



# THE LAW SOCIETY OF ALBERTA

ANNUAL REPORT 2000

## OUR MISSION

*To serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession.*



# THE LAW SOCIETY OF ALBERTA



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## THE BENCHERS

Alan D. Macleod, Q.C.      President

Eric F. Macklin, Q.C.      President - elect

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Hugh D. Sommerville, Q.C.	Yvonne A. Stanford, lay bencher
Morris Taylor, lay bencher	Juliana E. Topolniski, Q.C.
Jack Watson (Until July, 2000)	Wilfred Willier, lay bencher

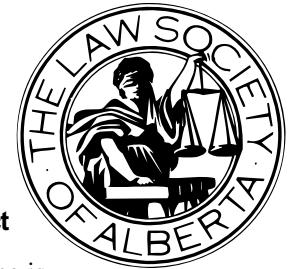
## OFFICERS

Peter L. Freeman, Q.C. - Executive Director  
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 James D. McLeod - Deputy Secretary  
 Sarah J. Brickett - Director of Insurance  
 L. Steven Dyer - Director of Audit  
 Lindsay MacDonald, Q.C. - Counsel  
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 Barry Vogel, Q.C. - Practice Advisor

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# THE LAW SOCIETY OF ALBERTA



The Mission of the Law Society of Alberta is, "To serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession."

A self-governing society, the Law Society derives its authority from the *Legal Profession Act of Alberta*. The legislature has respected the fundamental democratic tradition that the legal profession should be independent of the government and should regulate itself.

## Self Regulation and Benchers

Every two years Alberta lawyers elect 20 of their members to serve as benchers. The benchers act as a board of directors who meet regularly and serve without remuneration, except the president who is chosen by the benchers and receives an honourarium. Although elected by the profession at large, each of the three provincial districts (north, central and south) outside of Calgary and Edmonton is entitled to one resident bencher regardless of overall vote.

The Law Society also has three non-lawyer, lay benchers (public representatives) who are appointed by the Attorney General. As fully participating benchers, the lay benchers serve on committees and discipline panels. They enrich the discussion on many public interest issues and open the workings of the profession to public scrutiny.

## Professional Standards

The Alberta legal profession has a comprehensive code of ethical standards to which all lawyers must adhere. These standards are contained in the *Legal Profession Act*, *The Rules* and *The Code of Profes-*

*sional Conduct*, court decisions, and Conduct Committee and hearing committee decisions. In case of doubt, lawyers also refer to authoritative text books and journals, and seek guidance in the form of a written opinion from the Professional Responsibility Committee.

The criteria of academic credentials for admission to the legal profession are set by the National Committee on Accreditation. The educational requirements for lawyers include undergraduate study, a three year law school program, one year as an articling student (learning by working with a senior lawyer), and the completion of the eight-week bar admission course. The bar admission course, directed by the Society through the Legal Education Society of Alberta, focuses on core practice areas, lawyering skills, and professional attitudes. A comprehensive set of practice area examinations and skill assessments ensure that only those lawyers with a clearly demonstrated level of competence are admitted to the profession.

## Lawyers' fees

The Law Society is not involved in the regulation of lawyers' fees. Clients may apply to the court for an independent fee review (taxation) of their legal fees. As an alternative to the taxation process, voluntary fee mediation is available through the Law Society. Lawyers who charge an unreasonably high fee may be disciplined by the Law Society.

For persons without the ability to pay a lawyer, Legal Aid is available. Founded in 1970 by the Law Society and the provincial government, Legal Aid offers assistance to the needy.

## Penalties for misconduct

A lawyer who is guilty of professional misconduct may be reprimanded, fined up to \$10,000, suspended from practice or disbarred. Conditions of practice may also be imposed on a member. While some cases of poor conduct are dealt with through the discipline process, efforts are made to resolve others through reviews, mentors, education upgrading or counselling.

## Public protection

The Law Society of Alberta instituted the first mandatory insurance program in Canada in 1969. Every lawyer practising in Alberta must purchase liability insurance with compulsory coverage of \$1,000,000 per occurrence, adequate coverage for most services provided by lawyers. Many lawyers purchase additional insurance. The additional amount depends on the size of the firm and type of law practised. The combination of compulsory and optional insurance protects the public and spreads the cost of insurance equitably across the profession. Since 1984, the Insurance and Loss Prevention Committee has mounted an aggressive loss prevention program, publishing comprehensive practice checklists and manuals, and sponsoring free seminars on law office management and loss prevention techniques.

In addition to insurance for lawyers' liability, the public is protected for losses suffered through a lawyer's misappropriation of trust funds. The Alberta Law Society Assurance Fund, established in 1939, was the first of its kind in Canada. Every active lawyer in the province contributes to this fund.

To ensure the public continues to receive the highest quality of legal services, the Law Society is vigilant in protecting the public against unqualified persons illegally practising law.

### Services

The Law Society of Alberta offers a variety of services to both lawyers and the general public. In addition to those programs outlined elsewhere in this report, the Law Society offers the following:

#### Office of the Practice Advisor

Confidential free advice for lawyers is available from practice advisor Barry Vogel, Q.C. and practice management advisor Paul McLaughlin. Barry is available to discuss legal, ethical, and practice concerns and personal matters such as stress and addiction. He also will mediate and arbitrate interlawyer disputes. Paul provides assistance in practice management, automation and office administration, with a focus on the needs of sole practitioners and members practising in smaller settings. Both will travel anywhere in Alberta for meetings with members.

The Office of the Practice Advisor also offers a Mentor Program in family law, criminal law, civil litigation, wills and estates, and real property.

#### Lawyer Referral Service

The Law Society of Alberta operates a Lawyer Referral Service to help people find a lawyer to provide the legal services they require. An information service, Lawyer Referral is not connected with Legal Aid, nor does it provide any financially subsidized legal services. To use the Lawyer Referral Service, phone toll free from anywhere in Alberta by dialling 1-800-661-1095 or 228-1722 in Calgary and a lawyer referral operator will answer. After being advised of

the nature of the problem or the areas of law of concern, the operator will provide you with the names and telephone numbers of three lawyers practising in the applicable field of law. You can then make an appointment with one, two or all three of those lawyers, advising that they were referred by Lawyer Referral. There is no charge for the first half hour interview, after which you can decide whether or not to engage the lawyer at the full fee rate, and the lawyer can decide whether to accept the engagement.

#### Publications

The Law Society of Alberta publishes *The Benchers' Advisory* five times annually, and contributes to the publication of the joint Canadian Bar Association - Law Society of Alberta *Newsletter*. All publications are available on our website, [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com) or by calling our Central Records Department at (403) 229-4737 or 1-800-661-9003.

#### *Pamphlets available from the Law Society include:*

\*Buying Your Home: Facts to Know Before you Sign

\*Civil Actions: The Process if You Sue or if You Are being Sued

\*The Criminal Justice System: Your Rights When Arrested or Charged  
Have You Planned Your Estate?

Lawyers of Alberta: Serving the Public Interest

Public Relations Suggestions for the Practising Lawyer

\*Reviewing the Conduct of Lawyers

\*Understanding Your Lawyer's Fee  
When You Divorce or Separate

Lawyers & Legal Agents/Paralegals/  
Legal Assistants

\* *Indicates availability in French.*

## RECOGNIZING EXCELLENCE

### Distinguished Service Awards

Each year the Canadian Bar Association - Alberta Branch and the Law Society of Alberta present special awards in recognition of outstanding contributions made by Alberta lawyers to the community, the legal profession and legal scholarship.

On January 26, 2001, distinguished service awards were presented to five Alberta lawyers in recognition of their outstanding distinguished service. **W.C. Richard Davidson, Q.C.** (Lethbridge), **Ronald W. Odynski, Q.C.** (Edmonton), and **Gerald W. Pittman, Q.C.** (Calgary) received awards for service to the community; **Joseph P. Brumlik, Q.C.** (Edmonton) received the award for service to the profession, and **Professor Peter J.M. Lown, Q.C.** (Edmonton) received the award for legal scholarship.

The 2002 awards presentation will be held at a special luncheon at the CBA - AB Midwinter meeting on January 25<sup>th</sup> at the Calgary Westin Hotel.

### 2000 Viscount Bennett Awards

Alberta graduate students **Caroline Cox, Penny Beck** and **Stacy Petriuk** were the recipients of the 2000 Viscount Bennett Scholarships, valued at \$15,000. The scholarships are funded from a trust fund established with a gift from the right Honourable Viscount Bennett, P.C., K.C. The annual awards for post graduate studies in law are presented to individuals with high scholastic abilities who are dedicated to their community and profession, and wish to further their legal education.

**Caroline Cox, B.A., M.A., LL.B.** graduated from the University of Alberta in 1999, articulated with the Court of Appeal in Edmonton and was called to the Bar in September.

(Cont'd p.7)

Cox is currently a student at Magdalen College, Oxford University in the one year, graduate level Bachelor of Civil Laws program, where she plans to focus on restitution and conflict of laws.

Following her graduation from Queen's University in 1999, *Penny Beck*, B.Sc., LL.B. moved to Alberta and accepted articles with the Court of Queen's Bench, the Court of Appeal, and McCarthy Tetrault. She is currently enrolled in the Masters in Law program at Cambridge University focusing her studies in the areas of civil rights and legal history.

*Stacy Petriuk*, B.A., LL.B. earned her undergraduate degree from Queen's University, and graduated from the University of Calgary in 1996. Following articles with Parlee McLaws, she was called to the Alberta Bar in 1997 and joined the Calgary law firm, May Jensen Shawa Solomon, where she practised primarily civil, commercial and corporate litigation. Currently a student in the course-based Master of Laws program at the University of Cambridge, Petriuk plans to focus her studies in comparative tort law and remedies and international law.

#### **W. Bernie Kelly, Q.C. Memorial Prize**

Jason Rohrick, of the University of Alberta and jointly, Adeola Omole and Mark Maxwell of the University of Calgary, received the W. Bernie Kelly Q.C. Memorial Prize. The prize is awarded annually to law students in honour of the Law Society's former secretary, W. Bernie Kelly, Q.C.

## **ACTIVE MEMBERS BREAKDOWN**

(MAY 1, 2001)

			<b>Male</b>	<b>Female</b>
<b>With firms</b>	Calgary	2033	1536	497
	Edmonton	1391	1032	359
	Lethbridge	92	76	16
	Red Deer	79	64	15
	Medicine Hat	42	35	7
	Grande Prairie	26	22	4
	Other	<u>276</u>	<u>218</u>	<u>58</u>
	Total	<u>3939</u>	<u>2983</u>	<u>956</u>
	<b>Sole Practitioners</b>	Calgary	446	304
Edmonton		315	242	73
Lethbridge		15	13	2
Red Deer		23	19	4
Medicine Hat		14	13	1
Grande Prairie		7	6	1
Other		<u>154</u>	<u>125</u>	<u>29</u>
Total		<u>975</u>	<u>722</u>	<u>252</u>
<b>Corp &amp; Companies</b>		Calgary	530	327
	Edmonton	121	76	45
	Lethbridge	3	2	1
	Red Deer	4	2	1
	Medicine Hat	1	1	0
	Grande Prairie	1	0	1
	Other	<u>27</u>	<u>19</u>	<u>8</u>
	Total	<u>687</u>	<u>425</u>	<u>260</u>
	<b>Government</b>	Calgary	179	86
Edmonton		407	211	196
Lethbridge		13	10	3
Red Deer		8	8	0
Medicine Hat		8	6	2
Grande Prairie		4	3	1
Other		<u>25</u>	<u>16</u>	<u>9</u>
Total		<u>644</u>	<u>340</u>	<u>304</u>
<b>With a sole practitioner</b>		Calgary	1	0
	Edmonton	5	2	3
	Other	<u>2</u>	<u>1</u>	<u>1</u>
	Total	<u>8</u>	<u>3</u>	<u>5</u>
<b>Outside of Alberta</b>	Total	<u>340</u>	<u>266</u>	<u>74</u>
	<b>Active members</b>	Total	6704	4832

# BENCHERS & OFFICERS OF THE LAW SOCIETY OF ALBERTA, 2000



(From left, front row) Larry Anderson, Q.C.; Wilfred Willier (lay bencher); Mona Duckett, Q.C.; Peter Freeman, Q.C. (executive director); Alan D. Macleod, Q.C. (president); Eric Macklin, Q.C. (president-elect); Jean McBean, Q.C.; Simon Renouf, Q.C.; Cheryl Gottselig, Q.C.; Douglas McGillivray, Q.C.; (Back row) Barbara Cooper, director of practice review; Jack Watson, Q.C.; Barry Vogel, Q.C. (practice advisor); Kenneth G. Nielsen, Q.C.; Hugh Sommerville, Q.C.; Paul Sharek, Q.C.; Sarah Brickett (director of insurance); Charlie Gardner, Q.C.; Rhonda Ruston, Q.C.; Bryan E. Mahoney, Q.C.; Hugh Robertson, Q.C., (executive director, LESA); Paul McLaughlin (practice management advisor); Alain Hepner, Q.C.; James D. McLeod (deputy secretary); Juliana Topniski, Q.C., Morris Taylor (lay bencher); Allison MacKenzie (communications director); Micheal Wylie (law dean, U of C); John D. Bascom, Q.C.; Anthony Friend, Q.C.; Don Thompson (deputy executive director)



# PRESIDENT'S REPORT

by Alan D. Macleod, Q.C., president

During the past year, the benchers met eight times and the executive committee met nine times. It is my pleasure to report on the highlights of the work undertaken on your behalf during 2000.

## Administrative changes

Our executive director, Peter Freeman Q.C. announced his intent to retire effective June 2001 after 13 years of service. As a result we conducted an extensive search which culminated with the hiring of Don Thompson as deputy executive director. The benchers intent was that Don would succeed Peter in due course, an event which took place as scheduled on June 31, 2001. Don's expertise includes 16 years with the Law Society of British Columbia as deputy executive director.

## Formation of the Law Societies of Western Canada

The practice of law is undergoing dramatic change. Technology, NAFTA and the WTO have all contributed to erasing borders, whether they be provincial, national or global. And while geographical and professional borders are disappearing, technological advances are revolutionizing the ways in which we communicate and practice law.

What does this mean for law societies and their members? In what ways can law societies cooperate and work together to improve regulation in the public interest and to anticipate the fast moving dynamics facing the legal profession? At our June convocation representatives of the law societies of British Columbia, Saskatchewan and Manitoba joined us for an intensive exploration of these issues.

During those discussions we all agreed there are areas where we can benefit from collaboration with the western law societies, most notably in education, mobility and competency standards. Since that first meeting in June, the Law Societies of Western Canada have met a number of times to discuss areas of commonality and measures that can be implemented to facilitate the practice of law in this changing environment.

## Mobility

As a result of collaboration with the western law societies an important change has been made to the mobility rules which govern interjurisdictional practice. The present 10-20-12 rule (ten matter, twenty days over twelve months) has been expanded to an unlimited number of matters for up to six months in any one year. This is another step toward what we hope will be an ability on the part of our members to practise in a seamless way throughout western Canada.

## The Western Torrens Project (Real Estate Conveyancing Project)

The Western Torrens Project is a joint response of the western law societies to the many changes in the residential real estate and conveyancing marketplace within which lawyers provide legal services to the public. The project provides a refined and restructured residential real estate practice which expedites the conveyancing process for lenders, provides consumers with continued access to independent legal advice and will ensure the integrity of the Torrens land registration system is preserved. This new conveyancing process improves the ability of lawyers to process residential real



estate transactions safely, efficiently, and in a consistent manner across the four western provinces.

Significant consultation with the members has taken place on this initiative including town hall meetings across the province and *Benchers' Advisory* updates requesting member input.

## Contingency fees

The new rules relating to contingency fees became effective May 1, 2000. These rule changes, which were the result of significant consultation with the membership, are available for your review on our website [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com).

## Articling guidelines

At the April 2000 convocation the benchers passed new rules governing the procedures for the recruitment of articling students. The benchers approved the rules in response to complaints received from practitioners, law students and the law schools. The rule changes were made following a long period of consultation with the membership which included *Benchers' Advisory* articles, town hall meetings and a consultative subcommittee consisting of practitioners, law school administrators and Law Society representatives. To review the articling recruitment guidelines please visit our website, [http://www.lawsocietyalberta.com/whats\\_new/new\\_apr4\\_recruit.asp](http://www.lawsocietyalberta.com/whats_new/new_apr4_recruit.asp).

## Electronic credentialling

We continue to work with the Law Society of British Columbia on an electronic credentialling program. It is our expectation that eventually an

agency of law societies will act as a certifying authority for the purpose of identifying the electronic credentials of our members who are increasingly involved in e-commerce transactions.

### Legal Aid negotiations

This year, following intensive negotiations, the notional hourly rate paid to members of the legal aid bar was increased. Effective October 1, 2000, the hourly rate which had been set at \$61 since 1991, rose to \$70 per hour. This rate increased to \$72 effective April 1, 2001 and will continue to increase a further \$2 per hour on subsequent anniversaries until April 1, 2002, when the rate will reach \$80 per hour.

In addition, the structure of legal aid is being reorganized so that there will be a new governance model for the Legal Aid Society with directors appointed by Alberta Justice and the Law Society of Alberta, the latter appointing the majority. The governance model includes a new mechanism for determining legal aid compensation for the private bar. This should allow the Law Society to avoid acting in effect as a bargaining agent for lawyers, which will in turn enable the Society to advocate to government for increased access to justice for those who cannot afford representation without the appearance of self interest.

Legal Aid has also initiated the family law pilot project, which provides staff counsel to those needing assistance on family law matters in Calgary, Edmonton, or Red Deer.

### Multidisciplinary practices (MDPs)

Over the past decade the big five accounting/consultancy firms have moved steadily into the delivery of legal services. This has created intense pressure upon law societies to create a structure which allows multi disciplinary practise between lawyers and other non lawyer professionals, however, the Law

Society must preserve its ability to effectively regulate the provision of legal services to the public. An independent legal profession is only possible if all those involved in the delivery of legal services are accountable in a meaningful way to the law society, whether it be in Alberta, Nova Scotia or anywhere else. A law firm controlled by non lawyers is obviously not accountable.

For these reasons, following significant debate, consultation and consideration, the benchers decided that multi disciplinary practices are permitted only if controlled by lawyers. With respect to captive firms, they are lawyer-only partnerships and we expect them to continue to follow the Law Society rules and the Code of Conduct, as we expect all members to do.

The Society continues to explore the idea of regulating firms. *The Legal Profession Act* permits the Law Society of Alberta to make rules with respect to the duties of law firms and accordingly, we have come authoritative basis for taking jurisdiction over firms in addition to our individual members. Indeed we do so with our trust accounting rules and with the rules governing student hiring.

### Rules of Court

The Alberta Law Reform Institute (ALRI) has agreed to coordinate a review of the Rules of Court as a new project. Our Rules have served us extremely well over the last 35 years or so, but the many amendments have made them voluminous, and in the view of many, somewhat cumbersome. ALRI has committed to extensive stakeholder consultation, and has undertaken this project with a view to simplification of the Rules and compatibility with other jurisdictions.

### Government relations

During 2000, the benchers continued to foster and maintain a harmonious working relationship with the provincial government. Deputy Minister Paul Bourque, Q.C., attended alternate benchers convocations during which he addressed emergent issues of common concern and answered questions put forth by the benchers on behalf of the membership.

Throughout the year, members of the executive met with the Minister of Justice and Attorney General Dave Hancock, Q.C., on a regular basis. A wide range of issues was discussed at these meetings and these discussions were frank and congenial.

### The Year of the Volunteer

2000 was the year of the volunteer. The Law Society of Alberta depends on the efforts of more than 200 volunteers who served on Law Society committees. Volunteers enable the Law Society to fulfil its statutory obligations, and to develop and maintain programs designed to promote the competent provision of high quality legal services to the public. Across Alberta, legal organizations such as the Legal Education Society of Alberta, Calgary Legal Guidance, the Bar Admission Program and the Legal Resource Centre continue to provide valuable services at minimal cost as a direct result of the efforts of volunteers.

### In conclusion

I would like to thank all the Benchers, committee members and Law Society staff for their unparalleled contributions of time and energy during 2000.

# THE LAY BENCHERS -

## APPOINTED IN THE PUBLIC INTEREST

Appointed by the Minister of Justice for a two-year-term, lay benchers safeguard the public interest and ensure that the views of the public are considered on issues of public concern. Being a lay benchner requires active participation in the many duties of the Society, including participation on Conduct Hearings, Assurance Fund Claims, Conduct Panels and convocations as well as membership in a large variety of the Society's standing committees.

Yvonne Stanford was appointed as lay benchner in January 2000. Ms. Stanford's many professional and community activities have included director of the Canadian Mental Health Association, Calgary; program director of the YWCA, Calgary; accountant and internal auditor, Dome Petroleum; president of the board, Women's Centre of Calgary; Alberta representative to the National Action Committee on the Status of Women; and working membership with community organizations such as the Calgary Coalition

for Equal Access to Education, the Committee on Race Relations, and the Dignity Foundation. During 2000 Ms. Stanford served on the finance, appeal, practice review, unauthorized practice, audit and gender, equity and equality committees.



Appointed as a lay benchner in January 1998, and reappointed in January 2000 to a second term, Morris Taylor is the president of MTR Consultants Ltd., in Edmonton. This firm specializes in thoroughbred and harness racing in

Canada and the United States, providing expert assistance to the legal profession through the Philadelphia Company, Technical Advisory Service for Attorneys. Mr. Taylor served as a member of the appeal, communications, conduct and finance committees during 2000.

Retired High Prairie probation officer and active community volunteer, lay benchner Wilfred Willier worked for Alberta Justice and the Solicitor General for 30 years. First appointed as a lay benchner in 1998, Mr. Willier was reappointed in January 2000 to a second two year term. Mr. Willier was a member of the finance, practice review, unauthorized practice and gender, equity and equality committees.



## MESSAGE FROM THE LAY BENCHERS

*by Yvonne Stanford, Morris Taylor, and Wilf Willier*

It is our pleasure to report on our experience as lay benchers during 2000.

Since lay benchers are government appointees, one might think the position would be honorary with little input, but nothing could be further from the truth. From the day of our appointment, each of us has become involved with the innermost workings of the Law Society, serving on committees,

attending meetings and contributing our voices to the decision making process.

Each benchner, whether appointed or elected, must review their background and decide which areas of the Law Society of Alberta could best gain from their expertise and experience. Lay benchers sit on many of the Society committees including conduct, appeals, finance, professional responsibility, communications, etc. In addition under Alberta law, lay benchers are required to sit on hearing appeal panels whether an

appeal from a Law Society member or a member of the public contesting a ruling. As lay benchers, we bring a public, non lawyer perspective to the process, which ultimately allows us to offer insights into the view of matters from a public perspective.

In our experience the Law Society of Alberta continually strives for openness in its hearings and processes. We continue to be impressed with the dedication and commitment of the benchers.



# COMMUNICATIONS COMMITTEE

by Eric Macklin, Q.C., chair

## **Volunteer Committee Members**

Eric Macklin (C)  
 N.F. Wm. Picard (VC)  
 C.D. Gardner  
 S. Renouf  
 J. Madsen  
 M. Taylor  
 M.E. Barroll  
 Wm. L. Hunter  
 C.E. Wood  
 A.G. Young  
 G. Price  
 Peter Freeman, LSA  
 Allison Mackenzie, LSA

The Communications Committee promotes communication between the Law Society, its members and the community at large, and informs the public about the profession and the practice of law. I am pleased to report on the committee's work during 2000:

## **Publications**

The Law Society produces a variety of publications targeted at informing and educating the legal profession and interested members of the general public. Our primary newsletter, *The Benchers' Advisory*, informs members of news relating to the legal profession, and the practice of law. The Law Society also assists in the funding of *The Newsletter*, a joint publication with the Canadian Bar Association. In addition, the Law Society prints and distributes, on a cost recovery basis, a series of consumer information brochures which provide basic information about different areas of law.

## **Media Guide**

Each year the Law Society of Alberta and the Canadian Bar Association - Alberta Branch co-sponsor the Media Guide. This booklet assists the media in finding appropriate representatives of the profession to field their inquiries.

## **Website Management**

Our web site, [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com) has emerged as our primary communication tool with Alberta lawyers and the general public. During 2000 we continued to refine and expand the web site to provide additional comprehensive information.

## **Creation of a 30 year member recognition award**

Lawyers play an increasingly important role in our complex society, yet often the contributions made by members of the legal profession to the community go unnoticed. There are many members of the Law Society of Alberta who spend their careers efficiently assisting clients and their communities yet their efforts go largely unrecognized. In light of this, the Communications Committee recommended the benchers expand the Society's Award and Recognition Program to include an award in recognition of members of the Alberta Bar who have accumulated 30 or more years of service to the community as an active member of the Law Society of Alberta.

The benchers approved of this expansion to our awards program and in April, 30 Year Member Recognition Awards were sent to 400 active members of the Law Society of Alberta. The award consists of a gold lapel pin engraved with the Society's logo and a congratulatory letter from the president.

# CIVIL PRACTICE ADVISORY COMMITTEE

by Douglas McGillivray, Q.C., chair

The Civil Practice Advisory Committee has had a very busy year. Included in the projects worked upon have been: a submission concerning a court annexed mediation in all civil matters; a submission to and participation in discussions with ALRI concerning class action proceedings; a submission to the Court of Queen's Bench Internal Rules Committee respecting proposed changes to the very long trial practice note and the case management practice note; and a submission to the Alberta Court of Appeal relative to the proposed appeal rules pilot project.

The committee joined with the Court of Queen's Bench in town hall meetings in Edmonton and Calgary where the revised Expert Rules, the revised Discovery Rules and the proposed revised Case Management and VLT Practice Notes were discussed. The committee attended meetings with the Court of Appeal and Court of Queen's Bench where many trial issues were discussed as well as the court's role in the Law Society's civility initiative.

The Law Society's participation in each of the foregoing projects has been a significant factor in the development of final reports and in significant revisions being made to certain of the Rules of Court projects.



## Volunteer Committee Members

D. A. McGillivray (C)  
J. E. Topolniski (VC)  
R. K. Ruston  
T. D. Hamill  
E. A. Johnson  
R. J. N. Gilborn  
J. D. Holmes  
H. Madill  
J. A. Middleton  
G. W. Sharek  
D. J. Lowe  
E. F. Macklin  
E. L. Bunnell  
Mr. Justice Paul Belzil  
P. L. Freeman, LSA  
D. Thompson, LSA  
L. MacDonald, LSA

# CRIMINAL PRACTICE ADVISORY COMMITTEE

by Mona Duckett, Q.C., chair

This committee deals with issues confronting criminal law practitioners. The committee met twice by video conference and once by teleconference this year.

Two issues discussed by the committee which led to the formation of subcommittees included the development of a protocol regarding the execution of search warrants at law offices and the use of disclosure material by defence counsel. This work continues.

The search warrant subcommittee met with representatives of both provincial and federal governments to discuss the drafting of a protocol when a law office is searched, similar to that in use in British Columbia. On recent occasions, the Law Society had been advised that a law firm was to be searched, which allowed us to have counsel available on site to ensure that execution went smoothly and privileged materials were dealt with properly. However, we hope that a more formal and clear protocol can be negotiated. Discus-

sions are ongoing despite the constitutional validity of s.488.1 of the Criminal Code, being before the Supreme Court of Canada.

The issue of defence use of disclosure materials resulted in considerable debate as to what, if any role the Law Society should have in the matter and the subcommittee continues to consider the subject.

Other issues discussed by the committee included Bill C-22, a new Money Laundering Act, which resulted in an *Advisory* article being published about the reporting requirements lawyers will potentially face. As well, the committee considered the actions of legal agents, Legal Aid, The Alberta Community Justice Policy, The Police Act Review, Court of Appeal proposed limitations on the time for oral argument, pre-trial conferences in Youth Court and proposed changes to the Queen's Bench bail procedures.

Criminal practitioners are invited to bring matters of general concern to the committee for discussion.



## Volunteer Committee Members

M. T. Duckett (C)  
W. Willier  
G. Davies  
E. A. Hughes  
B. Hartridge  
B. McLaren  
K. McLeod  
A. Ouellette  
L. Stevens  
L. MacDonald, LSA  
D. Guenter, LSA  
J. Rothery, LSA



# CONDUCT COMMITTEE

by Ken Nielsen, Q.C., chair

There were a number of developments over the last year both from a legislative and procedural perspective that are relevant to Law Society discipline matters.

Section 80 of the *Legal Profession Act* was amended to provide for the automatic suspension of a member who is imprisoned or is serving a conditional or intermittent sentence of imprisonment and during any period of parole. This automatic suspension is applicable whether the conduct of the member giving rise to the sentence has been subject to previous or other proceedings under the Act and whether a suspension order has been previously made in respect of the member. This amendment ensures that no member who is serving a sentence, of any form, is permitted to practice law.

Section 60 of the *Legal Profession Act* was amended so as to streamline the procedures applicable with respect to interim suspensions of members. Guidelines were developed to outline the procedures to be followed in seeking interim suspensions.

A subcommittee was struck to review the obligations of the Law Society to provide disclosure to members involved in disciplinary proceedings. The Pre-Hearing Guide was amended to outline, in greater detail, the obligations of Law Society counsel to disclose information to the defence. The guidelines established follow, in a general fashion, the disclosure obligations in criminal proceedings. Members facing discipline issues are entitled to receive all relevant evidence so as to enable the member to make full answer and defence in the proceedings and for no other purpose. The guidelines were developed so as to protect the privacy and confidentiality of individuals providing information to the Law Society with respect to disciplinary proceedings.

The benchers adopted Rule 90.1 to institute mandatory pre-hearing conferences. In many situations, significant delays and difficulties were being encountered in the scheduling and conduct of hearings once charges had been directed. Often, procrastinators had an advantage in the Law Society discipline process. Pursuant to Rule 90.1, once a charge is directed against a member, a pre-hearing conference is scheduled to deal with all pre-hearing matters. The pre-hearing conferences will continue until the matter is set for a hearing.

Often, members facing disciplinary proceedings are represented by counsel on a pro-bono basis. The Law Society maintains a list of pro-bono counsel. Over the last year, attempts have been made to update the pro-bono counsel list. Members who are prepared to act on a pro-bono basis are encouraged to advise the Law Society of their willingness to act for members facing disciplinary proceedings.

The legislative and procedural amendments referred to herein were pursued in an attempt to streamline and expedite the discipline process. The Conduct Committee and the Conduct Department had a very busy year and I wish to take this opportunity to thank the non bencher and bencher members of the Conduct Committee and all staff in the Conduct Department for their assistance and hard work over the past year.

## Volunteer Committee Members

K. G. Nielsen (C)  
 A. Hepner (VC)  
 L. A. Anderson  
 C. D. Gardner  
 D. A. McGillivray  
 N. F. Wm. Picard  
 H. D. Sommerville  
 M. Taylor  
 J. E. Topolniski  
 E. L. Bunnell  
 W. Willier  
 J. E. Davison  
 B. J. Larbalestier  
 R. J. O'Gorman  
 J. (Jim) S. Peacock  
 B. K. Rattan  
 R. W. Rand  
 S. M. Shawa  
 R. W. Wilson  
 L. MacDonald, LSA  
 J. D. McLeod, LSA  
 I. MacEachern, LSA  
 D. Guenter, LSA  
 D. Hutchinson, LSA

## Comparative Conduct Department Statistics for 2000 and 1999

Process	2000	1999
Complaints and enquiries received <sup>1</sup>	3,807	3,977
Referred to senior complaints coordinator <sup>2</sup>	48	59
Opened as formal complaints (S.51 LPA)	132	197
Public complaints	46	93
Lawyer complaints	34	41
LSA generated complaints	52	63

### Disposition of formal complaints by administration

Dismissed	59	68
Directed to investigation by deputy secretary	13	23
Referred to conduct committee panel for further review	92	75

### Disposition of Conduct Committee Panels

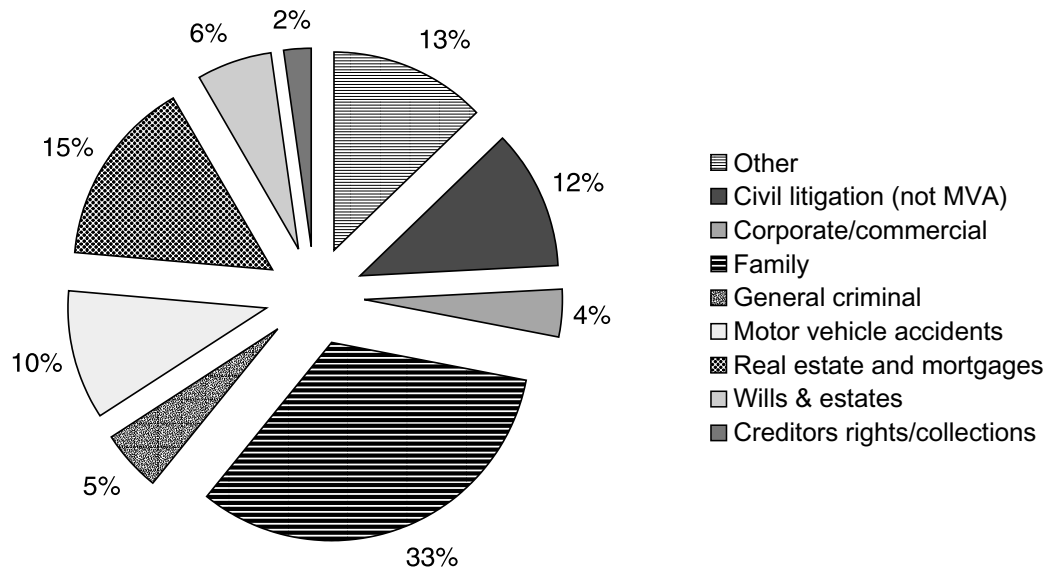
Directed to investigation	0	1
Directed to mandatory conduct advisory <sup>3</sup>	30	19
Directed to Practice Review Committee	19	4
Directed to hearing	40	40

<sup>1</sup> Initially dealt with by complaints resolution officers (lawyers)

<sup>2</sup> Referred after unsuccessful attempts at resolution and dealt with by letter advising that complaint does not disclose evidence of unethical conduct.

<sup>3</sup> A mandatory conduct advisory (MCA) is a meeting between a benchler and the lawyer to deal with deficiencies in lawyer's conduct which does not constitute conduct deserving of sanction. A successful MCA results in dismissal of the complaint.

## 2000 Complaints and Enquiries by Area of Practice



Other includes administrative law, bankruptcy, builders liens, civil liberties, condominium litigation, driving and traffic offences, immigration, insurance, intellectual property, young offenders, labour and employment, landlord and tenant, professional malpractice, oil, gas and mining, securities, taxation, wrongful dismissal, Dependent Adult Act/ EPA, foreclosures, workers compensation, miscellaneous and not specified.



# CORPORATE AND COMMERCIAL ADVISORY COMMITTEE

by Cheryl C. Gottselig, Q.C., chair

Electronic signatures, once again, dominated the activities of the Corporate and Commercial Advisory Committee during the year 2000. Dale Spackman, Q.C. as chair of the sub-committee on electronic commerce, continued to play a key role in this Law Society's participation in the national initiative sponsored by The Federation of Law Societies of Canada. All of this activity culminated in the passing of a resolution at our February convocation, which committed The Law Society of Alberta to participate in Juricert and to commit, approximately, \$50,000 per year for the next four years.

Electronic communication is a part of life and the Law Society must provide the tools which will allow lawyers to practice safe and secure communications over electronic digital public networks. The tool to be provided by Juricert is digital identity which will verify a lawyer's identity. This national initiative will provide us with a method whereby lawyers' signatures across Canada can be authenticated. The Law Society has a traditional role as a credentials issuer. This step forward will allow it to certify electronic identities. This matter will be further advanced at the Federation's meeting in February, 2001.

Under the excellent guidance of Andrew Hladyshevsky, Q.C., a meeting was held with MLA Pat Nelson in January 2000, which resulted in the amendment of Section 42 of the *Business Corporations Act* and the adoption of the subsequent regulations. Further amendments to the *Business Corporations Act* are being considered and will be proposed to the government in 2001.

It was confirmed that our present insurance coverage will provide coverage to members who provide electronic corporate registry services to clients.

Extensive discussion was held with regard to money laundering legislation and we hope to provide to members some suggestions with regard to how that Act should be dealt with in one's everyday practice.

A sub-committee of the Corporate and Commercial Advisory Committee and the Professional Responsibility Committee was struck in November, 2000. That committee, under Martin Kay, Q.C., has met on several occasions and has provided a report to the Professional Responsibility Committee. That report has yet to be reviewed by the Corporate and Commercial Advisory Committee. A law firm has asked the Law Society to take a position on requests being made to lawyers by accounting firms to sign confidentiality agreements intended to prevent the lawyers from disclosing the legal concepts and structures underlying tax plans supposedly developed and being promoted by the accounting firm. When this report has been fully reviewed, it will then be discussed by the benchers a convocation and a report will be given to the membership.

Denise McMullen has been appointed chair of a sub-committee to determine whether a recommendation should go forward to the provincial government to enact ULC legislation in Alberta.

The tireless work of each of the members of this committee is inspirational. The application of new technologies to the practice of law will continue to be a leading challenge in the future. The Corporate and Commercial Advisory Committee is in the forefront and dealing with government and their institutions to ensure that the ethical duty we have to practice safe and secure communications over electronic public networks will be ensured.

## Volunteer Committee Members

C. C. Gottselig(C)  
D. J. Stratton (VC)  
A. Hepner  
C. D. Gardner  
S. Bodie  
G. A. Campbell  
J. D. Coulter  
A. J. Hladyshevsky  
H. M. Kay  
D. D. McMullen  
D. R. Spackman  
B. F. Romanko  
M. F. Swanson  
M. Whitt  
P. L. Freeman, LSA  
D. Thompson, LSA

## Electronic Commerce subcommittee

D. R. Spackman(C)  
C. C. Gottselig  
A. J. Hladyshevsky  
G. Ho  
J. J. Ruitenschild  
M. Whitt (BM Nov. 2000)  
P. L. Freeman, LSA



# CREDENTIALS AND EDUCATION COMMITTEE

by Simon Renouf, Q.C., chair

The Law Society's Credentials and Education Committee addressed a number of interesting issues in 2000.

Among the matters of greatest interest was the introduction of the new articling student hiring rules, which were in effect for the first time in the recruitment period established for June, 2000. These rules were fine tuned in early 2000 by the benchers, following the work of a subcommittee chaired by the vice chair of Credentials and Education committee, Bryan Mahoney, Q.C.

As in previous years the committee spent much of its time addressing an increasing workload of applications for a variety of considerations under the Law Society's rules, and the rules applicable to the bar admission course. These include applications for reinstatement to active practice, back dating of articles, qualifications for



student-at-law and principal, student appeals and other matters. As a result of rule changes many of the matters which had to be referred to the benchers in the past can now be dealt with conclusively by the committee.

The Education Committee was well served by the deputy executive director, Don Thompson and other staff of the law society, particularly Brenda Gesinghaus who have continued to provide excellent support to the committee.

As this was my last term as chair, I would like to extend my personal thanks and appreciation to all the members of the committee and especially to Mr. Mahoney and to two former chairs of the Credentials and Education Committee, the Hon. Madam Justice P. Rowbotham and Francine Swanson, Q.C. for the guidance and assistance they have provided to me.

# FAMILY LAW ADVISORY COMMITTEE

by Bryan E. Mahoney, Q.C., chair



The committee's main project was a submission to the Unified Family Court Task Force. Other topics addressed through the year were liability for lawyers and division of pensions in matrimonial property agreements or orders; collaborative law initiative, domestic violence legislation, law reform of family law, new examination for

discovery rules and standard of care in the practice of family law. The committee anxiously awaits the release of the Unified Family Court Task Force Report by the government. Also on the horizon for 2001 is the Legal Aid Family Law Pilot Project. This pilot project is now underway and when up and running will provide staff lawyers for legal aid clients with family law problems. Also upcoming is the reform of the *Divorce Act* and Federal Child Support Guidelines. Family law is always changing and the committee looks forward to the challenges of 2001. Special thanks to our committee members for giving of their valuable time.

## Volunteer Committee Members

S. Renouf (C)  
B. E. Mahoney (VC)  
D. A. McGillivray  
L. G. Anderson  
J. M. McBean  
H. D. Sommerville  
J. E. Topolniski  
E.L. Bunnell  
A. J. Brown  
S. E. D. Fairhurst  
F. L. Schutz  
M. F. Swanson  
Dean M. Wylie  
Dean L. Klar  
H. A. Robertson  
D. Thompson, LSA  
B. Gesinghaus, LSA

## Education Plans & Articling subco

L. G. Anderson (C)  
J. M. McBean  
B. E. Mintz  
H. A. Robertson

## Transfer & Mobility subco

M. F. Swanson (C)  
E. L. Bunnell  
R. V. T. Boyden  
H. M. Kay  
J. Law  
R. Reeson  
Dean M. Wylie

## Volunteer Committee members

B. E. Mahoney (C)  
R. K. Ruston (VC)  
J. M. McBean  
W. E. Best  
D. G. Moe  
R. J. O'Gorman  
N. F. Wm. Picard  
P. L. Freeman, LSA



# FINANCE COMMITTEE

by *Anthony Friend, Q.C., chair*

The Finance Committee supervises the financial affairs of the Law Society of Alberta and is responsible for dealing with claims against the Assurance Fund. The Committee reviews and makes recommendations to the benchers with respect to the annual budgets for the General, Assurance, and Viscount Bennett funds, and with respect to the annual fee and Assurance Fund levy to be paid by members of the Law Society.

## THE 2000 BUDGETS

As has been the case in previous years, the budgeting process for 2000 adhered to the following principles:

- A balanced budget;
- Fee increases only to keep pace with inflation or to avoid situations of no increases over several years followed by significant increases that would be of concern to members; and
- Provision in the budget for an annual contribution to surplus of \$50,000 with the objective of achieving over time an accumulated surplus of \$500,000.

The finances of the Law Society and its Assurance Fund continued to be healthy in 2000. Members' fees for 2001 were set, in accordance with the above principles, at \$889, which is a 3 per cent increase over the previous years' fee of \$840. The Assurance Fund levy was increased to \$96 from \$92. Because of the accumulated surplus in the Assurance Fund, we once again have been able to utilize some of the surplus for fund expenses and thus keep the levy increase to a minimum.

Noteworthy items budgeted for in the current year include a \$50,000 contribution to a national virtual library initiative and a \$50,000 allocation towards a national electronic signature project. A benevolent fund, for the initial amount of \$15,000, has been established to assist where appropriate members who are working with the Practice Review Committee.

One of the most significant accomplishments of the Finance Committee over the past year was the adoption of a streamlined Assurance Fund claims process. Previously such claims had been dealt with through a time consuming and labour intensive hearing based procedure. Claims will now be processed largely, but not exclusively, under a paper based claims procedure, with hearings available in certain circumstances. Having regard to experience in other jurisdictions, we expect claims will be dealt with more effectively and expeditiously, using less time and resources.

It has been a productive year for the Finance Committee, and I thank all members of the committee and the staff at the Law Society for their time and contributions over the past year.

## Volunteer Committee Members

*A. F. Friend (C)*  
*C. C. Gottselig (VC)*  
*C. D. Gardner*  
*Y. A. Stanford*  
*M. Taylor*  
*E. L. Bunnell*  
*W. Willier*  
*J. T. Henderson*  
*L. A. Johnson*  
*C. J. Miller*  
*W. K. Mis*  
*D. Syme*  
*P. Freeman, LSA*  
*B. Whitby, LSA*

## Audit subcommittee

*E. F. Macklin (C)*  
*Y. A. Stanford*  
*R. D. Hupfer*  
*J. S. Steel*  
*M. L. Scott, LSA*  
*P. L. Freeman, LSA*

# GENDER, EQUALITY AND EQUITY COMMITTEE

by Norman Picard, Q.C., chair

The Gender, Equality and Equity Committee assists the benchers in the development of policy concerning diversity related issues. The following are highlights of the committee's work during 2000:

## Equity ombudsperson

Following an extensive search, Jeanne Byron, an Edmonton lawyer with extensive mediation experience was hired as equity ombudsperson on a three year part time contract.

To publicise the continuation of the program and the services offered by the Office of the Equity Ombudsperson, the Law Society's webpage was updated to include a comprehensive description of the services available. In addition, a brochure detailing the services available through the Equity Ombudsperson's office was developed and distributed to all members of the profession.

## Workplace policies

The Gender, Equality and Equity Committee has developed model policies on various issues including harassment, equality in employment interviews, gender inclusive language, alternate work schedules and guidelines for parental leave. Each of these policies is updated as required and is available on line.

As a result of changes to the *Employment Insurance Act* and recent court decisions in the equity area, the model parental leave policy had become outdated. During 2000, the committee revised this policy. The updated version of the guidelines with the amendments in force as of January 1, 2002 is now available on our website, [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com).

The committee also researched the management of equity and diversity in the workplace through the institution of respectful workplace policies.

## Part time insurance fees

This issue was referred to the Gender,

Equality and Equity committee for input. Both British Columbia and Ontario currently offer part time insurance rates. The committee reviewed the information available from these jurisdictions and determined there are valid policy reasons to investigate the issue of part time insurance, primarily to accommodate child rearing responsibilities and to accommodate a "more humane" method and slower pace of practice lifestyle.

As a result, the benchers struck a subcommittee consisting of members of Practice Review, Insurance and Gender, Equality and Equity to investigate and bring forth recommendations.

## Q.C. selection process

Nova Scotia and New Brunswick have requirements for consideration of balance of gender, language and geographic representation in the Queen's counsel selection process. Our committee was asked to consider whether issues of equity and diversity are currently considered in the Alberta Q.C. selection process and whether the process needs to be changed to become more inclusive. The committee has not yet reported back to the benchers on this issue.

## Harassment video

The Law Society of Alberta and the Canadian Bar Association have entered into a joint venture to produce a video regarding harassment for use by the legal profession. Grant funding from the Human Rights, Citizenship and Multiculturalism Fund was secured in early 2001 and the project is now underway.

## Conclusion

It has been an honour to serve as chair of this committee over the past year. My sincere appreciation to the committee members for the dedication and hard work, and to Susan Billington for her continued support and participation.



## Volunteer Committee Members

*N. F. Wm. Picard (C)*

*J. M. McBean (VC)*

*R. K. Ruston*

*W. P. Sharek*

*Y. A. Stanford*

*W. Willier*

*A. Abougoush*

*B. Enge*

*G. Ho*

*A. Kirker*

*K. Mawani*

*S. Martin*

*A. Acorn*

*M.E. A. (Beth). Miller*

*J. Byron*

*D. Thompson, LSA*

*S. Billington, LSA*



# INSURANCE COMMITTEE

by *W. Paul Sharek, Q.C., chair*

The Alberta Lawyers Insurance Association (ALIA), the liability insurance program for Alberta lawyers, in spite of an increase in the levy, remains financially sound and completed a successful year of operation.

## Insurance levy

Last year's report foreshadowed an increase in the insurance levy in future years owing to an increase in claims, somewhat lower returns on investments, and other factors which reduced the contingency reserve in the insurance fund.

Our actuaries advised that for 2000, \$2968 per member would be required to meet the anticipated costs of our program. This was up 8 per cent from last year because of new claims reports, deteriorating loss experience and a higher CLIA premium. Although the surplus distribution to members was less than in 1999, at \$232 combined with a \$300 credit from CLIA, we were able to set the net levy at \$2436.

The actuaries also warned that if we continued with the previous formula for surplus distribution, we will exhaust the excess surplus within two years and face higher levy increases in the following years.

For that reason, the benchers, upon recommendation of the Insurance Committee, decided upon a lower distribution now as a strategy to try to stabilize the levy over the next few years. It was a difficult decision for the benchers, who appreciated that there would be a financial burden imposed on many practitioners. There was also, however, a keen awareness of events in other jurisdictions where insurance programs have failed or premiums have increased by multiples, and it was considered to be in the best interests of the membership and the program to face this increase.

As a part of the information process, the Insurance Committee also emphasized to the membership the importance of loss prevention, risk control and practice management.

## Ancillary business exclusion

Also as previewed last year, the Insurance Committee dealt with the exclusion of claims arising from members pursuing ancillary business activities. This recommendation, and subsequent acceptance by the benchers, was prompted by large claims made against the program where it was alleged that lawyers in business owed a professional duty to investors who lost money invested through the lawyers' companies. This was considered to be a high risk that ought not to be borne by all private practitioners. The result is that there is no coverage for claims against lawyers who provide legal services in relation to their own non-law firm business. There will, however be coverage, for other lawyers in the law firm against whom the claim has been made. The idea is to encourage lawyers who are engaged in business with their clients to avoid problems by referring business associates, customers and investors to other lawyers for legal services relating to that business. In making the decision, the benchers also considered that the *Code of Professional Conduct* requires a lawyer to inform other parties in any business relationship that professional liability insurance covering ancillary business activities is not available through the Law Society.

## Other issues

To deal with a chronic problem of lateness in payment of the insurance levy, the benchers instituted a rule to permit the secretary to order suspension of a member upon default, or an automatic suspension for members still in default as of July 15 of each year.

## Volunteer Committee Members

W. P. Sharek (C)  
 D. A. McGillivray (VC)  
 A. Hepner  
 E. L. Bunnell  
 W. Willier  
 S. L. Corbett  
 Wm. J. Kenny  
 R. D. Maxwell  
 B. G. Nemetz  
 K. J. Warren  
 P. A. L. Smith, CLIA  
 K. G. Nielsen, CLIA  
 S. Brickett, ALIA  
 M. Bayerle, ALIA  
 C. Beatty, ALIA  
 B. Little, ALIA  
 T. Bozzer, ALIA

(Cont'd p.21)

# JOINT LIBRARY COMMITTEE

by Francine Swanson, Q.C., chair

The restructuring plan for the libraries continued with the recruitment of Mona Pearce as senior manager in September 2000 and the commencement of a business planning process to provide a framework for focusing and advancing the libraries' resources and programmes over the next five years.

In October, the libraries' new website was launched at <http://www.lawlibrary.ab.ca>. The site provides online access to the catalogues of all 10 Law Society libraries and 16 legal reference libraries throughout Alberta as well as links to other law library catalogues and primary sources of law. The site has been extremely successful; during the first four months following its launch, 37,081 visitors were recorded or an average of 306 visitors on a daily basis. The development and implementation of the website (\$110,000) was funded by the Alberta Law Foundation (ALF) with technical infrastructure and assistance provided by Alberta Justice.

The Law Society of Alberta supported the establishment of CANLII, a national virtual law library of primary Canadian legal materials. ALF played an important role in supporting this initiative by providing approximately \$50,000 in funding. Ms. Pearce is currently working with CANLII to facilitate access to Alberta's primary

legal materials for the project as well as with other Canadian courthouse law librarians to determine how they can play a role in supporting the project and providing added value to its databases.

The past decade has been characterized by corporate mergers and acquisitions in the legal publishing industry reducing competition and leading to monopolistic high pricing for legal publications. The cost of maintaining law reports, digests and loose-leaf text books has soared by 95 per cent. Perhaps the largest environmental factor is the emergence of the Internet and the proliferation of commercial and non-commercial electronic legal information. This has increased the demand as well as an expectation of speed in legal information access.

The libraries are funded from three sources: Alberta Justice which funds for staff salaries and benefits as well buildings, utilities and information technology infrastructure for all libraries; the Alberta Law Foundation funds collection development and maintenance (\$761,000 in 2000); and the Law Society of Alberta which provides funding of a general nature for collection development and maintenance, casual staff salaries, and other expenses. In 2000, the Society increased its funding grant from \$240,000 to \$500,000.



## Volunteer Committee Members

M.F. Swanson (C)  
 J. McBean (VC)  
 M.E. Bryant  
 B. McInnes  
 A. Nowacki  
 K. Arbuckle  
 D. Sanders  
 V.H. Myers  
 A..B. (Porter) Chrenek  
 P.L. Freeman, LSA

## Insurance (cont'd)

Upon the recommendation of the Insurance Committee, the benchers requested that CLIA remove the foreign law exclusion, section 3.3, from the Alberta mandatory policy, which exclusion is accompanied by a warning to the membership that defending claims in foreign jurisdictions could severely erode the policy limits and firms practising foreign law should consider purchasing excess insurance.

## Conclusion

It was a privilege for me to chair this committee for 2000. I can report to the Law Society and its members that ALIA is considered a leader in legal professional liability insurance across Canada. In a very significant way, this is directly the result of the dedication, the expertise and the hard work of our director of insurance, Sarah Brickett, and her staff. I extend to them my sincere thanks for their cooperation, assistance and support.



# PROFESSIONAL RESPONSIBILITY COMMITTEE

by Cheryl Gottselig, Q.C., chair

During 2000, the Professional Responsibility Committee reviewed and discussed many ethical questions which were put to us by members. Those ethical questions were complicated and varied:

1. Within the confines of our *Code of Professional Conduct*, what can a law firm properly call itself?
2. Should our Code contain an obligation on the part of lawyers to fully explore with their clients all available options for dispute resolution?
3. What length of time should elapse between when a judge resigns or retires from a court and when he or she may begin to appear before those courts?
4. Should the Code be revised with regard to how the profession should deal with media comments?
5. Should insurance lawyers be allowed to send accounts to third party billing auditors without the permission of the insured?

Many of the other ethical inquiries concerned confidentiality and solicitor/client privilege. The answers to many of these questions have or will be discussed by the Practice Advisor in The Advisory or through Ethically Speaking articles.

The number and complexity of the inquiries made during 2000 caused us to deliberate on whether our *Code of Professional Conduct* which became effective January 1, 1995, should be examined in detail because of the changes which we have experienced in the last five years. As a result, the benchers approved the formation of a subcommittee of the Professional Responsibility Committee to examine in depth the *Code of Professional Conduct*.

That committee will immediately consider, among other things, the following matters:

- a) comments by the profession to the media;
- b) fee splitting and referrals;
- c) e-commerce and confidential electronic communication; and
- d) Ethics 2000 Report and Recommendations.

This subcommittee will report back to the Professional Responsibility Committee with regard to any proposed changes to the *Code of Professional Conduct*.

Martin Kay, Q.C. is chair of a Joint Subcommittee of Professional Responsibility and the Corporate and Commercial Advisory Committee that is considering the issue of confidentiality agreements. The issue revolves around the requests that are being made to lawyers by accounting firms to sign confidentiality agreements intended to prevent the lawyers from disclosing the legal concepts and structures underlining the tax plans supposedly developed and being promoted by the accounting firms. This joint subcommittee will be reporting back and the matter will be fully discussed by the benchers at a convocation. The results of that deliberation will be communicated to the profession.

The ethical problems presented to the committee were varied and intricate and required very serious deliberation. I would like to thank each committee member for the many hours which we spent thoroughly discussing each of the issues. Barry Vogel, Q.C. and Paul McLaughlin were always there to provide us with their guidance attained through many years of experience. Finally, I would like to thank Jennifer Rothery, who organized the volumes of paper which were required reading for each of the meetings.

## Volunteer Committee Members

C.C. Gottselig (C)  
C. Gardner (VC)  
K. Nielsen  
R. Ruston  
G. Bowker  
D. Denis  
R. Everard  
L. Irwin.  
L. MacLean  
D. McDonald  
S. Raby  
B. Vogel, LSA  
P. McLaughlin, LSA  
V. Blaine, LSA  
J. Rothery, LSA  
L. MacDonald, LSA  
I. MacEachern, LSA

## Code Sub Committee

Charles Gardner (C)  
Allan Fielding  
Lois MacLean  
Bart Rosborough  
Cheryl Gottselig  
Paul McLaughlin, LSA  
Barry Vogel, LSA

# PRACTICE REVIEW COMMITTEE

by John Bascom, Q.C., chair

The strength of the Practice Review Committee lies in the early identification of members at risk. To make this early identification, Practice Review relies heavily on individuals who come into contact with members in their day-to-day business. Many members we work with are sole practitioners, practising in isolation, whose only contact with other members of the legal profession is at court. Once identified, a three member panel of the committee is assigned to review the member's practice history and then to contact the member. Practice Review is a very hands-on process, with ongoing contact and interaction between a member and the panel for as long as circumstances warrant. When necessary, Practice Review will even arrange for a practice review team to visit the member's office, at no cost to the member, for a full day to assist the member in identifying the needs of the practice. Only one formal review was conducted in 2000 as the members we met and worked with were very forthright in their communications with us and in identifying for themselves what was going on with their practices and where they might need some assistance.

2000 was a very busy year. 94 new files were opened, 47 of which remained open at year's end, along with an additional 142 that remain open from previous years. Close to 95 per cent of the members represented by these files were involved with Practice Review on a voluntary basis. Regardless of how the member comes into contact with Practice Review, the committee's mandate remains remedial and not punitive. We believe that each of us wants to provide the best service possible to our clients and the public and, with a little help from time to time, we believe we can all do that.

The most frequent concerns dealt with by the committee included practice management issues, insurance files, health and stress, financial concerns, and feelings of isolation from the rest of the profession.

An expansion of the services provided by Practice Review is being considered in response to concerns identified by the committee and the members. One of the most exciting of those topics is the development of a peer support program which would provide for the matching of lawyers with more senior mentors, primarily to address issues of life and practice, rather than legal questions. Another topic is interim funding for a member who requires medical attention or treatment that is not covered by existing health care programs to assist that member in remaining in or returning to practice. The benchers established a small fund to address this need in late November and we are working on the qualification criteria for accessing these funds on a temporary basis. A third is the retirement trends of the profession. Most of us may not want to think about the fact that many of us are approaching that time in our lives but the clock continues to tick.

Throughout the year 2000, the Practice Review Committee was fortunate to have the cooperation of many other departments within the Law Society who were invaluable in the early detection process. I wish to thank the individuals within those departments for their continued support of Practice Review. In addition, I would like to thank Barbara Cooper, Merry Rogers and Vicky Blaine for their support, motivation, and willingness to bring balance to the very busy lives of the committee members. I thank them, I thank the committee members, and I thank you, the profession, for your continued support of the work of Practice Review.



## Volunteer Committee Members

J. D. Bascom  
 R. K. Ruston  
 L. A. Anderson  
 M. T. Duckett  
 C. D. Gardner  
 C. C. Gottselig  
 A. Hepner  
 B. E. Mahoney  
 J. M. McBean  
 D. A. McGillivray  
 K. G. Nielsen  
 W. P. Sharek  
 Y. A. Stanford  
 E. L. Bunnell  
 W. Willier  
 F. Bosscha  
 E. L. Bunnell  
 B. Churchill-Smith  
 S. R. Creagh  
 P. J. Davis  
 R. Dutchak  
 B. R. Ede  
 F. R. Fenwick  
 P. G. Lister  
 R. A. Philp  
 D. Thompson, LSA  
 B. Cooper, LSA  
 M. Rogers, LSA  
 V. Blaine, LSA



# UNAUTHORIZED PRACTICE OF LAW

## Volunteer Committee Members

H. D. Sommerville (C)  
 C. G. Gardner (VC)  
 M. T. Duckett  
 Y. A. Stanford  
 D. J. Kiss  
 L. K. McLellan  
 J. D. Phillips  
 C. C. Robb  
 J. D. McLeod, LSA  
 L. MacDonald, LSA  
 H. Ward, LSA  
 J. Stoliker, LSA

by Hugh Sommerville, Q.C., chair

The Law Society of Alberta is responsible for ensuring that people receiving services from lawyers are protected by the high standards of education, ethics and financial protection maintained by the Society. The primary purpose of the Unauthorized Practice of Law Committee is to receive and review complaints regarding individuals or entities appearing to provide legal services without the proper authorization or expertise.

2000 has been a very busy year for this committee in general. During 2000 the committee continued to scrutinize the work of paralegals. The "vetting" committee of the main committee reviewed nine files and the committee as a whole continues to monitor 15 active files, including a couple of ongoing prosecutions. No new prosecutions were necessary and we have been careful to select only strong cases for prosecution. Warning letters and visitations have proven useful alternatives to prosecution.

The Law Society of Alberta continues to monitor the decision in the *Law Society of British Columbia v. Mangat and Westcoast Immigration Consultants Ltd.* The Law Society of British Columbia has received leave to appeal to the Supreme Court of Canada. In interpreting the provisions of the *Legal Profession Act* of British Columbia, as well as the *Immigration Act* of Canada, the B.C. Court of Appeal overturned an injunction granted by the B.C. Supreme Court under the *Legal Profession Act* prohibiting non-lawyers from appearing before the Immigration Tribunal of Canada. The prohibitions in the provincial *Legal Profession Act* did not apply to prevent non-lawyer agents from appearing under the authority of a federal statute due to the doctrine of paramountcy. The Supreme Court of Canada's ruling may well affect our ability to act where agents deliver legal services under other federal statutes.

Under some of the existing statutes of Alberta, the Society has difficulty proceeding against paralegal or individuals whom we perceive to be practising in an unauthorized fashion, as these statutes allows representation by agent. A further difficulty is that often the committee does not have sufficient evidence to proceed unless the client of a paralegal communicates with the committee.

The committee communicated with the membership via an *Advisory* article, updating them on the committee's activities and requesting that any concerns be brought forward to the committee.

In June the Benchers approved "Lawyers & Legal Agents/Paralegal/Legal Assistants - There is a difference," a brochure developed by this committee to outline the consumer issues associated with using unauthorized legal services providers and highlight the benefits of using a lawyer. The brochure was subsequently printed and distributed to all members. My sincere thanks to Lillian MacPherson and Mona Duckett for their significant work on this brochure.

I would like to thank all of the members of this committee for their contributions. I also extend my thanks to Jim McLeod and Helene Ward who made our work much easier. The work of Steve Bach and Greg Busch who investigated many of the matters is also acknowledged.



A copy of the complete financial report is available by writing to Steven Dyer, Treasurer, The Law Society of Alberta, #600, 919 - 11th Avenue SW, Calgary, Alberta T2R 1P3, or by e-mail at Steven.Dyer@lawsocietyalberta.com.

**THE LAW SOCIETY OF ALBERTA  
CONDENSED FINANCIAL STATEMENTS  
OCTOBER 31, 2000**

**Auditors' Report**

To the Members of the Law Society of Alberta:

We have audited the financial statements of the Law Society of Alberta as at October 31, 2000 in accordance with Canadian generally accepted auditing standards and expressed an unqualified opinion on these financial statements in our report dated December 15, 2000.

In our opinion, the information expressed in the attached condensed balance sheet and condensed financial statement of revenue, expenses and fund balance is consistent with the above mentioned financial statements from which it was derived.

*PricewaterhouseCoopers LLP*

PRICEWATERHOUSECOOPERS LLP  
CHARTERED ACCOUNTANTS  
DECEMBER 15, 2000

**THE LAW SOCIETY OF ALBERTA  
CONDENSED BALANCE SHEET  
OCTOBER 31, 2000**

(1,000's of dollars)

	<b>2000</b>	<b>1999</b>
<b>ASSETS</b>	<b>\$</b>	<b>\$</b>
Investments	8,661	8,487
Current	2,557	2,238
Capital assets	389	521
Trust assests	<u>333</u>	<u>292</u>
	<u>11,940</u>	<u>11,538</u>
 <b>LIABILITIES &amp; FUND BALANCE</b>		
Contingency reserve	6,169	6,056
Unrestricted fund	2,732	2,391
Reserve for claims	804	877
Scholarship reserve	726	681
Current liabilities	687	636
Deferred rent	489	605
Trust liabilities	<u>333</u>	<u>292</u>
	<u>11,940</u>	<u>11,538</u>

**THE LAW SOCIETY OF ALBERTA  
CONDENSED STATEMENT OF REVENUE, EXPENSES AND FUND BALANCE  
YEAR ENDED OCTOBER 31, 2000**

(1,000's of dollars)

	<b>2000</b>	<b>1999</b>
	<b>\$</b>	<b>\$</b>
Revenue	8,781	7,579
Expenses	<u>8,282</u>	<u>7,609</u>
Excess (deficiency) of revenue over expenses for the year	499	(30)
Fund balance, beginning of year	9,128	9,158
Funds withdrawn from (allocated to) contingency reserve	<u>(113)</u>	<u>195</u>
Fund balance, end of year	<u>\$9,627</u>	<u>\$9,128</u>

**SOURCES OF REVENUE**

	<b>2000</b>	
Annual Fees	5,718,042	65%
Assurance levy	608,010	7%
Professional corporations	226,606	3%
Investment income	1,165,508	13%
Bar admission	398,256	4%
Other	<u>664,338</u>	<u>8%</u>
Total	<u>8,780,760</u>	<u>100%</u>

**EXPENSE DISTRIBUTION, 2000**

General administration	4,510,041	54%
Governance and discipline	966,529	12%
Grants and contributions	753,405	9%
Premises	641,161	8%
Bar admission course	572,633	7%
Review of trust accounts	564,653	7%
Other	255,655	3%
Provision for claims	<u>17,305</u>	<u>0%</u>
Total	<u>8,281,382</u>	<u>100%</u>

A copy of the complete financial report is available by writing to Steven Dyer, Treasurer, The Law Society of Alberta, #600, 919 - 11th Avenue SW, Calgary, Alberta T2R 1P3, or by e-mail at Steven.Dyer@lawsocietyalberta.com.

**ALBERTA LAWYERS INSURANCE ASSOCIATION  
CONDENSED FINANCIAL STATEMENTS  
OCTOBER 31, 2000**

**Auditors' Report**

To the Directors of the Alberta Lawyers Insurance Association:

We have audited the financial statements of the Alberta Lawyers Insurance Association as at October 31, 2000 in accordance with Canadian generally accepted auditing standards and expressed an unqualified opinion on these financial statements in our report dated December 15, 2000.

In our opinion, the information expressed in the attached condensed balance sheet and condensed statement of revenue, expenses and net assets is consistent with the above mentioned financial statements from which it was derived.

*PriceWaterhouseCoopers LLP*

PRICEWATERHOUSECOOPERS LLP  
CHARTERED ACCOUNTANTS  
DECEMBER 15, 2000

**ALBERTA LAWYERS INSURANCE ASSOCIATION**  
**CONDENSED BALANCE SHEET**  
**YEAR ENDED OCTOBER 31, 2000**  
(1,000's of dollars)

	<u>2000</u>	<u>1999</u>
<b>ASSETS</b>	\$	\$
Current	4,505	2,896
Investments	44,952	42,539
Capital assets	<u>22</u>	<u>34</u>
	<u>49,479</u>	<u>45,469</u>
<b>LIABILITIES AND NET ASSETS</b>		
Current liabilities	5,493	4,499
Reserve for claims and related costs	30,579	25,617
Net assets (unrestricted)	<u>13,407</u>	<u>15,353</u>
	<u>49,479</u>	<u>45,469</u>

**ALBERTA LAWYERS INSURANCE ASSOCIATION**  
**CONDENSED STATEMENT OF REVENUE, EXPENSES AND NET ASSETS**  
**YEAR ENDED OCTOBER 31, 2000**  
(1,000's of dollars)

	<u>2000</u>	<u>1999</u>
Revenue	\$	\$
Annual levy	10,437	10,464
Investment income	<u>5,089</u>	<u>3,188</u>
	15,526	13,652
Expenses	<u>17,472</u>	<u>17,233</u>
Excess of revenue over expenses for the year	(1,946)	(3,581)
Net assets, beginning of year	<u>15,353</u>	<u>18,934</u>
Net assets, end of year	<u>13,407</u>	<u>15,353</u>

# 2000 Ad Hoc COMMITTEES

## Alberta Registries Liaison

S. Raby (C)  
J. Dunphy  
L. Irwin  
S. Mirth  
R. Nielsen  
C. Rapp  
D. Stratton  
P. Freeman, LSA

## Alberta Conveyancing Advisory Committee

J. Dunphy (C)  
S. Mirth  
L. Irwin  
P. Bishop  
C. Warren  
R. Thiessen  
S. Shavers  
H. Bonnycastle  
L. Eccelston  
S. Raby  
D. Homer  
G. Kaskiw  
P. Smith  
L. Wright  
T. McCaffery  
D. Thompson, LSA  
P. Freeman, LSA  
S. Billington, LSA

## Ancillary Business & Multidisciplinary Practice

K. Nielsen (C)  
G. Flynn  
N. Picard  
J. Topolniski  
E. Johnson  
B. Snowdon  
C. Peterson  
W. H. Smith  
J. P. Warner  
P. Bourque  
P. Freeman (LSA)  
S. Billington (LSA)

## Civility Initiative Steering Committee

A. Macleod (C)

J. Bascom  
M. Duckett  
B. Vogel  
P. McLaughlin  
Madam Justice C. L. Kenny  
R. Laing  
Prof. J. C. Levy  
E. McAvity  
G. Price  
H. Robertson  
B. Stothert-Kennedy

## Claims Committee

D. Boyer  
J. Brumlik  
E. Macklin  
D. A. McGillivray  
A. G. McKay  
S. L. Miller  
K. G. Nielsen  
G. K. Randall  
G. F. Scott  
P. A. L. Smith  
D. Stokes  
S. Brickett, LSA

## Code Committee re Firm Names

E. Macklin  
G. Flynn  
C. Gottselig  
B. Vogel  
D. Thompson, LSA

## Disclosure Subcommittee

K. Nielsen (C)  
A. Macleod  
E. Macklin  
A. Friend  
L. MacDonald, LSA  
D. Guenter, LSA  
T. Caisse, LSA  
S. Brickett, LSA  
J. Macleod, LSA

## Distinguished Service Award Subcommittee

A. Young  
R. Ruston  
M. Taylor

## Election Rules Review

E. Macklin (C)  
A. Fielding  
D. Thompson, LSA

## External Review Committee

Various judges on a case  
by case basis

## Legal Aid Governance

L. Anderson  
P. Sharek  
N. Dunne  
J. Robb  
P. Purdon  
J. Wiebe

## Legal Aid Negotiating

S. Renouf (C)  
J. Bascom  
M. Duckett  
R. O'Gorman  
M. Taylor

## Pro Bono Committee

R. K. Ruston (C)  
A. D. Fielding (VC)  
M. T. Duckett  
J. M. McBean  
T. McGregor  
A. D. Hunter  
E. H. Molstad  
P. Freeman, LSA  
S. Billington, LSA

## Pro Bono Subcommittee

R. K. Ruston  
J. M. McBean  
T. McGregor  
M. T. Duckett  
P. Freeman, LSA  
S. Billington, LSA

## Regulation of Law Firms Task Force

A. Macleod (C)  
E. Macklin  
K. Nielsen  
P. Sharek  
Y. Stanford  
C. Gottselig  
J. Thrasher  
P. Freeman, LSA  
D. Thompson, LSA  
D. Guenter, LSA

## Specialization

J. D. Bascom (C)  
N. F. Wm. Picard (VC)  
L. G. Andreachuk  
S. D. Hillier  
H. A. Robertson  
R. Carter  
M. Naber-Sykes  
P. Freeman, LSA

## Substance Abuse Ad Hoc Com.

Members of:  
Assist Program  
Insurance Committee  
Practice Review Committee  
B. Vogel, LSA  
B. Cooper, LSA

## Committee to Discuss Propriety of Benevolent Fund

N. Picard (C)  
J. Bascom  
M. Taylor  
J. McBean  
A. MacKenzie, LSA

## Foreign Law Consultants & Their Regulations Subcommittee

A. Friend  
J. Topolniski

# 2000 SPECIAL COMMITTEES & REPRESENTATIVES TO OTHER BODIES

*\*Nominees requested by outside source*

## **Advisory Committee on Judicial Appointments For Alberta\***

K. G. Nielsen

## **Alberta Business Corporations Act\***

A. J. Hladyshevsky

## **Alberta Law Foundation\***

A. L. Friend

J. D. Steele

## **Alberta Law Reform Institute\***

A. D. Macleod

## **Canadian Bar Association, Alberta - Access to Justice**

E. L. Bunnell

## **Canadian Bar Association -Alberta**

A. D. Macleod

E. F. Macklin

## **Canadian Institute of Resource Law\***

M. F. Swanson

## **Canadian Research Institute for Law & Family\***

W. Best

## **Canadian Lawyers Insurance Association**

P. A. L. Smith

W. P. Sharek

K. G. Nielsen

## **Corporate Counsel - Pro Bono Initiative**

M. F. Swanson

## **Editorial Board/CBA Newsletter**

A. MacKenzie, LSA

B. E. Mahoney

## **Federation of Law Societies of Canada**

A. D. Macleod

E. F. Macklin

P. J. Royal

## **Federation Legal Aid Committee**

B. E. Mahoney

## **Federation National Multidisciplinary Partnerships Committee**

G. Flynn

## **Federation National Committee on Accreditation**

D. Thompson, LSA

## **General Anti-Avoidance Rule (GAAR)\***

Vacant

## **Joint Committee with College of Physicians and Surgeons**

A. L. Friend (C)

B. E. Devlin

V. A. Engel

B. J. Larbalestier

P. L. Freeman, LSA

## **Judicial Liaison Committee**

E. F. Macklin

## **Law Faculty Council**

A. Hepner

N. F. Wm. Picard

## **Legal Aid Society of Alberta**

L. G. Anderson

B. E. Mahoney

## **Legal Aid Governance Committee**

L. G. Anderson

P. Sharek

## **Legal Education Society of Alberta**

S. Renouf

D. Thompson, LSA

## **Legislative Review Committee (CBA)\***

E. (Sonny) Mirth

## **Notaries Public Review Committee\***

I. B. Kay

## **Pronet**

P. L. Freeman, LSA

## **Provincial Judicial Council**

A. D. Macleod

## **Rules of Court Committee**

E. F. Macklin

E. L. Bunnell

## **Tax Consultative Group\***

D. R. Sommerfeldt

## **Uniform Law Conference of Canada\***

N. C. Wittmann

## **Viscount Bennett Scholarship Committee**

A. D. Macleod

E. F. Macklin

S. Renouf

M. Wylie

L. Klar

P. L. Freeman, LSA

# THE LAW SOCIETY OF ALBERTA

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[www.lawsocietyalberta.com](http://www.lawsocietyalberta.com)



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President's Office	229-4700 (Calgary) 1 (800) 661-9003
Office of the Practice Advisor	
Barry Vogel, Q.C., Practice Advisor	229-4714 (Calgary) 1-800-661-2135 (toll free)
Paul McLaughlin, Practice Management Advisor	429-3343 (Edmonton) 1-800-272-8839 (toll free)
Mentor Program	429-3343 (Edmonton) 1 (800) 272-8839 (toll free)
Conduct Matters	229-4700 (Calgary) 1 (800) 661-9003 (toll free)
Alberta Lawyers Insurance Association	229-4716 (Calgary) 1 (800) 661-1694 (toll free)
Membership	229-4712 (Calgary) 1 (800) 661-9003 (toll free)
Professional Corporations and Assurance	229-4711 (Calgary) 1 (800) 661-9003 (toll free)
Audit Department	229-4713 (Calgary) 1 (800) 661-9003 (toll free)
Lawyer Referral Service	228-1722 (Calgary) 1 (800) 661-1095 (toll free)
Jenane Byron, Equity Ombudsperson	429-3939 (Edmonton) 1-888-429-3939 (toll free)

*For all other enquiries please contact the main switchboard in Calgary.*

## ASSIST Program

(Your call will be answered by Kelly, Luttmer & Associates, an independent counselling office)

Calgary, 237-8880  
Edmonton, 448-0628

Red Deer & South 1-800-461-8908  
Red Deer & North 1-800-782-5457