

To Copy or Not To Copy?

Supreme Court decision settles the debate

The end of a decade-long copyright battle between the Law Society of Upper Canada and three legal publishers means that libraries, lawyers and researchers can continue to copy works needed for research without paying a licensing fee to any rights holder.

"We are especially pleased that the Supreme Court has recognized the importance of this access to justice issue," said **Malcolm Heins**, CEO of the Law Society. "Lawyers must have fair access to legal materials to provide clients with the best possible legal representation."

In 1993, the Law Society was sued for copyright infringement by CCH Canadian Ltd., Thomson Canada Ltd (Carswell) and Canada Law Book Inc. for permitting copying of legal material in the Great Library. The publishers were ultimately looking to require the entire legal profession to pay a licensing fee for copying for research purposes, according to the Law Society.

On March 4 this year, the Supreme Court of Canada handed down its landmark decision in favour of the Law Society, which had argued that its photocopying services and the research activities of lawyers constitute 'fair dealing' under the *Copyright Act*. This followed an extended trial in the Federal Court of Canada in 1998-99 and a four-day appeal to the Federal Court of Appeal decided in 2002.

The *Copyright Act* says that fair dealing for the purpose of research is not an infringement of copyright. This is a broad statement of users' rights, but until now it has been narrowly interpreted, possibly excluding anything undertaken for profit. In contrast, the unanimous decision of the Supreme Court of Canada has now struck the proper balance between the rights of copyright owners to exploit their work and the right of the public to use these works for research purposes. The court has also provided guidance to determine when a 'dealing' is fair. Single copies of factual works such as reported decisions and articles, generated for the purpose of research, will generally be viewed as 'fair dealing' which does not require permission or licence.

IMPLICATIONS FOR OUR LIBRARY

This decision means that the Court House Library at 361 University Avenue, operated by the Toronto Lawyers Association, will continue to provide its on-request photocopy services and will

also continue to enforce its policy on photocopying. This requires users to stipulate if the copying is for court, private study or research purposes.

Kevin Sartorio of Gowling Lafleur Henderson LLP, who along with **R. Scott Jolliffe** and **A. Kelly Gill** represented the Law Society in the case, acknowledges that it has been a long haul. "But, after many years of having the case heard before every level of court, with each justice involved seeming to take a different approach on the issues, it is enormously gratifying for the Law Society and us to receive such a clear judgment from the Supreme Court of Canada."

SEE PAGE 4 FOR MORE

TLA'S PHOTOCOPY SERVICE

Need cases, short excerpts from textbooks, journal articles, statutes or regulations? You can access TLA's cost-effective copy service and receive the material you require by fax, mail or e-mail.

Simply visit the Library or call Shannon Lindsay at 416-327-5700 or e-mail slindsay@tlaonline.ca

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It is always somewhat of a daunting task to take over the reins of an organization from an active predecessor. I extend heartfelt thanks to **Nancy Ladeluca** for all her hard work and dedication during the past year on behalf of our association. Under her able leadership, Nancy carried out many initiatives including negotiations with Bar-Ex to mount an online TLA Nutshell program to bring our successful programs to those seated right at their desks.

The challenges facing an organization that prides itself in representing *all* lawyers in Toronto are indeed great. When our association was first formed almost 120 years ago, specialization wasn't terribly prevalent. In today's highly specialized legal world, the challenge of maintaining a generalist organization forces us to constantly search for and address issues of relevance to our members.

Ski days and golf tournaments may be nice, but they are not what strengthens and sustains an organization such as ours. Although consensus building is not the easiest thing to achieve when the only real thread binding us is that we are all lawyers in Toronto, our numbers – at nearly 3,000 strong – demonstrate a desire on the part of Toronto lawyers to have their voices heard and to be connected.

ENHANCING THE PROFESSION

For that reason, you will see us move forward with a strong communications plan designed to enhance the role of the profession and to spread the word about the good work TLA does. The plan is rooted in the three pillars of what our members told us we needed to emphasize – Information, Education and Advocacy.

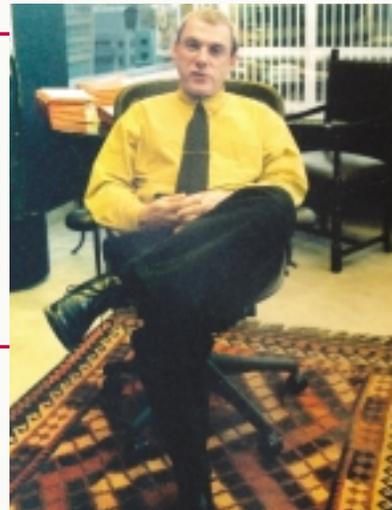
This redesigned issue of *VOX* is but one example of what you can expect from our enhanced communication project. Be sure to check out the **value-added information** we are providing, such as the Nutshell summaries on page 6, and the Members Only section in our newly-revamped Web site at www.tlaonline.ca.

President's Message

In terms of our latest **advocacy initiatives**, we have representation regarding the ongoing issues of paralegal regulation, a critical issue not only for our profession, but for the public at large, a recent invitation by the Attorney General to participate in the regulation of Contingency Fees, membership on the Joint Insurance Task Force with other associations, and active participation in helping bring to the profession the recommendations of Justice Colin Campbell's Task Force on the Discovery Process, to mention but a few.

perately need is a court house to hold civil trials, not courtrooms in office buildings. It diminishes the public respect for the judicial system and the administration of justice to hold court in the same location as private businesses or when the public rides elevators with judges and masters. Quite frankly, it's downright embarrassing! While funding has often been the retort to our demand for a proper court house, we must work in tandem with other organizations to forcefully impress upon the government the need for proper court facilities.

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LIBRARY PLAYS UNIQUE ROLE

In February, we attended before the LibraryCo Board (LibraryCo Inc. is funded by the Law Society and has the mandate of managing the court house library system in Ontario with the purpose of providing resources for the "competent lawyer"). We presented our report about the importance and significance of our Court House Library – notwithstanding its juxtaposition to the Great Library, a very different type of library. I am confident that the Board understands the unique role our library plays in serving the information needs of our members, particularly sole practitioners and smaller law firms that lack the breadth of resources available in large firms and that our library is a true resource centre for both the profession and bench.

FACILITY UPGRADES PLANNED

One of our priorities this year will be to take a hard look at our facilities and consider upgrading which may include the lounge, robing rooms and locker areas. We hope to encourage even more members to visit our 361 University Ave. location which now primarily houses criminal trials. However, what is most troublesome to me is the lack of court facilities. What Toronto lawyers des-

Following in the footsteps of my partners at Dutton Brock LLP (both **Graham Dutton** and **Brian Brock** are former presidents), I have been a member of this association for nearly 20 years and have served on the Board and many committees for the past decade. I look forward to the opportunities and challenges of this new role. But the strongest message I hope to impart is to convince you to get involved in TLA in whatever capacity you can. Our challenge is to remold this association and ensure its relevancy in our increasingly specialized world. Toronto lawyers in particular and the profession in general need a strong collective voice. **V**



PAUL TUSHINSKI
President



The Hon. Roy McMurty (left), Chief Justice of Ontario, and The Hon. Robert Armstrong (far right), introduced award recipients (centre) Justice Patrick Lesage and Sheila Block.

AWARDS OF DISTINCTION HIGHLIGHT OF AGM

The house was full at Convocation Hall in Osgoode Law School on January 29 when TLA celebrated with the 2004 recipients of our 5th Annual Awards of Distinction at a gala dinner and ceremony. **Sheila Block** of Torys LLP and **The Honourable Patrick J. Lesage**, Superior Court of Justice, were recognized for the excellence of their contribution to the integrity and worth of the law and to the legal profession.

“I have enjoyed the wisdom, the collegiality and the comradeship of this organization.”

JUSTICE PATRICK LESAGE

Ms. Block, in practice since 1972, pointed out that over those 30 years, many of the difficulties faced by lawyers – work/life balance, negative public perception of lawyers, revenue challenges – have changed little. But, “perhaps my ‘distinction’ is that I am here in response to those laments, as are each of us in this room for whom a life in the law has been an intellectual challenge and an extraordinary privilege to help clients achieve their goals and for whom a full and happy family life has been an essential part of our fulfillment.”

In his remarks, Justice Lesage also recounted changes he has seen in the practice of law over time. And while the location of the TLA Library, the courts and the Crown Attorney’s Offices have changed over the years, he lauded the three librarian/executive directors who have held the positions during his time at the Bar, for being “the cornerstone, the heart, and the stability of this organization. They have created a reputation and tradition that will not be easily matched anywhere in this province or in this country.” He also thanked TLA members. “When your opinions are sought on issues concerning the administration of justice, you have always been most generous and forthcoming in your response.” TLA brings together and represents “probably the broadest cross-section of lawyers in this province,” he added.

TLA gratefully acknowledges Quicklaw, Canada Law Book and Carswell as sponsors of this year’s awards. **V**

For complete presentations, visit www.tlaonline.ca.

NEW BOARD VOTED IN AT AGM

TLA’s executive for 2004 includes: President **Paul Tushinski** (Dutton Brock); Vice President **James Musgrove** (Lang Michener); Treasurer **Bruce Hutchison** (Genest Murray); Secretary **Lucia Favret** (Favret & MacKenzie); Assistant Secretary **Richard Wozenilek** (WeirFoulds LLP); Assistant Treasurer **William Whittaker**, Q.C. (Lette, Whittaker) and Past President **Nancy Iadeluca** (Epstein, Cole).

NEW TRUSTEE ON BOARD

Welcome to our newest Trustee, **Michael Henry** of Howie, Sacks & Henry LLP. For a list of all our Trustees, visit www.tlaonline.ca

CONGRATULATIONS

Our Past President, **Nancy Iadeluca**, has been appointed to the LibraryCo Board for a three-year term.



www.tlaonline.ca

Join TLA Now
If you are a member,
GET INVOLVED!

LATE-BREAKING NEWS

Member appointed to Bench

Congratulations to TLA member and former Board member Lucia Favret – now The Honourable Madame Justice Lucia Favret – who was appointed to the Ontario Court of Justice in Newmarket, Ontario on April 26.

“Lucia’s absence on the Board will be truly felt,” says Paul Tushinski, President. “We thank her for all her hard work, dedication and major contributions to bringing the TLA to where it is today.”

“LAWYERS MUST HAVE FAIR ACCESS TO LEGAL MATERIALS TO PROVIDE CLIENTS WITH THE BEST POSSIBLE LEGAL REPRESENTATION.”



COPYRIGHT – CONTINUED FROM PAGE ONE

FAR-REACHING IMPACT

Kevin Sartorio of Gowlings adds that the decision is not only important for Ontario lawyers and their clients who will not see an increase in research costs conducted on their behalf, but for anyone wishing to engage in research using a copy of someone else's work. And it will have an important impact on both Canadian and international copyright law, he maintains.

“In addition to the issue of fair dealing, one of the key things flowing from the decision is that the Court has greatly clarified what the test is for determining whether a work is ‘original’,” he explains. “Section 5 of the *Copyright Act* states that only ‘original’ works are eligible for protection. Until this ruling, the problem had been the lack of definition of the word ‘original,’ which had allowed for competing lines of authority to develop.

“The Supreme Court of Canada was aware of the different approaches taken on this issue by courts in both the U.S. and U.K. and in this case the Court decided to take a middle position, which it described as being ‘fair, yet workable.’ The Court has stated that works will be protected by copyright if they are the product of a non-mechanical exercise of both ‘skill’ and ‘judgment.’ U.S. law, as stated in a decision called *Feist Publications v. Rural Telephone Service Co.*, requires an element of ‘creativity’ for copyright protection to apply (a relatively higher standard). On the other hand, the approach of courts in the U.K. and Australia has been to set a very low threshold, historically known as ‘sweat of the brow,’ which extends copyright to cover any work produced through one's labour – effectively everything.”

The Supreme Court of Canada's pronouncement on the definition of ‘originality’ has now eliminated the debate as to the proper standard to be applied in Canada. Mechanical labour is not, in and of itself, sufficient to fulfill the definition of an ‘original’ work. “This case may ultimately have implications for those working in fields such as computer software or database creation,” says Kevin. “If a particular software or database is created through the exercise of much labour, but without the required amount of skill and judgment, then it might not be protected by copyright.”

Software and databases were not at issue in the Law Society decision, and so those types of works will have to be decided in future cases. “It also remains to be seen whether the middle approach taken by the Supreme Court of Canada will find its way into future U.S. and U.K. copyright cases, particularly those presenting difficult issues.”

THE SUPREME COURT OF CANADA'S PRONOUNCEMENT ON THE DEFINITION OF 'ORIGINALITY' HAS NOW ELIMINATED THE DEBATE AS TO THE PROPER STANDARD TO BE APPLIED IN CANADA. MECHANICAL LABOUR IS NOT, IN AND OF ITSELF, SUFFICIENT TO FULFILL THE DEFINITION OF AN 'ORIGINAL' WORK.

ACT RESPONSIBLY

It is important for lawyers to follow ethical practices and adhere to the Supreme Court's ‘fair dealing’ requirements. The Law Society has these guidelines for all lawyers:

- Reproduce only single copies of the legal resources you require.
- Refrain from producing and distributing multiple copies of any work. (This restriction may not apply to copies required for court).
- Reproduce only what is required to finish the particular piece of research being undertaken.
- Seek counsel concerning copyright issues if there are any doubts about the quantities, the scope of research, or other circumstances that call into question the ‘fairness of the dealing’.

Visit www.canlii.org for a copy of the Supreme Court's decision online.

IAN HULL

"Join the Metropolitan Toronto Lawyers Association" is the advice that Rodney Hull gave his son, Ian, when he started in the family law firm in 1992. On that auspicious note, father and son built a successful boutique practice of 10 estate trust lawyers. And both men are still active members of our Association.

TITLE: PARTNER

FIRM: HULL & HULL, BARRISTERS & SOLICITORS

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WWW.HULLANDHULL.COM

SPECIALTY: ESTATE LAW

EXPANDED CONTACTS

Ian has also been exposed to other professional associations open to lawyers and formerly sat on the executive of the Ontario Bar Association. His experience with the Toronto Lawyers Association (TLA) has had a different flavour. "That 'extra' something is the opportunity to meet and work with lawyers of diverse backgrounds in a variety of practice areas," he says. "In other associations, you are grouped with lawyers according to area of specialization and interact only with them most of the time. The TLA expanded my contacts and helped me understand how to be a better lawyer both in contentious and non-contentious environments."

In addition, Ian is enthusiastic about the court house and "phenomenal" library services – hidden jewels of the TLA. In conjunction with the Nutshell programs, they offer a persuasive argument for membership, he emphasizes. "The services are underestimated by a lot of people...until you get involved. For example, you can walk into the library and get personalized help in solving any problem."

One of the association's strongest assets is the respect it engenders from the judiciary, he adds. Certain meetings and social events are well attended by judges, offering yet another opportunity for members to meet and experience a cross section of their profession. "It's not so easy to connect socially or professionally to those outside of your practice group. The truth is, referrals generally come from outside that group, not from within."

In Ian's opinion, the TLA is woven into the fabric of the profession. "It's the tireless work of unsung committees that are the TLA's greatest achievement and contribution. The committees represent longevity and consistency within the process. They are a vibrant force in terms of legislative change and input into process and procedure."

LAW AS BUSINESS

Ian finds that the dominant trend of "the law as a business" is the most overwhelming challenge for the modern lawyer. In his father's day, the business side of the practice was simply not a priority. Now, the level of client sophistication and expectation is forcing lawyers to focus more on this. "In a small firm, this can detract from the lawyer's ability to understand and advocate on the subject area. It's a balancing act that creates stress and infringes on personal time." Ian feels that the wide spectrum of learning and social interaction offered by the TLA helps lawyers address these new challenges and manage them more effectively.

A PASSION FOR WRITING

In a career that has been particularly satisfying, Ian underscores the writing and academic aspects as the most rewarding. He revels in blending the practical aspects of law with the academic and, as a result, has written three books on estate law (one co-authored with his father) and more than his share of articles.

Ian also finds time to teach at the Bar admissions and lecture on estate mat-

ters to the Advocates Society, the Law Society and the Ontario Bar Association. Over the past decade, he served as a trustee on the TLA board and has chaired several Nutshell programs relating to estate matters.

POLITICS IN THE WINGS

Earlier in his career, Ian discovered the thrill of politics and has already run a campaign for his provincial Riding Association. A young active family of three children leaves little time in his schedule for more than "dabbling", but Ian is still keen. "As my kids get older, I'll want to get back into active involvement with running campaigns. It takes me out of the cloistered world of estate lawyers and litigators. I really enjoy the back room work, the organizational skills that it entails." He claims to have no interest in running for political office himself, but politics is contagious – who knows where it might lead. "I prefer the win-lose of politics to the win-lose of litigation."

Meanwhile, Ian and his wife, Kirsten, enjoy snowboarding and waterskiing with their kids. In the ever-elusive pursuit of work/life balance, Ian confesses that he has not yet found the secret, but he does have some words to the wise. "It's all about balance and relishing what you do. Don't get too caught up in the business aspect. Make learning a cornerstone and enjoy the profession for what it is." ■

"TLA's phenomenal services are underestimated by a lot of people."

MEMBER PROFILE

photo courtesy of johncurrid.com ©



Missed the event? Here are some practical take-aways...

FEBRUARY 10, 2004: PIPEDA – A PRACTICAL PRIMER: 10 PRINCIPLES

John Wilkinson, Partner, WeirFoulds LLP (416.947.5010; jwilkinson@weirfoulds.com) and Pamela Slaughter, Sr. Research Coordinator & Privacy Officer, Institute for Clinical Evaluative Studies (416.480.4055, x1-3886; pam@ices.on.ca), presented an overview of the new *Personal Information Protection and Electronic Documents Act (PIPEDA)*.

In outlining the statute's 10 privacy principles, Pamela offered these compliance tips:

- Tailor the principles to your organization;
- Consider what you need to change;
- Discuss eliminating risk;
- Articulate an appropriate strategy;
- Educate – develop good policies including a privacy code, orientation, strategy and useful staff handbooks; and
- Be transparent and accountable.

John underscored these features:

- The purpose of the Act relates to the collection, use and disclosure of personal information.
- Reasonableness is very important in the application of the Act since there are significant grey areas.
- All organizations which collect, use or disclose personal information in the context of commercial activities must comply. This includes law firms.
- The Act does not apply to personal information collected, used or disclosed in the context of an employment relationship governed by provincial law; and domestic, journalistic, artistic or literary purposes.
- The less sensitive that personal information is or that a use or disclosure is, the more likely that implied consent (as opposed to express consent) will suffice and that opt out consent (e.g. "unless you say no, we will _____") will be permissible.
- Third party contracts should have a PIPEDA compliance provision.
- Organizations must respond to access requests within 30 days, but can get an extension; organizations may be able to charge for responding to a request.
- When refusing a request, an organization must provide a reason.
- Good recordkeeping is crucial in order to respond to access requests.

Among his compliance tips:

- ✓ Do a privacy audit on information handling within your organization.
- ✓ Take a team approach.
- ✓ Adopt and distribute a privacy policy. Be careful or you may commit to more than is necessary.
- ✓ Don't reinvent the wheel. Visit other corporate web sites for ideas on how to structure your own.

Law firms can access the document "Law Firm Privacy Compliance in 10 Steps" (by Jeffrey Kaufman), available on the Ontario Bar Association web-site, for use as a compliance "road-map".

For more of an overview of PIPEDA and the 10 privacy principles, visit www.tlaonline.ca

FEBRUARY 24, 2004: THE ENFORCEABILITY OF FOREIGN JUDGMENTS

Presenters Messod Boussidan, (messod@lbslaw.com) Larry Levine (larry@lbslaw.com), and Kevin Sherkin (kevin@lbslaw.com) of Levine, Sherkin, Boussidan Barristers (416.224.2400) – counsel for the respondents – discussed the implications of *Beals v. Saldanha* (2003 SCC 72). This case reflects a significant development in the principles enunciated in *Morguard* and will affect the enforceability of foreign judgments going forward.

In *Beals v. Saldanha*, a Sarasota, Florida piece of land was purchased by Florida developer Beals from Saldanha for \$8,000. Beals intended to buy lot #1, a corner lot but was actually sold lot #2. Beals sued for inter alia fraudulent misrepresentation. The eventual outcome in the Florida courts was an award of US\$210,000 in compensatory damages and US\$50,000 in punitive damages.

The Florida judgment was recognized and enforced by the Supreme Court of Canada which held, inter alia, that the size of a foreign award was not a basis for a Canadian court to resist enforcement of the foreign judgment.

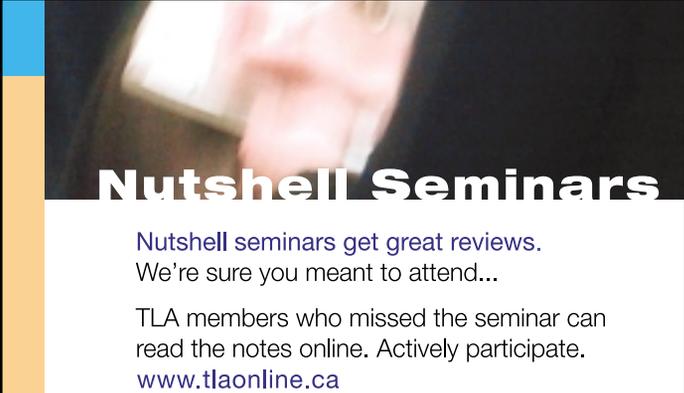
Foreign judgments will be recognized and enforced in Canadian courts if:

- There is reasonable and substantial connection in the case for a foreign court to take jurisdiction;
- A Canadian court is satisfied that minimum standards of procedural fairness have been applied to the Canadian defendants (even if the Canadian courts would likely have ruled differently, i.e. merits of case not necessarily relevant.)

The burden of alleging unfairness in the foreign legal system rests with the defendant (Canadian), not the plaintiff (Foreign party). Therefore, lawyers must be very careful in advising their clients and should present all possible actions and risks associated with each choice, allowing the client to decide how to proceed.

It should be noted that, on the other side of the coin, this decision means that Canadian courts should not be timid in enforcing large American-style awards in Canada.

FOR MORE, VISIT WWW.TLAONLINE.CA



Nutshell Seminars

Nutshell seminars get great reviews. We're sure you meant to attend...

TLA members who missed the seminar can read the notes online. Actively participate. www.tlaonline.ca

MARCH 9, 2004: MODERN ESTATE PLANNING

Ian Hull (ihull@hullandhull.com) and Lisbeth Hollaman (lhollaman@hullandhull.com) of Hull & Hull (416.369.7826 www.hullandhull.com) focused on recent developments relating to estate planning and innovative techniques with regard to preparing a Family Estate Plan. Ian reviewed a new approach to estate planning that has experienced great success in the United States while Lisbeth discussed issues relating to life insurance, RRSP's and Pension Plans. Here are the key takeaways:

- The newest trend in estate planning is to directly involve the family members from the outset, using a 'bottom up' process as opposed to the traditional 'top down' methodology of parental control. This encourages family meetings and can have a positive effect on edgy family dynamics by involving everyone in some of the decision-making.
- Incentive Trusts and Purpose Trusts are another trend adding a twist by drafting language into the trust document that will restrict potentially contentious beneficiary behaviour. One such example in the U.S. relates to restricting a beneficiary from receiving any income from the trust if that person does not proceed to post-secondary education.

- Use well-qualified counsel, with the support of allied professionals, to create an effective, comprehensive and bullet-proof estate plan.
- Life Insurance, RRSP's and Pension Plan proceeds are often the main financial foundation for beneficiary support. Beneficiary designations and revocations can become complicated when insurance contracts and wills collide so be sure that an estate law professional has checked out any potential conflicts.
- Estate planning professionals need to communicate the contractual complexities to their clients and take careful steps to avoid the financial chaos that can result from the 'inadvertent revocation' of a beneficiary.
- Insurance Trusts are a good way to use insurance funds while retaining some control, particularly where minor children are concerned or where restrictions are required after the beneficiary attains the age of majority. **V**

To view the complete presentations,
visit www.tlaonline.ca

Court House Library Update



The Court House Library is the hub of the Association's activities and we know from a recent member survey that the Library is the central pillar of the TLA for many members. The core mandate of the Library includes supporting the operations of the justice system by providing legal information in the Court House, providing a legal information resource centre for all lawyers in Toronto and for visiting lawyers, serving as a regional library within the LibraryCo system, and supporting CLE initiatives by providing written CLE materials in the Library.

Our professionally trained librarians and library technicians maintain a collection skewed toward practical, frequently-required case reports, legal textbooks, statutes, and other legal reference material in print and electronic format.

If you haven't taken advantage of the Library lately, I urge you to call or visit us if you:

- need assistance to find something on the Internet
- need books or information on a specific legal topic
- get stuck on a research question
- need cases or legislation copied
- want free hands-on access to Quicklaw, WestlawCarswell, CCH Online, Canada Law Book electronic sources, or the Internet
- need a case or issue tracked
- need to borrow something from another library
- need to update cases or legislation
- need specialized research done

- need a quiet, comfortable place to work away from your office or during court breaks
- want fast, efficient, friendly research assistance

I invite any comments or suggestions you may have to make the Library even better. And, of course, I look forward to seeing you here! **V**

ANNE C. MATTHEWMAN

Library Manager/Executive Director

Membership invoices for 2004 were mailed to all members in early February along with a summary of membership benefits. Thanks to those of you who have already returned your payments. We will be sending you a reminder notice soon if you have not paid already. Membership fees support the many education and advocacy activities of the Association and also subsidize the operation of the Court House Library.

Visit the Court House Library: 3rd floor, 361 University Ave.
9:00 a.m. until 5:00 p.m. Monday through Friday

General assistance: 416.327.5700

Computer based research assistance: 416.327.6013

Library Manager: 416.327.6012

Email: slindsay@tlaonline.ca or amatthewman@tlaonline.ca



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AREA OF PRACTICE: CIVIL LITIGATION

YEARS PRACTISING: 15

TLA ROLE: TRUSTEE, CHAIR, NUTSHELL COMMITTEE

Q. TELL US ABOUT YOUR BACKGROUND.

A. Although rare these days, I have spent my entire career with the same firm – Landy, Marr & Associates – a five-person civil litigation firm. I was called to the bar in 1988. I started as an associate, and became a partner in 1992. Half of my practice is Plaintiff personal injury claims, primarily disability claims, and the other half is commercial and real estate litigation.

Q. WHAT HAS BEEN A CAREER HIGHLIGHT FOR YOU?

A. Acting as lead counsel for the Plaintiffs in a recent settlement of a \$7 million class action, involving a failed commercial condominium project. It was a very challenging and rewarding experience.

Q. HOW LONG HAVE YOU BEEN INVOLVED WITH TLA?

A. I became a trustee in 2002 and Nutshell Committee Chair in 2003.

Q. AS CHAIR, WHAT WOULD YOU SAY IS THE GREATEST VALUE OF THE NUTSHELL SESSIONS?

A. The Nutshells provide an inexpensive opportunity to interact with some very knowledgeable and experienced speakers in a way they can't easily do in other forums. They are scheduled at the end of the business day so as not to conflict with work responsibilities. They always have lively Q & A sessions, with people talking about their own cases and sharing advice.

Q. HOW WOULD YOU "SELL" THE BENEFITS OF TLA TO OTHER LAWYERS?

A. The TLA has a fabulous resource library with a very helpful staff that can even assist you from your office. That's a big benefit and well worth the price of membership, particularly if you are practicing outside of the downtown core. The Nutshells are an excellent way to keep abreast of new developments in a seminar format that is inexpensive and convenient.

Q. BASED ON YOUR OWN EXPERIENCE, WHAT IS THE BIGGEST PROFESSIONAL CHALLENGE FOR LAWYERS TODAY?

A. Society's general perception of lawyers as a group is not high. There is an interesting dichotomy: lawyers are not well regarded, and yet I believe clients who have actually hired a lawyer are very satisfied with the work performed. The media image of lawyers is unflattering, but our clients – with opinions formed by actual experience – know and value our service.

Q. WHAT IS THE SOLUTION?

A. I think we need to more forcefully emphasize our value to the public. Assisting clients in taking on large corporations is a real and important role that lawyers perform. I will never forget a disability client who had a very strong case, but did not know how to pursue the insurer. Her evidence at discovery was that "after the disability insurer cut off her benefits, the client and her young daughter were forced to sleep in a friend's closet!" The evidence was so powerful that the case quickly settled. If she had not found a lawyer, she would have received nothing. She was a client I was thrilled to help, and one who does not question the value of a lawyer's services in her own life.

Q. WHAT OPPORTUNITIES DO YOU THINK EXIST FOR THE TLA?

A. The TLA must champion the role of lawyers in society whenever possible. We need to advance our association within the criminal bar. The TLA offices are well situated at 361 University. Criminal lawyers are an untapped resource and we need more of them as members.

/// The media image of lawyers is unflattering, but our clients – with opinions formed by actual experience – know and value our service. ///

Q. WHAT DO YOU ENJOY DOING OUTSIDE OF WORK?

A. My interests revolve around my family – my wife Susan, and our two sons, Darren 10, and Adam, 7, who keep us very busy with school, hockey, baseball and piano lessons.

Q. WOULD YOU BE THRILLED IF YOUR SONS FOLLOWED YOU INTO LAW?

A. Yes, but only if that was the career they truly wished for themselves. I would encourage my sons to follow their hearts. My enthusiasm for my work has continued to grow, even after 15 years. It's the variety, uniqueness and challenge of each case that I embrace. I have wanted to be a lawyer since I was nine and am very fortunate to have a career in which I am able to fulfill my childhood dreams. The thrill and the adrenalin rush of the victories, and the despair of the occasional defeat are still rewarding, compelling and exciting. I cannot imagine doing anything else with my life. **V**

Meet the people behind the scenes who help decide the strategic direction of TLA.

TRUSTEE PROFILE

photo courtesy of Thompson photography ©

ADVOCACY

A summary of recent issues where TLA's voice has been heard on behalf of the profession.

1. ISSUE: PARALEGAL REGULATION

OUR POSITION:

- A regulatory framework must include a definition of the practice of law along with a definition of the consumer interest to be protected.
- The Standing Committee responsible for paralegal issues should include representation by the public, paralegals, the profession and the regulator.
- The principles underlying the supervision of non-advocacy work need definition.
- The profession should not be responsible for funding regulation; should be funded by public and independent paralegals.

STATUS: TLA Trustees Lucia Favret and Nestor Kostyniuk are providing continuing input to the Law Society Working Group which is develop-

ing a plan for the regulation of paralegals by the Law Society.

2. ISSUE: CASE MANAGEMENT

OUR POSITION: The TLA submission (September 2003) to the Case Management Implementation Review Committee expressed the following:

- timetabling of actions can become a rigid exercise, preferring form over substance, and often resulting in an impediment to settlement;
- issues management rather than scheduling management might assist in early resolution of cases;
- increased flexibility in the timing of mandatory mediation should be encouraged;
- a uniform case conference protocol should

be instituted; it is difficult to obtain timely motion dates;

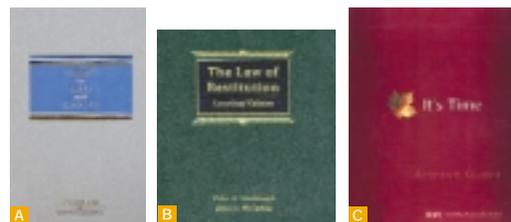
- TLA continues to support case management.

RESULTS: The report of the Case Management Implementation Review Committee was published in February 2004, reflecting input from TLA and other groups that provided similar input. (A copy is available in the Court House Library). The report included longer-term recommendations about timetabling and several short-term recommendations covering mandatory mediation, case management, delay reduction, information and education and resources. **V**

For more details, visit the Members Only section of our Web site at www.tlaonline.ca.

Recent Publications

NEW BOOKS AT THE COURT HOUSE LIBRARY



Chief Justice of Ontario's Advisory Committee on Professionalism

First Colloquia on the Legal Profession held in London, Ontario, October 20, 2003

A collection of papers presented at the 1st Colloquium focusing on legal ethics and jurisprudence.

Chief Justice of Ontario's Advisory Committee on Professionalism

Second Colloquia on the Legal Profession held in Toronto, March 5, 2004

A collection of papers presented at the 2nd Colloquium focusing on criminal law

A Gatley on Libel and Slander

10th ed. London, Sweet & Maxwell, 2004

The latest edition of this classic textbook in The Common Law Library Series

B Law of Restitution

Maddaugh, Peter D.

Looseleaf edition. Aurora, Canada Law Book, 2004

A revised and expanded version of the 1993 edition with new chapters on breach of confidence, breach of contract, and restitutionary liability of public authorities

LAW of Limitations

Mew, Graeme

2nd ed. Toronto, Butterworths, 2004

Focuses on the practical aspects of the law of limitations and contains the revised Ontario legislation in force January 1, 2004

C It's Time – WPC, Committee to review the structure of securities regulation in Canada

Dept. Of Finance, Ottawa

Executive summary and research study. 2003

Law Society of Upper Canada, Continuing Legal Education

- annotated documents for a power of sale, 2003
- annotated share purchase agreement, 2003
- six minute family law lawyer, 2003
- six minute intellectual property lawyer for general practitioners and IP professionals, 2003
- 2nd annual six-minute insurance primer for general practitioners, 2003
- 4th annual employment law forum, 2003
- 11th annual immigration forum, 2003

Introducing the New TLA

The "new TLA" is the result of a dynamic Marketing Communications Plan approved by the Trustees last year, and designed to increase membership and raise the profile of the Association. It started with modifying our name to the Toronto Lawyers Association and then progressed to designing a new logo and communications vehicles to convey our repositioning and new brand. This is the beginning of our re-launch, emphasizing **information, education and advocacy** as the three pillars of operation in servicing the needs of Toronto lawyers. Check it out on these pages. We hope you like our new progressive image! Don't forget to visit us online at www.tlaonline.ca



**T O R O N T O L A W Y E R S
A S S O C I A T I O N**

LOGO DESIGN RATIONALE

The communications committee selected as TLA's new logo a 3D circle anchored to an axis point above the words Toronto Lawyers Association.

The word association suggests not only an organized body of people who have an interest, activity, or purpose in common (a society) but also a mental connection or relation between thoughts, feelings, ideas. The circle represents both the whole of the group and the inter-dependent connection between its ideas

(Information, Education and Advocacy). The circle is also a visual reference to the architecture of the library. The three sections of the circle represent the activities of this association – information, education and advocacy.

The colour orange represents energy and vitality, blue signifies establishment and business, and the graduated grey to black represents steel, structure and edifice. Each colour section complements the other while retaining its own uniqueness and importance.

COURT HOUSE LIBRARY

Images of and reference to the Court House Library are incorporated throughout the newly prepared TLA materials which include the new member brochure, benefits of membership information, newsletter and web site.

TLA LOGO

The TLA logo design rationale which appears above, at right, incorporates the reference to the Court House Library. The circle is a theme reflecting the circular architecture of the library. ■





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With information, resources and services for virtually every area of legal practice, the BAR-eX web site is your invaluable legal tool. When you're looking for legal information, try www.bar-ex.com.

*Anton Katz is a Sole Practitioner practising corporate-commercial and commercial



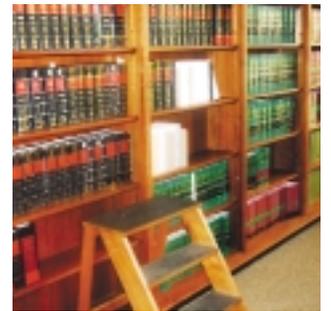
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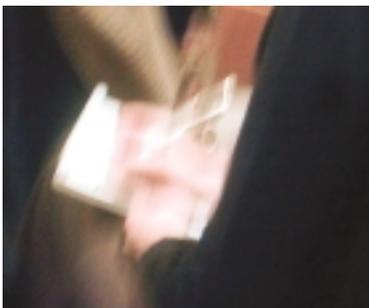
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IS RELEVANT, TIMELY AND CONNECTS OUR MEMBERS TO THE PROFESSION.



TLA IS AN ACTIVE ASSOCIATION. GET INVOLVED.

Events Calendar

UPCOMING NUTSHELL PROGRAMS

JUNE 2: TRUST PROVISIONS OF THE CONSTRUCTION LIEN ACT

Wednesday, June 2, 2004
Marriott Eaton Centre Hotel, 525 Bay St.

Speakers:

- Steven Tatrallay, Koskie Minsky
- Sam Marr, Landy Marr & Associates

JUNE 22: CHILD SUPPORT FOR CHILDREN OVER THE AGE OF MAJORITY

Tuesday, June 22, 2004
Marriott Eaton Centre Hotel, 525 Bay St.

Speaker:

- Bohdan Shulakevych, Shulakevych & Associates

For registration details, go online at www.tlaonline.ca.



WHO ARE WE?

The Toronto Lawyers Association is dedicated to lawyers. We advocate on behalf of our members by voicing their concerns to relevant organizations, governments and the public. We educate on issues and opportunities affecting the lawyer's day-to-day practice through our expert staff in the courthouse library, newsletters, Nutshell educational programs, and interactive website. We provide information that is relevant and timely and that connects our members to the profession.

OUR MISSION

The TLA provides lawyers with key services, including Information that is relevant and timely, Education about issues and opportunities affecting members and Advocacy on behalf of the profession.

GET INVOLVED

TLA members are your peers. TLA represents your interests. The low-cost of membership – free, for newly-called lawyers – literally opens the doors to a myriad of valuable member benefits: keep pace, share with peers and make your opinions known.

TLA BENEFITS

Membership in the TLA gives you exclusive access to the Court House entrance, the Robing Rooms and Lounge, plus:

INFORMATION

- Full-service Library with Wireless Internet Access
- Interactive Web Site
- Value-laden Newsletter

EDUCATION

- Nutshell Programs
- Nutshell "Missed the Event" Summaries

ADVOCACY

- Instant Communication via Member Surveys of Key Issues
- Effective Representation through Advocacy Initiatives to the Government and Media



If you've been a member of TLA for years – we have four words for you!

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Associations must constantly evolve to meet new needs, to offer new services, and to adapt to new technologies. The issues facing Toronto lawyers are the issues the TLA meets head on. Familiarize yourself with – and take advantage of – TLA initiatives, activities and benefits of membership.

VOX is the quarterly newsletter of the Toronto Lawyers Association, keeping you informed about TLA news, events, research and personnel.

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