



THE YUKON AMICUS

OFFICE HOURS:

Monday – Friday
9:00 AM – 5:00 PM

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John. W. Phelps

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& COUNCIL MEMBER:

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& CHAIR OF THE

DISCIPLINE COMMITTEE:

Suzanne Duncan

SECOND VICE-PRESIDENT

& CHAIR OF THE CLE

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TREASURER:

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MEMBER STATISTICS:

(As of April 17, 2014)

Resident Members: 143

Non Resident Members: 173

Total Membership: 316

PRESIDENT'S REPORT

by John Phelps

As I sit here and write what will be my last President's Report for the LSY newsletter, I cannot help but reflect on the changes that have occurred since I first agreed to put my name on a ballot back in 2006.

Yes, I was first elected to the executive in 2006 and have continued to volunteer with LSY ever since. The last three years, I have been your President, and there will be more years to serve in the capacity as Past-President, or at least next year. If history repeats itself, I may have two or three years as Past-President, for which I will gladly volunteer.

Many people have come and gone on the executive, as public representatives and as elected members of the bar. My decision not to seek re-election comes with some sadness when I think of all those people that I have had the pleasure of serving with on the executive. I have learned from each of them during lengthy debates and discussions on the various issues, and for that I am grateful.

In a time when more accountability is being demanded from boards, the LSY executive has responded with significant changes over the past eight years. There have been small changes, such as setting up a transparent process for the appointment of members to boards and committees, as well as large projects like our involvement in the Federation of Law Societies Admission Standards Project, which is working towards common admission standards for all law societies.



John W. Phelps

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PRESIDENT'S MESSAGE CONT'D

Of the accomplishments, and there have been many, there are a few that stick out in my mind.

The first is in the area of discipline. When I joined the executive there was the Legal Profession Act and rules relating to discipline, but there was not a consistent process followed with regards to timelines and procedures. Great strides were taken by the discipline chairs and the executive as a whole to develop consistency and codify the process in the current Discipline Handbook.

The Handbook is a comprehensive guideline of timelines and procedures for each stage of the discipline process, ensuring a consistent approach for both members and the general public. Over this past year, LSY has engaged in the Federation of Law Societies' project of standardizing discipline processes and we learned that our process as set out in the Handbook is consistent with national expectations.

A spinoff of the Discipline Handbook work was identifying other areas where best practices have changed and where the LSY needs to modernize to better represent the public interest. Examples of this include trust account audits, which many of you will have experienced, which are now done annually to ensure members have sound accounting practices, and all of you will be familiar with the compulsory professional development program which requires members to meet an annual minimum educational requirement.

The second area of change has been the integration of strategic planning into the executive process, ensuring there is a focused and progressive approach to positive change for LSY. The first facilitated strategic planning session was held in May 2009, and was very successful and worthwhile. We have followed up with regular strategic planning sessions, and periodic facilitated sessions, to ensure we identify realistic goals to improve the governance of LSY.

Through these strategic planning sessions, the executive identified the main restriction on modernizing and complying with the ever-changing national requirements as being the Yukon's Legal Profession Act itself.

While we are still operating under the original Legal Profession Act, I think that we would all agree that the policy paper "Towards a New Legal Profession Act," finalized in fall 2011 is a comprehensive and thorough paper proposing a new act that would allow the executive to govern in the modern era, where national standards and mobility are important realities regarding the governance of lawyers. We have the commitment of the current government to draft a new act and are optimistic that it will be accomplished in 2015.

Your LSY executive is currently working on the implementation of the Federation of Law Societies Code of Conduct, ensuring first that modifications are made where necessary to ensure the new standards are consistent with the reality of practice in the North. There are several more projects in the works and there have been many improvements to process and procedure not discussed here.

We believe the independence of lawyers is integral to our ability to properly represent our clients' best interests. This is not a lawyer right, but rather a public right to obtain legal advice from a lawyer whose duty is to them and not to the state. Many fear that government oversight would diminish our independence and weaken the profession.

A strong, modern and capable LSY helps us preserve the independence of the profession into the future. The continuing work of the Federation of Law Societies and LSY has that goal in mind, but it takes a great deal of time and energy by the volunteers involved.

So, as I am looking at the end of my journey on the executive I urge all of you to consider how you can become involved and dedicate your expertise to LSY. Whether you do so as an elected member of the executive, or as a volunteer on one of many committees, your efforts will benefit all of us as we strive to show that we are a strong and independent profession capable of self-governing.

As proud as I am of the accomplishments of LSY over the past eight years, there are many challenges ahead that will require committed volunteers from the membership, to ensure we remain strong.

– John W. Phelps

COMPULSORY PROFESSIONAL DEVELOPMENT



by Karen Wenckebach,
2nd Vice-President (CLE)

LSY has waded through the mountain of CPD Reports and has made it to the other side. I am happy to report that the first year of mandatory CPD went smoothly. LSY appreciates that the membership recognizes the importance of engaging in on-going CPD.

That being said, some questions and issues landed in our email in-boxes more often than others. Because lawyers never procrastinate, and I know that you are all already keenly looking to fulfill your CPD requirements, I would like to provide some tips for fulfilling CPD requirements this year.

1. The Bench and Bar counts for four hours. Not eight hours, or 10 hours, although I know that drinks and dinner spent catching up and gossiping with fellow lawyers is absolutely educational. Still, it's just four hours, until the organizers (not the LSY) apply for an increase through LSBC.

2. Teaching counts. Not only does it count, time spent in preparation also counts. But there is a catch:

You can only count up to six hours per year of teaching, preparation, or a combination of the two, even if you surpassed that amount.

Also, it only counts the first time you teach that specific material. If you present the same material more than once, or even present updated material, you cannot count that towards your CPD requirements. This also applies to all other years you teach the same material.

So, for example, if you are giving a lecture on standard of review for the first time, think of it as a once in a lifetime opportunity to apply it to your CPD credits. If you don't do it this year, you will never be able to claim CPD credits for teaching standard of review again.

3. You can watch a webinar on your own; it does not have to be with another person. On the other hand, watching "The Good Wife" and muttering at the T.V. because they wouldn't know direct examination if it smacked them in the face, cannot be counted as CPD.

4. Are you not clear if a conference, CBA meeting, or some other function counts towards your CPD? Consider these points:

Content should be directed at lawyers. General business courses, for instance, don't count.

Conferences based on identity (e.g. young lawyers, women lawyers) may count. Take a good look. Does the conference provide educational opportunities for you as a lawyer? Put those hours down.

Or is it primarily about how these identity issues intersect with being a lawyer? In which case, put the pen down, and walk away from the Form 13 until you have completed more hours.

Ultimately, the question you must ask yourself is: is this activity educational to me in my capacity as a lawyer? If yes, count the activity towards your CPD requirements. If no, then don't.

5. If, after reviewing the CPD guidelines and information on the LSY website, you wish to determine whether an activity can be used to satisfy CPD requirements, you can ask for a ruling before you register or attend.
6. Finally, if you have attended an activity that, in retrospect, you believe could count towards your CPD requirements, even though the activity was not a traditional CLE course, you can still ask for a ruling after-the-fact. To get a timely response, clearly explain how the activity was educational.

Armed with this information, go forward and seek new and exciting CPD opportunities. Or watch another webinar.

Please contact the CLE Committee if there are any topics you wish to have them consider for future CLEs.

UPCOMING CLEs

The CLE Committee is working on presenting CLEs in the following areas:

- Administrative Law
- Expert Witnesses
- Courtroom Ethics
- Criminal Scene Investigations
- How to Deal with Self Represented Litigants

UPCOMING DATES & DEADLINES

- AGM: Scheduled for 4:00 p.m. on Thursday, May 29, 2014 Whitehorse Westmark, Conference Room #5
- CLIA: For those of you with mandatory professional liability insurance coverage, the deadline to submit your 1st instalment payment will be June 20, 2014.

YUKON LAW FOUNDATION UPDATE



Canadian law foundations belong to a national body, the Association of Canadian Law Foundations (ACLF). The ACLF promotes excellence in the work of Canada's law foundations through annual conferences and information sharing.



*by Deana Lemke,
Executive Director*

All law foundations are funded by revenue derived from interest accruing on lawyers' trust accounts (IOLTA) in their province or territory, and all foundations have similar aims — primarily to make the most effective use of their revenues to support groups and individuals with law-related education, programs, and activities.

In particular, smaller jurisdictions such as Yukon, benefit from the experience and expertise of foundations in larger jurisdictions.

A national ACLF conference is held annually, which presents a great opportunity to share information and exchange

ideas. The executive directors and chairs or other trustees of the law foundations meet in formal sessions over three days to discuss administrative matters, share problems and solutions, discuss common and unique challenges and successes, and explore processes and criteria for grant and scholarship funding.

Directors are also able to discuss bank negotiations for higher IOLTA returns on funds held in trust. In the past, successful strategies have been shared by the larger foundations. This information is very valuable in assisting us and giving us more leverage when negotiating interest rates and terms with banks.

Since the ACLF is comprised of the law foundations from the various provinces and territories, different jurisdictions take turns hosting the annual conference. Yukon has the privilege of hosting this year's ACLF conference in Whitehorse in September 2014.

The Yukon Law Foundation looks forward to hosting the conference and once again gathering timely information that can be used to benefit and support local grantees and scholarship recipients.

CLIA — LOSS PREVENTION BULLETINS

CLIA's Loss Prevention Bulletin, currently edited by CLIA's loss prevention coordinator, Manitoba lawyer Karen L. Dyck, has been published in paper format since May 1991.



The Loss Prevention Bulletins will now be sent to all insured Yukon lawyers by e-mail. You will receive an e-mail alerting you when a new Loss Prevention Bulletin has been posted on CLIA's website. In case you missed it, CLIA's Loss Prevention Bulletin, Issue No. 59 is now up. It features two articles, "Limiting Missed Limitation Claims" and "10 Tips for Safe Pro Bono."

Back issues, dating from 1991, are available in PDF format on the Canadian Lawyers Insurance Association's website. Go to www.clia.ca and look under the Loss Prevention tab to read current or past bulletins, Loss Prevention eBytes, or to download a copy of Safe and Effective Practice.

And remember, you can still sign up to receive the "Loss Prevention eBytes" at <http://www.clia.ca/documents/newsSubscribe.cfm>

COUNCIL MEMBER'S REPORT

LAW SOCIETY YUKON ACCEPTS FEDERATION APPROVAL OF TWU



*by Susan Dennehy,
Council Member*

Under the Yukon Law Society's rules, the executive is responsible for approving law schools for the purposes of meeting the requirements of the Law Society's admission process.

The executive accepted the Federation Canadian Common Law Program Approval committee decision giving preliminary approval to Trinity Western University's law program.

In arriving at its decision the executive was sensitive to the issues of discrimination that have been raised in connection with TWU's Community Covenant Agreement. However we were satisfied the Special Advisory Committee struck to consider the issues that were outside the mandate of the Approval Committee had addressed the concerns and accepted their recommendation. The Special Advisory Committee concluded that as long as TWU's program meets the national requirements for a law program, a TWU graduate should not be barred from applying to provincial and territorial law school admission programs.

The importance of a consistent national approach and avoiding a patch work of local decisions for admission to the legal profession underlies the executive's decision to accept the Committee's decision. Law societies operate in an environment where lawyers enjoy mobility rights. A consequence of mobility is that the provincial and territorial law societies are, through the Federation, harmonizing education, admission and discipline standards across the country. The Federation's common law degree approval

process, agreed to by all law societies across the country, was designed to ensure consistency in the approval of law degrees across Canada.

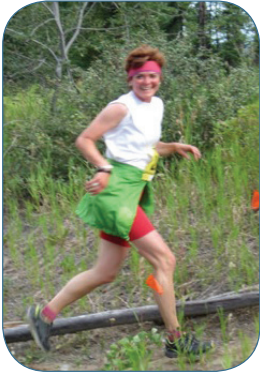
To date, all law societies except Law Society of Upper Canada, Nova Scotia and New Brunswick have accepted or approved the Committee's decision. It is anticipated all law societies will have made a decision by the end of June.

It is possible the Federation's approval will be challenged in court. A judicial determination would have national application. This would address the issues while preserving the national mobility regime.

To read the Federation Canadian Common Law Program Approval Committee Report and the Special Advisory Committee Report go to <http://www.flsc.ca>.



Northern colleagues at TMA Signing Ceremony'



*Suzanne Duncan,
Discipline Chair*

As we advised in earlier newsletters and at the 2013 AGM, the LSY newsletter will regularly be providing summaries of Rule 112 meetings on an anonymous basis. The purpose is to assist lawyers by providing information about ethical and conduct standards.

A Rule 112 referral is a way of resolving a complaint against a lawyer. The Discipline Committee Chair can make a Rule 112 referral as an alternative to referring the matter to a committee of inquiry for a hearing into the lawyer's conduct.

To do so requires the consent of the lawyer, and involves a confidential meeting among the lawyer against whom the complaint is made and two members of the Discipline Committee.

The possible outcomes of a Rule 112 referral range from a dismissal of the complaint, to the undertaking of remedial steps, or the imposition of any of the sanctions provided for in the Legal Profession Act, with the consent of the lawyer.

If there is no agreement among the lawyer and the two members of the Discipline Committee on disposition of the matter, it must be returned to the Chair of the Discipline Committee for disposition.

Here are anonymous summaries of two recent Rule 112 referrals.

Summary 112-14-1

A former client complained that a lawyer acted against that person's interest on a number of matters. Regarding most matters, the LSY concluded there was no evidence that confidential information had been imparted to the lawyer, and there was no broad basis to claim that, after the termination of a retainer, by acting on matters in which the position taken by the lawyer is one with which the former client disagrees, a lawyer acts against the interests of the former client.

However, the former lawyer had been directed not to act on a specific matter in which a new client and the former client were taking opposing positions regarding a document the lawyer had helped draft.

At the Review, the lawyer recognized that in doing so he/she acted against the interest of the former client in an impermissible way. This was communicated to the client at the outcome of the review.

Summary 112-14-2

This Rule 112 review was ordered to discuss several issues arising from a complaint.

Two parties entered into a business arrangement for the purpose of conducting a mining operation. The deal was structured and papered by outside counsel. As part of the business plan, a Yukon corporation was to be incorporated.

Issues that arose included:

- Conflict of interest concerning the incorporation, structuring of the commercial transaction, and subsequent PPSA registration, giving notice of a security interest;
- The lawyer failed to confirm the existence of a security interest prior to filing a PPSA financing basic statement. Subsequently, the lawyer learned that a security interest did not exist. Notice of the security interest was discharged through bankruptcy proceedings; and
- Continuing to act as corporate counsel following a voluntary assignment into bankruptcy, where the shareholders, directors, and officers of the corporation who previously provided instructions on behalf of the corporation, now had divergent personal interests.

The lawyer realized and admitted that he/she erred in not obtaining a copy of the security interest prior to completing the PPSA registration.

In a situation involving a limited number of unrelated shareholders and directors it can be difficult to distinguish when a lawyer is being instructed to act on behalf of the corporation and when the instructions advance a personal interest of a shareholder or director. The lawyer acknowledged the need to be more diligent confirming instructions and obtaining documents that show the basis and interests supporting the instructions.

The lawyer also acknowledged the need to consult with other counsel concerning difficult and complex conflict of interest situations.

RETAINER AGREEMENTS

by Stacey Gerrard, LIANS

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As lawyers we know the importance of “getting it in writing.” So why does it seem that lawyers are hesitant to use retainer agreements? I was recently told that they do not like to use them as it formalizes the solicitor/client relationship too much. I politely suggested that perhaps they should consider using “engagement letters.” Some might

say that’s a distinction without a difference but I understood their concern. We’ve also heard that:

“It’s additional work when crafting an agreement and time is money; time better spent on the client’s matter.”

“They’re a family/friend – they won’t sue me.”

Odds are, nothing bad will happen.”

Do any of these sound familiar? To some extent they are all true: it is more work, your mother may not sue you, and odds are nothing bad will happen. Benjamin Franklin once said, “In this world nothing can be said to be certain, except death and taxes” but as lawyers, we are trained to consider and plan for the uncertainties.

Some lawyers are uncomfortable talking about money and how much they are to be paid. These are important topics to cover and will assist a lawyer if he or she needs to have the account taxed. But retainer agreements are about more than fees. A comprehensive retainer agreement should consider the following issues:

- 1. Scope of work:** in a world where ‘unbundling’ is becoming increasingly popular, it is important to establish the limits of your retainer in terms of what you will do and what you will not do. Is your work going to be limited in anyway? If so, write it down;
- 2. Communication guidelines:** many claims and complaints about lawyers stem from allegations that they failed to communicate with their clients. Lawyers need to manage client communication expectations, especially in this world of text and email where clients may feel that their lawyer is available 24/7. Lawyers can unintentionally encourage this feeling by responding during the evenings or weekends. Set out your policy on timing of returning messages (such as within 24 hours) and note in your agreement that every text and email incurs your time and will cost them;

- 3. Retainers:** many lawyers request a retainer before starting work on the file. This is a good idea and sometimes it is the only money you see from a client. Consider using an “evergreen clause” — a non-expiring contract term that requires the client to replenish the retainer (usually on a monthly basis) to a certain minimum amount to cover fees and expenses related to their matter;

- 4. File Disposition:** At LIANS, we tell lawyers that files need to be kept forever, but not everything in the file needs to be kept. Consider what you will retain once the matter has concluded, and what you will return to the client, and set that out up front. At the end of the file, keep a list of documents that were returned to the client, and have the client initial that they have received the documents. Also, begin scanning and saving your documents electronically when the file is first opened so that you can safely destroy the hard copies when the matter closes;

- 5. Withdrawal or termination of services:** establish the reasons, rights, and obligations of both you and your client when terminating the retainer.


- 6. Successor lawyer clause:** consider including a clause that the client agrees to a successor lawyer assuming carriage of the file in the event of your illness, vacation, or other similar absences. You may also wish to include a provision that in the event of death, disability, impairment, or incapacity, your client agrees that a successor lawyer can review their file for the limited purposes of protecting the client’s rights and can assist with the closure of your law practice while recognizing the client’s right to select a different lawyer to continue to represent him/her.


- 7. Standard or minimum time docket:** not all lawyers use minimum time docket, but if you do, you should set this out in your retainer agreement.


Retainer agreements are designed to outline the parameters of the solicitor/client relationship which can have a positive impact throughout the course of representation and afterwards. You will find that a carefully constructed retainer agreement – or engagement letter, if you prefer – not only solidifies the solicitor /client relationship but it’s just good practice management and good business. If you ever have your account taxed, the retainer agreement will be the first document the court wishes to see. Likewise, if a claim is made against you, LIANS routinely asks for a copy of your retainer agreement so that we can bolster your defense.


A LIST OF HABITS THAT ANNOY CLIENTS MOST

by Tana Christianson


 **Not returning phone calls:** This is one of the most common complaints about lawyers. To avoid this, set and control client expectations from the very start of the relationship. Establish a reasonable policy on how quickly calls will be returned (e.g. 24 hours, end of the next business day, or whatever is appropriate for your area of law and clients), inform clients of the policy, and abide by it. Set up a mechanism for staff to return calls within the required timeframe if you are not available.


 **Not replying to e-mails messages:** Many clients expect virtually instant answers to e-mail messages. How many times has a client called you five minutes after sending an email and said: "Did you get my e-mail? I wanted to make sure you got it, and I need my questions answered right away." Again, set a reasonable policy on replying to e-mails, inform the client of that policy, and abide by it.


 **Making clients wait in reception:** Do you remember how you felt the last time your dentist made you wait? Don't make your client feel the same way. Get off the phone if a client is waiting for a scheduled appointment. If you are in the middle of a phone call when a client arrives, make sure you are notified that a client is waiting.

 **Long periods of apparent inactivity on a matter:** Clients always want to feel their matter is moving towards a resolution. In some areas of law, such as litigation, there can be long

period of inactivity. Don't assume clients will understand why there is a delay. Make sure they are kept informed of the status of a matter, and when they can expect it to move forward. Send copies of all incoming and outgoing correspondence to the client.

 **Not delivering on promises of performance:** Don't make promises to deliver that you cannot keep. Be realistic in your assessment of what you can accomplish and when. When it comes to deadlines you can guarantee a happy client if you under-promise and over-deliver.

 **Not delivering on a promised outcome:** Be careful not to promise an unlikely or impossible outcome or resolution on a matter. Extra caution is warranted here as clients will hear what they want to hear when it comes to a promised outcome. To protect yourself, clearly document your advice to clients on what the expected outcome will be.

 **Sending clients a very large bill without warning or explanation:** This scenario calls for an in-person meeting and explanation. Better yet, avoid it altogether with a strict retainer policy that requires a sufficient retainer at the start of a matter, regular or milestone billing, and a retainer replenishment at each step along the way.



April 3, 2014 signing ceremony - Updated Territorial Mobility Agreement - the updated agreement covers permanent mobility rules for Canada's three northern territories, ensuring easier transfers by members of the legal profession between the territories and Quebec.

<http://www.flsc.ca/en/federation-news/#72>

CLOUD COMPUTING AND PRIVACY RISK



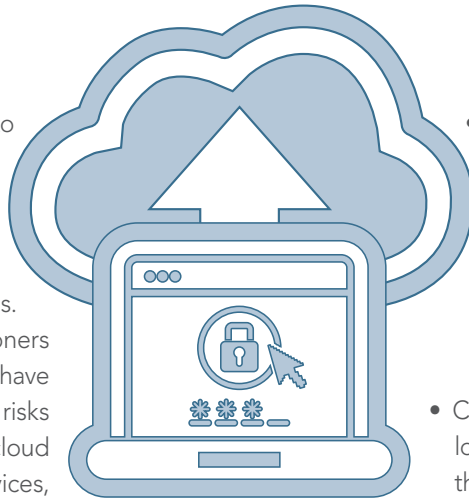
*Diane McLeod-McKay,
B.A., J.D.
Yukon Ombudsman and
Information and Privacy
Commissioner*

guidance material on this topic. This article highlights some of the risks they identified.

Cloud computing does have benefits for businesses. Cost-saving and increased access to service appears attractive to small and medium sized law firms. However, the risk to privacy is an important factor that must be weighed.

Most businesses in the territory, including law firms, are subject to privacy laws. Such businesses must ensure they can meet privacy law obligations before deciding to enter into a contract for cloud computing services where personal information will be transferred. Businesses should:

1. Evaluate whether the contract contains provisions that will allow it to meet its obligations. The contract should, at minimum, address:
 - Control of the personal information;
 - Restrictions on the collection, access, use, and disclosure of the personal information;
 - Security of personal information from unauthorized collection, access, use, disclosure, disposal and destruction, and what will occur in the event of a breach;



- Retention of the personal information during the contract term and how the integrity and accessibility of the personal information will be maintained;
- Return or destruction of the personal information upon termination of the contract; and
- Compliance monitoring, including whether audit logs for collection, access, use and disclosure of the personal information will be kept.

2. Evaluate whether the laws of another jurisdiction, if applicable, will negatively impact the privacy of personal information.

3. Evaluate whether the service provider has a privacy management program in place that will enable it to meet the contract provisions.

4. Scrutinize the security of the service provider to determine if it can withstand attacks. Cloud service providers operate databases that store information for multiple customers. These databases can become massive, and therefore attractive to cybercriminals. In recent years cybercriminals have successfully penetrated the information security of organizations a substantial number of times. This includes organizations with sophisticated information security.

The security of a cloud computing service should, therefore, be of paramount importance to any business, particularly where personal information will be transferred as part of the service. The potential impact of a privacy breach should also be carefully.

The cloud computing guidance material, which can be found on the Privacy Commissioner of Canada's website, is very informative and provides a series of key questions to assist a business evaluate the risks of using cloud computing services. I encourage any business thinking about using a cloud computing service to review this guidance material.

Cloud Computing for Small and Medium-sized Enterprises: Privacy Responsibilities and Considerations located on the Privacy Commissioner of Canada's website at http://www.priv.gc.ca/information/pub/gd_cc_201206_e.asp.

LSY's 25th ANNUAL GOLF TOURNAMENT BRINGS OUT 50 PARTICIPANTS

by Tara Grandy



Bhreagh Dabbs, Vida Nelson, Anna Pugh

LSY's annual Golf Tournament marked its 25th anniversary last year — the longest continuous social function supported by the Law Society.

Last July, it was a great turnout with 50 participants enjoying perfect conditions while golfing at the Mountain View Golf Course. Perhaps the idea of taking an afternoon off to play golf with colleagues, or donning shorts instead of a blazer, is catching fire.

Whatever the reason, everyone had a blast. Following the game, the participants took pleasure in roasting each other's golf game over steaks and drinks during the awards barbeque. Great prizes (subsidized by the LSY) were given to all participants.

This year, two teams tied for first place. To determine the team that would be etched on the trophy, two members of each team (and



Norah Mooney, Renate, Dwight and Rita

consequently two family members) were pitted against each other in a final putt-out. The team of Marcie Stenzig, Casey Dupuis, Logan Harris and Parker Olson came out on top, beating the team of Elmy Harris, Lorren Harris, Cheryl Olson and Ken Olson.

The Ladies' Long Drive winner was Anna Pugh; the Ladies' KP winner was Cheryl Olson; On the men's side Parker Olson took home both prizes..

We had a raffle for a \$100 gift certificate with all proceeds donated to the Junior Golf Program at Mountain View, which paid for the costs of their Canada Games' jackets.

We hope to see even more of you out for the Law Society's 26th Annual Tournament.



Judge Cozens, Sherri Blaker, Drew Pearson



Christina Zahar, Rachel, Amanda and Taylor

RESPECT, PROTECT, EDUCATE

Legal Information for Seniors and Elders

by Lillian Nakamura Maguire,
Seniors Project Coordinator



www.yplea.com

YPLEA received funding from the Government of Canada's New Horizons for Seniors Program for a project focused legal education to reduce the risk senior abuse. The project started in November 2012 and goes until March 31, 2015.

What is the purpose of the project?

- Increase community awareness of all types of abuse of older adults, and ways to prevent and reduce them
- Increase the safety and security of seniors and elders within communities
- Increase planning and preparedness for support if, and when an older person is no longer capable of making decisions alone.
- Provide education on legal tools geared to older adults and their families, such as wills, enduring power of attorney, advance directives, and supportive decision making agreements
- Develop community links to share information, and take a coordinated approach to the education of seniors and elders on the topic of abuse in Yukon.

What are we doing to provide information?

- Print materials (booklets, information kits, news articles) in English and French (revision of Wills and Enduring Power of Attorney booklets)
- Free presentations to Yukon groups through information sessions, video conferencing, workshops, and webinars
- Locally produced videos, storybooks, and a bilingual play. Plus discussion of realistic situations faced by seniors and elders
- Conferences for seniors/elders, caregivers and those providing support to them
- Information on YPLEA website at www.yplea.com – click on "Seniors Education." The Seniors Education section is under revision.

Contact Lillian Nakamura Maguire, seniors project coordinator at (867) 393-2044 or email yplea.seniors@gmail.com for more information, or if you are interested in writing legal materials, providing legal information sessions, or other educational activities geared to the needs of seniors and elders.

NEW MEMBERS:

JANUARY 1, 2014 – APRIL 23, 2014

Battin, Paul – Whitehorse, YT
Blomfield, Kate – North Vancouver, BC
Bowman, Geoff – Vancouver, BC
Fiorante, Giuseppe – Vancouver, BC
Frame, Nuri – Toronto, ON
Gustafson, Carmen – Whitehorse, YT
McDade, Gregory – North Vancouver, BC
McDougall, Christopher – Victoria, BC
Petter, Celia – Whitehorse, YT
Sarin Jonathan – Vancouver, BC
Smith, Bradford – Vancouver, BC

ARTICLING STUDENTS:

Steele, Amy – Yukon Department of Justice

ACTIVE CERTIFICATES OF PERMISSION TO ACT: 85

COMINGS & GOINGS

Kyle Carruthers became a partner with Tucker & Co. in March 2014

Mara Pollock has moved back to the Yukon from Ontario and is now working for YESAB

Anna Pugh will be taking a year's maternity/parental leave and expects to return to work in May 2015

Celia Petter moved to Whitehorse from Ontario to work for Legal Aid

Paul Battin moved to Whitehorse from Ontario to work for Department of Justice Canada

Lauren Whyte left YG to work at the Neighbourhood Law Clinic

Marlaine Anderson-Lindsay moved to Whitehorse from Manitoba to work for Department of Justice

Kelly McGill joined Tucker & Co. when she finished her articles

Christina Lavidas joined Public Prosecution when she finished her articles

Carmen Gustafson moved from BC and is now working for Cabott & Cabott

LAWYER USES OWN DEPRESSION BATTLE TO HELP COLLEAGUES

by Sherri Borden, *Halifax Chronicle Herald*

Nine years ago, Tim Daley fell into a deep depression that consumed his life and small New Glasgow family law practice.

Daley stayed in that pit for three years.

"I did not fully understand what was happening to me," Daley, president of the 2,740-member Nova Scotia Barristers' Society, openly wrote in the spring edition of the Society Record, the group's periodical.

"Unless you have experienced depression, it is impossible to explain just how deep the well of despair is and the sense of helplessness you feel. It can be paralyzing and yet invisible to others."

Daley's first wife, Wanda, died of cancer in 1994 at age 32, leaving him with a three-year-old son to raise alone.

Daley did not get help to deal with his grief and it eventually bottled up. He remarried, had two more children, and continued to practise law. But the stress of everyday life built up.

"And ultimately, I began to lose energy, I began to lose focus," he recalled in a recent interview at the law society's Halifax office.

"I, for example, would get up in the morning and go to work and function. I never missed a court date, I never missed a file and I never missed appointments, but what I would do at the end of the day, I would come home, eat and go to sleep. I could barely function."

As Daley's energy level fell, his weight shot up and he disengaged from family and friends.

"I was almost a robot, my expression died away," he said.

By then, he had reached the point of planning suicide.

"It's not an unknown story, it's not an uncommon story for professionals who are under tremendous stress and are taught to be problem-solvers, are taught to be strong and never admit weakness, to actually say to yourself, 'This isn't normal and this isn't healthy and I need to get help,'" he said.



Fortunately, his wife Elizabeth and his law partner at the time were both able to see what was happening and persuaded him to see his doctor. Daley also contacted the lawyers assistance program — a free, confidential, 24-hour help line funded through the law society's insurance fund.

"They said it enough and they pushed me enough that I actually did," Daley recalled. "I was saved, essentially."

After treatment consisting of medication for a couple of years and psychotherapy, Daley was able to recover and gain back what he had lost.

"My story is one of hope, too," he said.

"It is to say, 'Look, I've told you about a man who was in the depths of the deepest, darkest place you can go, and that man is standing before you as president of the barristers society in a healthy solo practice in a little town with a happy family who's dug himself out of this hole with help, and I'm here to tell you that we can help each other through this.'"

Daley, a Newfoundland native, Halifax West High School and Dalhousie University graduate and a lawyer for 21 years, is also sharing the story of his struggle with depression to fight the stigma attached to mental illness.

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DEPRESSION BATTLE CONTINUED

In its 2008 Annual National Report Card on Health Care, the Canadian Medical Association found that only half of Canadians would tell friends or co-workers that they have a family member with a mental illness, compared with 72 per cent who would discuss a cancer diagnosis or 68 per cent who would disclose diabetes in the family.

"So, it's about that stigma about not wanting to talk about mental health issues," Halifax psychologist Mary McGrath said in an interview.

"And that would apply to any profession, and especially more so to professionals who would be so afraid (and think) that, 'Oh, professionals shouldn't have these problems, what if someone found out?'"

Statistics show that lawyers suffer from depression 3.6 times more often than workers in any other profession and commit suicide at a rate six times that of the general population.

"We are particularly susceptible to these problems," Daley said. "There are lots of reasons perhaps why, but it's a reality that we face, and it's a reality that the public faces generally, and it's one that I want to demystify and I want people talking about it."

Lawyers are at the greatest risk of depression and suicide from age 48 to 65. And among those, Daley said, sole practitioners are at the highest risk.

Over the past year, Daley has been travelling to law firms and bar associations across Nova Scotia to discuss mental health.

During those visits, he shares his own experiences and talks about ways that lawyers' mental health issues can be addressed.

He was shocked to learn that many employees, particularly in small firms, did not know about the lawyers assistance program, which is available to lawyers, staff and their families.

Since Daley has gone public with his story, several other lawyers have come forward to thank him, "because they had suffered from this problem and never had a voice put to it, or because they were unaware of how serious it is for lawyers," he said.

"So there's been a real engagement on this issue in a way that I had hoped would happen but was pessimistic might not occur, and in fact it's been very, very positive.

"I had one lawyer speak to me about his son who is struggling with addiction problems and mental health issues and was so grateful to hear that, one, there were other people who had gone through this, that he wasn't alone, and number two, that there was help through the barristers society and the LAP and he reached out and got that help for his son.

"Other lawyers have said because of the presentation, they themselves have reached out for help or reached out to other lawyers to say, 'You're in trouble, we need to help you.'"





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