse Stamm and gone out on his own away from Batchelor Stamm

The Honourable Judge Mike Hubbard has retired from the Provincial Court Bench and then **the Honourable Judge Carmen Rogers** was appointed to the Provincial Court effective May 28, 2014.

Eric Wagner – is new at ICBC, while **Christian Wilson** has left ICBC to join Wilson Marshall.

Gordon Benn is relocating to Sidney to run Pearlman Lindholm's satellite office...
(*At least that is what they are telling him.*)

We have had two calls recently. On May 29, 2014 two students were called, **Marie Watmough** at Stewart McDannold and **Nicole Bresser** at Stevenson Luchies & Legh. Then June 5, 2014, we had the following join us: **Neal Bennet** at Ministry of Justice; **Jennifer Cameron** at Cook Roberts; **Isabel Gowda** at Cox Taylor; **Suzanne Harkness** at Jones and Co; **Ryan Lloyd** at Mullin De Meo; **Baird Makinson** at McBOP; **Matthew Nefstead** at Devlin Gailus; **Fareeha Qaiser** at Carfra Lawton; **Tim Quirk** at Ministry of Justice; **Declan Redman** at Kelliher Turner; **Sheila Simpson** at McFetridge Grp; **W. Craig Vaughan** at Duncan Faber; **Rhea Wilson** at Ministry of Justice; **David Cowie** at Ministry of Justice (Transfer from Ontario); **Arne Peltz** – sole practitioner; ap@peltz.ca; (Transfer from Manitoba); **Terry Shillington** Shillington LLP (Transfer from Ontario).

NOTICE – CALL FOR NOMINATIONS - THE VBA AWARDS

Nominations close on October 6, 2014 for the awards which are presented at the AGM. Please contact **Kismet T. Bhandar** ktbhandar@carlaw.ca as soon as possible if you have any suggested award winners. The awards are:

The Pamela Murray Award: *“This award is presented annually to a practicing member of the Victoria Bar who has constantly maintained high professional standards and who has contributed substantially to the well-being of the local Bar.”*

The Volunteer Award: *“This award is presented annually to a member of the Victoria Bar who has contributed significant efforts in a volunteer capacity, which have benefited directly or indirectly the Greater Victoria community and which reflect positively on the legal profession.”*

The Contribution to the Law Award: *“This award is presented annually to a member of the Victoria Bar who has had a significant involvement in the development of a legal issue during the year, and which involvement reflects positively on the legal profession.”*

The **Linda Barnes Award**: *"The Linda Barnes Award is presented annually by the Victoria Bar Association to a support person (including secretaries, paralegals, book-keepers, receptionists, office managers etc.) who exemplifies proven excellence, professional courtesy and longstanding devotion in the service of their employer, the Victoria legal community and/or the Victoria Bar Association."*

COFFEE SHOP IN VICTORIA COURTHOUSE - CLOSING

The coffee shop in Victoria courthouse is closing (and may now be closed). Anyone want to start a coffee shop? There is a vacancy and it needs to be filled. Friendly regulars such as **Tim Russell** need coffee and food. We need an answer to this and soon! (at least according to some)

JUSTICE EDUCATION SOCIETY

Sylvia Sangha has retired and was the only part time paid employee for the good work the JES did. The Society needs a new dedicated person to help out. There is talk that a local teacher from Vic High might step up, but if not and you know anyone who might be interested, please have them contact **Kismet Bhandar** ktbhandar@carlaw.ca or (250) 995-4267.

FUTURE EVENTS

1. **Call Ceremony** dates in Victoria for 2014 are:
 - a. September 11; and
 - b. November 27.
2. September 6, 2014 - **VBA Baseball Tournament**
3. September 26, 2014 **VBA Golf Tournament** - at Cordova Bay Golf Course, All Levels of Play Welcome - There will be a BBQ dinner buffet following golf, and prizes for the top gross and net scores, as well as Most Honest Golfer. Contact : **Shelley Spring** c/o Dwyer Tax Lawyers
4. November 6, 2014 - **AGM** at Victoria Golf Club
5. December 3, 2014 - **Christmas Lunch** at the Union Club

WAIT FOR IT! LOST MAY BE BACK

LOST (Lawyers on Stage Theatre) lost its way awhile back and has not yet been found. However, discussions have been started with **Blue Bridge Theatre** which has its own facility (the former Roxy Theatre) and is in need of community support. **Blue Bridge** is working on finding an appropriate play and dates, likely in February 2015. It is anticipated that auditions will be announced in September. LOST was and is a successful and fun way for lawyers to provide a positive and public support to the community. Please consider becoming involved when the auditions are announced. If you have any questions or thoughts in the interim, please contact James Legh at legh@sll.ca.

RECENT EVENTS

VBA Hockey Game

May 17, 2014 at Oak Bay Rec saw the first ever VBA intermural hockey game. It was a grand time of scoring on opponents and enjoying Canada's game with the obligatory refreshments afterward at the pub. Looks like this should become an annual event.

Lawyer-Accountant golf tournament.

May 23, 2014 at Uplands Golf Course saw the Accountants again take down the lawyers for so many years now we have lost count. **Fiona Hunter** did manage to snag the ladies' long drive and **Ross Manson** was closest to the pin. **Craig Young** on behalf of the lawyers and Damon Pallan for the other group, along with **Andre Rachert** helped organize the event this year and fundraising benefited the Victoria Therapeutic Riding Association. The final score was 832 for the accountants and 841 for the lawyers, the closest in years. A new green jacket for low gross was presented to some accountant and should be an annual award. The Dwyer cup for the teams playing "Best Ball" went to the team featuring **Mike Miller** and **Craig Young** (who also acted as the M/C for the dinner)

VBA Summer Dinner

This year's dinner at the Deep Cove Chalet was another smash hit and sell out enjoyed by 115 of which eight were judges including **Mr. Justice Harvey Groberman** of the Court of Appeal, **Mr. Justice Keith Bracken**, **Chief Judge Tom Crabtree**, **Judge Susan Wishart** (twice) **Judge Adrian Brooks**, and **Judge Evan Blake**. **Heather Raven** had her birthday at the dinner and also in attendance were the President of the CBA, **Dean Crawford** and the President of the Law Society, **Jan Lindsay Q.C.** **Max Durando** got a free pint at the **Gorge Pointe Pub** for all he donates in blood. It was announced that the VBA is sponsoring **pints for a pint**.

The VBA urges you to give blood as part of our partnership with Canadian Blood Service. If you give blood within 6 weeks of any VBA dinner and have registered your donation to "**Lawyers of Victoria**", then the VBA and the **Gorge Pointe Pub** will give you a \$10 gift certificate you can use to buy a pint of your favourite beer to replace that pint of blood. (There are limited quantities of \$10 GCs, so those first to the VBA registration table rules apply.) Please call 1-888-2DONATE to make an appointment to donate blood. Our historical donations: 42 pints in 2013 and 35 pints in 2012

LAWYERS AND THEIR ALTERNATIVE ACTIVITIES

If you wish to share your other interests, or those of other members that may (or may not) be of interest, please email us at leg@sl.ca for inclusion in the next Praecept.

After completing the London Marathon in April, **Michael Butterfield** ran the Oak Bay half marathon for Charity on May 25, 2014. With the help of many members of

the local Bar, Michael raised over \$2600 for Santa's Anonymous. These funds will be used to provide summer camps for income impaired families in Victoria.

BENCHERS' REPORT

Call Ceremonies

A special Aboriginal call ceremony took place on 29 May 2014, in Victoria presided over by Madam Justice Power. The ceremony included drumming with invocation provided by Anisa White and Dr. John Burrow; and an address by Elder and Aunt, Maxine Matilpi in addition to representatives from the VBA, CBA and benchers of the Law Society. Our two new colleagues called at this ceremony were **Marie Watmough** and **Nicole Bresser**.

On 5 June 2014 another call ceremony took place in Victoria. Sixteen lawyers were called; including 13 new calls and 3 transfers. The group of colleagues, friends and family was very large with the result that the proceedings were broadcast by video streaming into the adjacent courtroom. Very kindly, members of the bar agreed to give priority seating in the main courtroom to family and friends.

Articled Student Remuneration Issue

At the request of the Lawyer Education Advisory Committee of the LSBC, Dean Lawton is continuing to look into the frequency, extent and circumstances in which articled students in the province have been working without remuneration; or alternatively with remuneration that is below a subsistence level. Dean reported to the benchers at their June 2014 meeting that this issue is indeed a concern and a more substantial report will likely be provided on the subject before year end for consideration by the benchers.

Trinity Western University (TWU) Accreditation Issue Update

As all likely know, but to confirm, a Special General Meeting (SGM) of the Law Society of BC took place on 10 June 2014 in Vancouver with fifteen satellite locations around the province included by audio link. The subject of the SGM was a motion of the membership directing the benchers to declare that TWU is not an approved Faculty of Law for the purposes of the LSBC's admission programme. In other words, the motion was intended to have the benchers rescind their TWU accreditation vote that occurred at the 11 April 2014 bencher meeting.

The result province wide was 3210 votes in favour of the resolution (i.e. that the TWU faculty not be accredited); and 968 opposed to the resolution. In Victoria the result was 388 in favour of the motion; and 102 opposed.

At their scheduled 13 June 2014 meeting, the benchers decided they would discuss at the 11 July 2014 meeting the next steps to occur as a result of the SGM motion being passed. We anticipate a final decision of the benchers will occur at the scheduled September 2014 bencher meeting.

For the information of members who wish to review the procedure going forward, s.13 of the *Legal Profession Act (LPA)* sets out next steps. In overview, the *LPA* says

that although the resolution is not binding on the benchers, if it is not “substantially implemented” by the benchers within 12 months following the general meeting then a referendum on the resolution may be requested by the membership. In a referendum the resolution is binding on the benchers if at least 1/3 of all members in good standing vote in the referendum, and 2/3 of those voting vote in favour of the resolution. The *LPA* also states that the benchers must not implement a resolution if to do so would constitute a breach of their statutory duties.

In related matters, on 27 June 2014 the Council of the Law Society of New Brunswick voted in favour of accreditation of the TWU faculty of law; with 14 of its benchers in favour of accreditation, and 5 opposed.

In the context of the litigation in our province, and litigation in Ontario and Nova Scotia where the benchers of those law societies denied accreditation of the TWU Faculty of Law, one must anticipate that the question will only be capable of final determination when heard by the Supreme Court of Canada.

Pinder Cheema, Q.C. and Dean Lawton

UNIVERSITY OF VICTORIA REPORT

Several honours were obtained by UVic Law in recent weeks:

UVic's mooting team came first of 12 teams in the Canadian competition in the 2014 Wilson Equality Moot! The team was made up of **Aislinn Sirk, Devon Black, Sarah Ashan, and Vivian Lee**, with Devon and Aislinn winning the awards for second top and third top oralists. Our thanks to **Leah Greathead** and **Tyna Mason** for their expert coaching.

Another UVic team, this time composed of **Kaitlyn Chewka, Cadeyrn Christie, and Tyler Gloux**, tied with Saskatchewan as winners of western Canada's McIntyre Cup Mock Trial Competition. **Clare Jennings, David Sissons, Robert Claus, and Michelle Daneliuk** were their wonderful coaches.

Professor Mary Anne Waldron won the Canadian Law and Society Association book prize for *Free to Believe: Rethinking Freedom of Conscience and Religion in Canada* (Toronto: University of Toronto Press, 2013). The book discusses the role that freedom of religion plays in our society and examines cases such as abortion, same-sex marriage and minority religious practice. Mary Anne has recently become an Associate Vice-President at UVic.

Professor Glenn Gallins, Director of the Law Centre Clinical Program, was awarded the 2014 Legal Aid Leader Award by the Canadian Bar Association's Legal Aid Liaison Committee. The Law Centre serves just short of 2000 clients each year. Over the years, Glenn has mentored more than 1500 students.

And, on May 23, an Honorary Doctorate was conferred by Dalhousie University upon UVic's superb scholar of Indigenous law, **Professor John Borrows**! Now, you may be surprised to hear an award to John Borrows claimed as an honour by UVic. John had held our Law Foundation Chair in Aboriginal Justice and Governance from 2001 to 2011, but had left to take up the Robina Chair in Law, Public Policy and

Society at the University of Minnesota. But John has now returned! On May 12, he took up our newly-created Canada Research Chair in Indigenous Law. It is great to have him back.

2013 VBA EXECUTIVE

President – **Kismet Bhandar**

Vice President – **Mitch Selly**

Treasurer – **Krystle Gill**

Secretary – **Lisa Eames**

Social Coordinators – **Shelley Spring** and **Darren Williams**

Past President – **Darren Williams**

Court House Liaison - **Paula Donnachie**

Directors: **James Legh, Neil Carfra, Hugh Gwillim, Ron Dumonceaux, Gordon Benn, Ryan Ashmead, Christine Murray, Bronwen Bell, Samantha de Wit, Samantha Hulme, and Jarrett Plonka.**

Bencher Representatives **Pinder Cheema QC** and **Dean Lawton**

CBA Representative **Charlotte Salomon**

UVic Liaison **Jeremy Webber**

EXECUTIVE MEETINGS

Our meetings are held monthly, usually in the Barrister's lounge at the Court House, (unless moved in conjunction with another event such as the Spring Dinner). If you wish to bring a matter to the attention of the Board or to participate in a meeting, please contact **Kismet Bhandar** ktbhandar@carlaw.ca or (250) 995-4267.

LETTERS TO THE EDITOR

Well done to **Jim Legh**. One comment, **Fiona McQueen** was 4th in the Female – 50-55 age group in the T-C 10K. (*Cannot recall who would have said this*)

Dang! That's Duhaime's Law Dictionary and not that "other guy", a certain "**Duheim**". But *merci* for the mention! (*You really should be able to figure out who sent this*)

WANT ADS - WANTED OR UNWANTED

Want ads, just like they used to be in the old days, when you bought a newspaper. These will be **free** to all members and \$50 for non-members. Sent any copy to: legh@sll.ca

Renée Mulligan is collecting good basic textbooks on core legal subjects (contract, tort, constitutional law and international law, especially international arbitration) to send to Myanmar (Burma), as part of a volunteer law reform project. Texts should be from 2005 or later. Please contact her at reneemulligan@gmail.com and she will come and pick up the books. The law schools in the country have empty shelves, as there has been limited legal education since a military dictatorship in 1962, and further erosion of education following Burma's student-led uprising in 1988.

Nanaimo Associate needed

Krog & Company in Nanaimo is seeking a junior associate with 2 - 5 years' experience to join their small (family run) law firm. Emphasis on family, estate and civil litigation. The successful candidate just be a team player and have strong interpersonal skills. Apply with resume to krogco@shaw.ca

Blue Bridge Repertory Theatre seeks a lawyer/ paralegal or legal assistant to join its volunteer board of directors in the position of secretary. The board meets on the 3rd Monday of each month from 4:00-6:00 p.m. at the Roxy Theatre on Quadra St. Duties of the secretary include: recording minutes of meetings, ensuring their accuracy and availability; maintaining membership records; overseeing the continuity of policies and practises; ensuring the filing of all documents necessary to maintaining the organisation. BBTS is a non-profit society and professional theatre company dedicated to producing the masterworks of the past- "the classics "and mentoring young artists. Interested parties please contact BBRT general manager Rebekah Johnson by email at rjohnson@bluebridgetheatre.ca

THE PRESIDENT'S SENTENCE

The summer dinner at Deep Cove Chalet was again a sell out and a success on three counts. First, we did not upset the chef. Phew! Second, I was offered a second helping of the strawberry anglaise. And third, **Jan Lindsay QC** challenged and beat **Michael Mulligan** in an arm wrestle.

On a sombre note, I attended the Special Sitting for the **Honourable Judge Josiah Wood** in Duncan. It was standing room only in a room filled members of the public, elders council, friends, family, counsel, clerks, sheriffs, judges from all levels of the BC Judiciary, president of the Law Society, president of BC-CBA, and close friend and former Attorney General, **Wally Oppal**. Very moving tributes were paid to His Honour from all, including tributes by his two sons. The VBA will be contributing to the trust fund being proposed. It is not yet set up, but we will publicize it once it is.

It is summer, by the way. Hope you have made plans to spend with friends and/or family. Not too late to make those plans, if you haven't already. No one lives or dies from our work. Extensions are always available when you ask nicely (thank you Mr. Mark). Here is a radical plan. At least once this summer, when you wake up and see that it is a glorious sunny day, call in and say "It's too sunny to work." It is one of my favourite things to do.

(PS. I made up the part about the arm wrestle. But I now wish I had suggested it.)

(PPS. This was longer than a sentence – apologies from the Ed.)

CONCLUSION

Recently, a Saskatchewan lawyer who submitted a piece of toilet paper as proof of a contract with his client has been rebuked by the Saskatchewan Law Society. **Ron Cherkewich**, from Prince Albert, Sask., was reprimanded, fined \$500 and given an order to pay costs of \$10,000.

'The toilet paper agreement brought the profession and the administration of justice into disrepute.' - Law Society of Saskatchewan decision

Cherkewich used a piece of toilet paper to create a handwritten retainer agreement, signed by him and his client. Apparently the adjudicator, to whom it was shown, was deeply offended. *"It was very difficult for her to stay composed throughout the hearing as she felt disrespected and humiliated,"* the society's decision noted.

Now the real issue might have been the type of paper used. Had it been Bamboo TP, such as **Silk'n Soft**, which is readily available here on the Island, then the result might have been different. Perhaps.