

November 2, 2007

The Praecepte,

Victoria's Legal Newsletter

This newsletter is published by the VBA approximately 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. As this is a developing product, any constructive advice, criticism, or assistance is greatly appreciated. Comments can be emailed to leg@sl.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.

On September 20, 2007 **Dermod Owen-Flood, QC** who recently retired from the Supreme Court where he presided after a long and distinguished career as a barrister here in Victoria, passed away.

Bruce Buckler and **James Shaver** have joined to create Buckler Shaver LLP. Which then added **Lee T. Fisher**, as Associate Counsel (who has returned to Victoria after having tried Maple Ridge and Campbell River, before realising the error of leaving in the first place)

Valerie Hemminger is leaving Genesis Law Group and moving with **David Marcus Schmid** to a new location at 1179 Fort Street to do business as "Hemminger Schmid".

Stephen Hartman is leaving Cook Roberts to live in Prince George.

Brooke MacLeod is now at Windsor Law Group having left Morohan & Co.

Dave Owens, (not a lawyer, but a well known process server) now works out of his home at 677 Mt. View Ave rather than down town.

Nan Aulakh has moved her practice to Johns Southward Walton & Margetts and **Lex Reynolds** has moved his practice to #101-2722 Fifth Street, Victoria.

Mr. Justice Macaulay presided over the October 4, 2007 call ceremony and present were Second Vice-President **Gordon Turiff, Q.C.**, **Kathryn Berge, Q.C.**, **Richard Stewart** and lay bencher **June Preston** in representing the Law Society of BC. **Sue Wishart** represented the CBA and **Kerry Simmons** represented the VBA. The call candidates and their future plans were:

Alison Browne will continue as an associate at Horne Coupar. **Ken Carradine** is joining the Public Service Agency of British Columbia as a senior labour relations specialist. **Scott Coltart** is establishing a criminal law practice as a sole practitioner. **Lisa Eames** will continue as a solicitor at McConnan Bion O'Connor & Peterson. **John Heaney** is continuing as an associate at Heenan Blaikie. **Peter Heinen** will continue as an associate at Cox Taylor. **Jo-Anne Kahan** has established a practice in Brentwood Bay. **David McVea** will continue

at Shook Wickham Bishop & Field in Campbell River. **Jennie Milligan** will continue as an associate with McKimm & Wishart. **Susan Neary** will be with the Civil Litigation Group in the Ministry of Attorney General. **Heather Sauerwein** will continue as an associate with Waddell Raponi. **Shelly Spring** has joined Dwyer Tax Lawyers. **Veronica Jackson** has relocated from Manitoba to join the Constitutional & Administrative Law Group in the Ministry of Attorney General. **Lara Levesque** has come from Alberta to join Jones Emery. **Carli van Maurik** has joined Reed Pope LLP from Nova Scotia. **Maureen McDowell** also transferred from Manitoba and she will be with the Ministry of Attorney General. **Edward Yanoshita** has transferred from Ontario as corporate counsel for Hydroxyl Systems Inc.

If you know of other moves or additions in town, please send them to James Legh (legh@sll.ca) for publication in the VBA newsletter, The Praecepte.

VBA AWARDS

The Victoria Bar Association is pleased to announce the following recipients of our awards for 2007:

PAMELA MURRAY AWARD

This award was created in honour of the late Pamela Murray Q.C. who constantly upheld the highest of standards as a member of the Victoria Bar and who contributed significantly over the years in encouraging and helping her fellow lawyers do so as well. The award is to be presented not more than once each calendar year to a member practicing of the Victoria Bar who has constantly maintained high professional standards and who has contributed substantially to the well being of the local bar.

Glen Gallins Q.C. – For twenty-five years, Mr. Gallins has provided lawyers in Victoria with a foundation of values, skills, and knowledge, which has assisted them in beginning and carrying on with their practices in Victoria. He has done this through UVic's Law Centre where law students provide legal assistance and representation to vulnerable and challenged members of our society. Through Mr. Gallins' gentle, capable, and calm guidance, law students gained practical experience without which they would not be the lawyers many of them are today.

VOLUNTEER AWARD

This award is presented annually to a member of the Victoria Bar who has contributed significant efforts in a volunteer capacity, which has benefited directly or indirectly the Greater Victoria Community and which reflects positively on the legal profession.

David Johns – Mr. Johns has served our community in many capacities for over twenty years in the arts, politics, philanthropic endeavours, and education. He is currently a Governor of Camosun College, a Director of the Vandekerkhove Family Foundation and a Member of the Kiwanis Club.

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.

Paul Pearlman, Q.C. - Mr. Pearlman's 30 years of practice in administrative, employment and labour, civil, and constitutional law has resulted in his involvement with many significant complex cases. Most recently, Mr. Pearlman represented the petitioner in a case establishing that members of administrative tribunals performing judicial functions enjoy constitutional protection against arbitrary removal from office by government. The case is McKenzie v. British Columbia 2006 BCSC 1372.

and

Gerald Neely, Q.C. - Mr. Neely's 47 years of practice reflects a commitment to real property law and in particular, educating lawyers, realtors and notaries on the finer points of real estate. Mr. Neely has authored the column "*Legally Speaking*" in a BC Real Estate Association publication for twenty-five years. Mr. Neely has analyzed over 500 significant cases of legal importance in "plain English" that not only informs but also assists the reader in intelligently avoiding risk in all matters concerning real estate law. His contribution has reflected positively on the legal profession and the columns remain accessible to all through both the Vancouver and Victoria Courthouse Libraries.

FOUNDERS COMMITTEE GRADUATION AWARD

This Award is in honor of Allan Cox, Hamish Gow and Robert Hutchison and presented to a University of Victoria Law Student who has contributed to the life of the law school, demonstrated academic excellence and will remain in Victoria.

The 2006 recipient is **Jonathan Hanvelt** who is presently clerking with the BC Supreme Court in Vancouver and will complete his articles with Devlin Gailus in Victoria.

FUTURE EVENTS

Dates to note on your calendar include:

- December 12, 2007 is the last date in 2007 for the Victoria Call Ceremonies
- December 5, 2007 Christmas Lunch at the Union Club
- February 9, 2008 - Curling Bonspiel

RECENT EVENTS

AGM

The VBA AGM was held November 1, 2007 at the Victoria Golf Course. As usual the event was well attended and allowed for minimal speech making. There is word afoot that some wish there to be more speech making. We encourage those who promote change to step forward and get more involved.

We were pleased to welcome Judges **Dorgan, Metzger, Macaulay, Hubbard, and Kay**, Master **McCallum**, as well retired Justice **Hutchison** to the dinner. In addition, the President of the Law Society, **Anna K. Fung**, Q.C. joined us. Over 180 members were in attendance this year. The 2008 executive was elected and will feature the following:

President	Scott Farquhar
Past President	Kerry Simmons
Vice President	Michael Cooper
Treasurer	Charlotte A. Salomon

The remaining directors are: James Legh, Nisha Bathe, Roxanne Helme, Kismet Bhandar, Kay Melbye, Carmen Rogers, Sue Wishart, Meneka Giri, Renee Miller, Brooke MacLeod.

VBA Softball Tournament Report

Saturday, September 8, 2007 was a perfect day for a softball tournament. The sun was out but not too hot. Eight teams, all fiercely competitive, arrived early to sharpen their spikes and run through their warm-up drills. By 10:00 am sharp, more or less, team managers met for a final review of the rules and then the tournament was on.

Two games were played in the morning, with the Mulligan, Tam, Pearson Law Group vs. McConnan, Bion, O'Connor & Peterson rivalry flaring up in the first outing. Other competitors included Stevenson, Luchies & Legh, led by Jim ("*We should have been in the finals we only lost by one run*") Legh against the Woodward & Co. Skookumchukers; last year's victors. Wong & Doerkson played against the new upstart team Devlin Gailus and UVic vs. Acheson Whitely.

After the second game players took a well-deserved break and enjoyed a barbecue, courtesy of the Victoria Bar Association, and beverages courtesy of Mulligan, Tam Pearson Law Group.

The competition ramped up in the finals as Acheson Whitely squared off against Woodward & Co., with Woodward & Co. emerging battered but victorious to claim the trophy which will be engraved yet again with Skookumchuck and placed on display in the Barristers' Lounge.

VBA Golf Tournament

September 20, 2007 was the date for the VBA Golf tournament at Prospect Lake. Forty people braved the beautiful weather to compete in the annual VBA tournament. The event winners included Ralston Alexander and John Green who tied for men's low net with 36. Leslie Baird, wife of Robin Baird, took the women's low gross with a 48 and also hit the woman's long drive. Don McKnight was the Men's long drive winner and Phil Penner was somehow able to make the Men's KP.

The horse race was threatened with cancellation due to activity on the field. However, due to the tricky footwork of Allan Milne, it was held again for what must be its 15th or greater year. The final was, not surprisingly, between Ralston Alexander and John Green with Ralston taking the race after almost being eliminated in the first hole. Congratulations all around.

There has been suggested that the location of the golf tournament be changed next year. The suggestion is that a location be identified that would allow those who wish to golf 18 holes to do so and those who are not so inclined to golf for only 9 (Say Cordova Bay). If you have an opinion on this either way, please contact any VBA representative.

OTHER POINTS OF ORDER

2008 Law Day celebrations

Michelle Kinney and Berry Hykin have taken on the responsibility of getting a committee going to celebrate Law Day next year. There will be an initial lunch meeting (12:30 to 1:30) next Tuesday **November 6, 2007** at the Barristers Lounge in the Courthouse. Please let them know if you are available, and if you are not, please indicate what days are available for a lunch meeting. If you are unable to come, but do want to be involved still, please let them know at Michelle.Kinney@gov.bc.ca

Victoria Lawyers Consultation -- Have Your Say!

Conflicts issues are a major concern to the legal profession, and changes are being considered for proposal to Canadian law societies. You have a perspective that we want to hear -- join your colleagues at an interactive working lunch and help shape the future of conflicts rules. **November 8, 2007** 12 noon to 1:30 pm – Suite 328- Delta Victoria Ocean Point. To read the consultation paper and background materials on this issue, go

to: <http://www.cba.org/CBA/groups/conflicts/> Please RSVP for the Victoria meetings to: moniquen@cba.org

Re: Victoria Court House Access Cards

The temporary cards will automatically be deactivated effective November 9th, 2007 so you must obtain permanent ones by going to the Sheriff's Office, Room 111-850 Burdett Ave. Victoria British Columbia. There is no additional cost for this exchange.

Letter From Canadian Blood Services

I am writing to you today to ask for your help.

Over the last 2.5 weeks we have had a shortfall in collections and the situation is becoming somewhat critical from the standpoint of our hospital inventory for the province - we are not able to meet all of their blood type demands.

I am asking you to please make an appointment to donate now if you have not done so in awhile - and bring a friend.

The "*Lawyers of Victoria*" have not participated at the same rate as last year - last year as of September the lawyers had contributed 34 units, this year at the end of September the units donated were 29.

Please make an appointment to donate now. If you would like to get a group together, don't hesitate to contact me and I will block off appointments for your use. I am also happy to provide transportation to and from the clinic for groups of three or more.

We need to support the patients in our hospitals - please share your vitality and donate blood now.

Catherine J. Slood
Community Development Coordinator
Victoria/Vancouver Island
Direct line: (250) 405-4308
Toll Free: 1-888-966-7222
Email: Catherine.Slood@blood.ca

Booking space in the Barristers Lounge

All members are entitled to use the Lounge and can book it for law related activities and meetings. If you wish to do so, call Kerry Simmons or Leah Seal at 386-8707 or email Kerry at ksimmons@cardlaw.com.

LAW SOCIETY NEWS

Kathryn Berge, Q.C. and Richard Stewart have been acclaimed as the Benchers for Victoria County for a further two years after their initial two-year term. They have indicated that they enjoyed the experience of representing Victoria.

Highlights of the October, 2007 Benchers meeting includes a report from the Law Society Trust Assurance Program which covered the following key points

- 70 audits have been performed to date. The plan is to perform approximately 550 audits per year when the program is fully staffed. Every firm will have at least one compliance audit every six to seven years.
- The program assists new firms through direct auditor visits to help understand audit rules, publications, and the requirement to file accountant's reports for the first two years.
- The program provides communication and advice to members through a member information telephone line, bookkeepers guide, new law firm guide, sample checklist of internal controls, Benchers Bulletin articles, and Website information. Additional assistance is available from the Small Firm Practice Course, and Practice Advisers.
- Audited firms have responded positively to the following questions:
 - The objectives of the Compliance Audit were clearly stated and discussed by the auditor
 - The auditor displayed a professional, constructive, and positive approach during the audit.
 - The auditor provided clear answers, and Rule references (if applicable) to any questions posed.
- The key objective of the program is to ensure that all law firms scrupulously follow the rules relating to the proper receipt and handling of trust funds, thus reducing the number of financial suspensions and referrals to Professional Conduct.

CBA REPORT

The Victoria County Elected Representatives for the upcoming year are

Wendy Everson (Reed Pope)
Roxanne Helme (Green & Helme)
Carmen Rogers (Ministry of Attorney General)
Kerry Simmons (Cardinal Law)
Sue Wishart (McKimm & Wishart)

They, along with the chairs of the local sections and Ken Walton, President, are your voice to the CBA. Contact any one of them with your comments and suggestions.

At the recent meeting of Provincial Council, the Council received information from:

- Gordon Turriff, Q.C. regarding the pending mandatory continuing legal education requirements of the Law Society,
- Robert Brun, Q.C. regarding the national Conflicts Resolutions Task Force
- Tom Fellhauer regarding new initiatives of the Continuing Legal Education Society, and
- Arlene Henry regarding the Aboriginal Law Student Scholarship.

The Council also engaged in a small group discussions regarding retirement planning for lawyers and whether or not there is a role for the CBA to play in providing information about retirement planning to lawyers in the form of a seminar. The general result of the discussion was that this was not an activity for the CBA to undertake.

The CBA Branch continues to co-ordinate a response to the Civil Justice Reform Task Force on the revisions to the Rules of Court and the wholesale review of the Family Relations Act. Additionally, the CBA renewed its submissions on the *Registered Plan (Retirement Income Exemption) Act* to protect RRSPs from creditors in a manner similar to the protection afforded pensions.

Provincial Council next meets in January and there is always an opportunity for Victoria to present local issues to Council.

UNIVERSITY OF VICTORIA REPORT

Lawyers Without Rights Exhibition Comes To UVic

Lawyers Without Rights: The Fate of Jewish Lawyers in Germany After 1933 will go on display in the University of Victoria's Student Union Building (SUB) from **November 28 to December 9, 2007**. The exhibition is produced by the German Federal Bar and the German Jurists Association, and presented by the Vancouver Holocaust Education Centre, Friends of Simon Wiesenthal Center for Holocaust Studies, the Law Society of British Columbia, and the Consulate General of the Federal Republic of Germany. The project is also supported by UVic Law, the Law Foundation of B.C., Harbour Centre and the CBC.

An opening reception will be held November 28 at 7:30 p.m. A public roundtable discussion regarding the role of lawyers in the protection of rights will take place November 29, starting at 7:30 p.m. in the SUB's Michele Pujol Room. For more information about the exhibit, check the website at www.lawsociety.bc.ca.

UVic Law Homecoming Weekend Set For May 9-11

One of the highlights of the coming year for UVic Law will be Homecoming Weekend, scheduled for May 9-11, 2008.

The Faculty is looking forward to welcoming alumni and friends from all graduating classes. Special reunions are also being planned for the classes of 1978, 1983, 1988, 1993, 1998 and 2003. We hope that many former students and faculty members

will attend the festivities, renew old acquaintances and witness how the school's traditions have been nurtured and augmented over time.

Graduates who want to learn more about the homecoming events or wish to get involved as volunteers should get in touch with their class leaders or contact Anne Pappas in the Alumni, Development and External Relations Office, at apappas@uvic.ca or (250) 721-8025.

UVic Hosting Client Counselling Competition

UVic Law is looking forward to hosting the Northwestern Regional final of the 2008 American Bar Association (ABA) Client Counselling Competition. The event, which is kindly sponsored by the firm of Heenan Blaikie, takes place **February 15-16, 2008**. It will feature two-student teams from law schools throughout Western Canada and the U.S. Pacific Northwest.

Competitors will be judged on their ability to appropriately advise their "clients" in simulated case situations involving challenging legal issues. The subject area this year is human rights and civil liberties. The winning team at the regional level will advance to the North American final in New York, where twelve teams from Canada and the United States will also vie for spots at the International Client Counselling Competition (ICCC) in Bangalore, India.

The Faculty of Law is proud to support the efforts of its outstanding students in a range of moot competitions and looks forward to welcoming ABA regional competitors to the campus in February.

UVic Law Students Advance In ABA Negotiation Competition

A dozen members of the Victoria Bar Association volunteered their time last month to serve as judges for UVic Law's in-school portion of the American Bar Association (ABA) Negotiation Competition. The October 25 event, which was supported by Fraser Milner Casgrain, tested the students' ability to obtain the best possible negotiated settlements for their "clients" while conducting themselves in a professional and ethical manner at all times.

The 20 teams (each consisting of two students) were presented with a negotiation situation related to family law and were then given the same set of confidential client instructions. Although the competition was very close, three teams eventually came out on top. Brigeeta Richdale and Nicole Smith finished first overall, earning them a berth in the **November 3-4** regional competition at the University of Saskatchewan. The team of Gordon Brandt and Braden Gulka-Tiechko came in second, while Karen Chee and Sonia Kainth finished in third place.

The winning teams from the 10 regional competitions will advance to the North American finals in Los Angeles, scheduled for **February 8-9, 2008**. The international championship will take place next July in a site yet to be determined.

Law Library Redevelopment On Track

A major redevelopment of the Diana M. Priestly Law Library at the University of Victoria has taken another significant step forward. Funding commitments of \$4 million have now been confirmed, thanks to generous contributions from The Law Foundation of B.C. and the University of Victoria.

A planning committee, under the direction of UVic Law Librarian Neil Campbell, conducted an extensive consultation process to determine what improvements were needed to modernize the 27-year-old library's facilities, furnishings and equipment.

The objective is to "repurpose" the physical environment to accommodate new learning technologies and meet the contemporary learning needs of UVic Law students. The committee received valuable feedback from library users, including students, staff, faculty, members of the Victoria Bar Association and others involved in the legal community. Campbell notes that the numerous thoughtful suggestions submitted by UVic Law students were especially appreciated.

Concept plans for the library renovations are now being prepared by Chow Low Hammond Architects. Drawings and other information related to the project will be posted on the law library website in early 2008, at <http://library.law.uvic.ca/Renovations/>.

WWW.VICBAR.COM

As you are likely aware, the VBA website is a wonderful source of information. It features details of upcoming events, event photo's, previous editions of the Praecept, and an online forum. The forum is available to VBA members only - a good way to exchange information and ideas of interest to the local Bar (including complaints regarding the activities of the executive).

2007 VBA EXECUTIVE

<i>President</i>	Kerry Simmons
<i>Past President</i>	James A. S. Legh
<i>Vice President</i>	Scott Farquhar
<i>Treasurer</i>	Michael Cooper
<i>Secretary</i>	Noel Lenaghan
<i>Social Co-ordinators</i>	Richard Fyfe & Charlotte A. Salomon
<i>Meeting Co-ordinator</i>	Roxanne Helme

Directors: Nisha Bathe, Gary Kinar, Kismet T. Bhandar, Kay Melbye, Carmen Rogers, Sue Wishart, Joan M. Young, Robert J.M. Janes, Menaka Giri, Renée A. Miller, Ruari McLennan, and Brooke A. MacLeod

<i>Bencher Representatives</i>	Kathryn Berge Richard Stewart
<i>CBA Representative</i>	Kay Melbye
<i>UVic Liaison</i>	Andrew Petter

EXECUTIVE MEETINGS

Our meetings are scheduled for the third Tuesday of each month, 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 do not hesitate to contact Kerry Simmons in advance.

Family Law Lawyer Sought

Sraith and Company requires an intermediate lawyer with at least three years experience in collaborative family law to take over an existing practice for a lawyer leaving the country. Experience in estate litigation an asset.

Reply in confidence to John Campbell or Jerry McLean.
- A paid advertisement -

Legal Researcher Available

Derek Jackson
Barrister & Solicitor
(B.C. '89, AB '87)
Legal Research Lawyer
Toll Free 1.888.875.4785
Facsimile 250.598.8863
derekjackson@telus.net

- A paid advertisement -

CONCLUSION

The practice of law is hard enough, as are many professions, without people taking small advantage of the errors of others. It is important to remember, that while you might benefit your current client by holding another party to a certain point, you have to work with opposing counsel in the future.

It does not hurt to remind everyone that a small gain today could have long-term negative effects on relationships that simply do not benefit you. So, if someone makes a clear error and it is possible to rectify it, do so. Do not refuse simply due to the fact you can.

Think about the reality that every time you agree to accommodate someone, to correct an obvious error – in the future there will be yet another person who may refer work to you, talk positively about you and make the rest of your life just a little bit better. Certainly far more so than what will occur in the future if you do not cooperate. None of us gets the opportunity to pass through this profession for very long. Think about making it the most positive experience you can.