

**OFFICE HOURS:**

MONDAY – FRIDAY
9:00 am – 5:00 pm

CONTACT:

#202 – 302 Steele Street
Whitehorse, Yukon Y1A 2C5

T: 867.668.4231

F: 867.667.7556

www.lawsocietyyukon.com

EXECUTIVE:**PRESIDENT:**

Susan Dennehy

PAST PRESIDENT:

Mark Radke

FIRST VICE-PRESIDENT:

Laura I. Cabott

SECOND VICE-PRESIDENT

Leslie McRae

TREASURER:

André Roothman

SECRETARY:

John W. Phelps

PUBLIC REPRESENTATIVES:

Steven Smyth & Judy Renwick

COUNCIL MEMBER:

Keith D. Parkkari

EXECUTIVE DIRECTOR:

Lynn Daffe

lynn.daffe@lawsocietyyukon.com

ADMINISTRATIVE ASSISTANT:

Shannon Kmyta

shannon.kmyta@lawsocietyyukon.com

MEMBER STATISTICS:

(As of October 31, 2009)

Resident Members: 130

Non Resident Members: 133

Total Membership: 263

THE YUKON AMICUS

PRESIDENT'S REPORT

Susan Dennehy, President

I HAVE ALWAYS BEEN A BOB DYLAN FAN. His song "The Times They are A- Changin'" comes to mind when I consider the environment in which the Law Society operates today. Law Societies are no longer able to govern exclusively locally. Recent government priorities related to money laundering, regulation on trade and competition are examples of activities that have impacted on the practice of law in the Yukon today. Growing public concern about whether the legal profession can regulate in the public interest has lead some jurisdictions around the world to abandon self regulation as a governance model and prompted an examination of the traditional structure of lawyers' self regulation in Canada. There is an increasing movement towards national standards in some areas of regulation of the legal profession.



Susan Dennehy

Thanks to a hardworking and committed Executive, staff and committee volunteers, the Law Society is up to the challenge of regulating our profession in this fast paced and rapidly changing regulatory environment. However over the past few years I have served on the Executive, it has become clear that we need to change our approach to the operation of the Law Society if we are to continue to efficiently and effectively meet these new challenges.

TABLE OF CONTENTS

PRESIDENT'S REPORTI

COUNCIL REPORTII

EXECUTIVE DIRECTOR'S
REPORTIII

EXECUTIVE UNDERTAKES
ORGANIZATIONAL
EFFECTIVENESSIV

TASK FORCE ON THE CANADIAN
COMMON LAW DEGREE.....IV

MEMBER PROFILEV

YUKON LAWYERS' ASSISTANCE
PLAN UP AND RUNNINGV

YUKON LAW FOUNDATION
UPDATE.....VI

CBA WINTER 2009.....VII

The changing times and our limited staff and financial resources require us to take a more structured and strategic approach to priority setting and planning. In the past our planning has been a little haphazard—short term with urgent taking priority over the important. A more structured approach to priority setting will produce better and more strategic planning and decisions. To achieve this, the Executive embarked on a strategic planning exercise to identify key priorities and develop short and long term activity plans. While the approach has changed—the goal remains the same—to ensure public confidence in the legal profession through appropriate and effective regulation of the profession.

While the Executive and staff are responsible for the overall management and implementation of the priorities identified through this planning process, our work is supplemented by volunteers who sit on various committees. Given our limited resources, the activities of the Law Society would not likely be sustainable at current levels without the efforts of these individuals. Ways to recruit volunteers and enhance the work of the various committees is one of the key priorities identified through the planning process. Turn to page **IV** for more details about the other key objectives.

We have completed the first stage of this strategic planning exercise. The priorities are articulated as a few major objectives that ought to be the focus of the energy and resources of the organization over the next year and beyond. The next step is to identify key activities and resources needed to meet these objectives. This work will take place over the next few months.

This newsletter is intended as a tool to inform and update the membership about the work of the Executive and at the same time play a role in fostering the exchange of ideas. I look forward to receiving your comments on the identified priorities and your thoughts about how to achieve those objectives.

COUNCIL REPORT

Keith Parkkari, Council Member

TO MISQUOTE JEFF FOXWORTHY, you know you belong at a Federation of Law Societies of Canada (FLSC) meeting if you like talking about Section 6 of the Charter of Rights and Freedoms. For those of you who are far enough removed from law school, Section 6 is the mobility right. The FLSC does, and the reality is all of us should, care about this right because it includes the right to “pursue the gaining of a livelihood in any province.” Given the current political and economical environment, and technological advances we can’t expect to continue to have near exclusive rights to practice law in the Yukon, just because we live here. Mobility of Canadian lawyers on a limited basis as we have now or as an all out free for all, as we may have in the future, is a given.



Keith Parkkari

From a law society perspective the real question is where will the LSY find the resources to deal with the challenges presented by increased mobility of lawyers? The choice is to increase fees to do it ourselves, or rely on the works of others. Fortunately we can rely on the work product of others. In addition to relying on the benevolence and good will of other law societies we will benefit from the work of the FLSC. In the last couple of years the FLSC has expanded its role of developing national standards. This fall the FLSC adopted a national standard for legal education in Canada. It continues to work on proposed standards for admissions to law societies and a model code of professional conduct, to name just two examples.

NEW MEMBERS:

Bailey, Andrea | Whitehorse
Benitah, Alexander | Whitehorse
Bennett, Daniel | Vancouver
Bielefeld, Judy | Whitehorse
Carruthers, Kyle | Whitehorse
Csiszar, Peter | Vancouver
Enros, Brynn | Whitehorse
Faille, Max | Ottawa
Hawkins, Kim | Whitehorse
Herbert, Jason | Vancouver
Hough, Maegan | Whitehorse

Lawson, Philippa | Whitehorse
Macdonald, Bonnie | Whitehorse
Marriott, Thomas | Edmonton
Montrose, Laurel | Whitehorse
O’Neil, Sean | Calgary
Pindera, Mark | Whitehorse
Pollak, Ann | Burnaby
Purdy, Lawrence | Whitehorse
Sandiford, Peter | Whitehorse
Shaw, Blair | Vancouver
Whittow, Jean | Vancouver

ARTICLING STUDENTS:

DesBrisay, Julie:
Yukon Government
Kennan, Hilary:
Yukon Government
Lawrence, Tess:
*Austring, Fendrick, Fairman
& Parkkari*

CERTIFICATES OF PERMISSION TO ACT:

70 Active Certificates

I am not suggesting for a moment that members of the Law Society of Yukon need to blindly accept and adopt every policy, program or standard put forth by the FLSC. We can and should however continue to adopt, use and benefit from those programs and standards that benefit us and better allow the Law Society of Yukon to best deal with the challenges it faces, including increased demands for mobility.

We have a long history of relying on programs and resources of other law societies or entities including BC's bar admission course and our use of the Alberta Lawyers Insurance Association as our CLIA claims administrators. Going forward our Law Society will be far better off adopting programs and standards from other law societies or the Federation and amending those programs and standards to fit local practices and conditions.

I would be pleased to talk to any LSY members about mobility, but if my eyes glaze over and I lose track of the conversation, I'm not bored, I'm probably just dreaming about the good old days, when Yukon lawyers prepared Yukon mortgages on their typewriters, insurance companies retained local lawyers by mailing them a letter, and Counsel from Outside had to pay Canadian Airlines full fair round trip rates, unless they wanted to stay over a Saturday night.

EXECUTIVE DIRECTOR'S REPORT

Lynn Daffe, Executive Director

LAW SOCIETY AUDITS

THE LAW SOCIETY IS NOW IN ITS THIRD YEAR of conducting audits of members' books and records. The objective and primary goal of the audit program is to support and promote quality law firm record-keeping practices that comply with the Rules of the Law Society. Secondly, the objective and goal is to monitor compliance and educate the members on best accounting practices for client trust accounts and property.

“Lorne did an excellent job of humanising the audit process and providing ways to improve my accounting system. I was anxious before the audit began, but my concerns were quickly put to rest when it became clear that Lorne was not here to prosecute infractions, he was here to help find solutions and improvements.”

For the past several years, when accountants have reported inconsistencies or violations of the Act and Rules, the Audit Committee followed up by asking the member to report back on what steps they will take to ensure that the same issue does not occur again. The Audit Committee is now seeing far fewer reported errors.

Who gets audited? A combination of random selection and triggering events determines which members are audited year to year. Triggering events may include:

- a) failure to file annual accounting form;
- b) significant number of exceptions noted following review of member's annual filing which generates concerns of further non-compliance with trust accounting rules which should be investigated;
- c) recommended by auditor following initial audit that follow-up audit is prudent to ensure continued compliance;
- d) member's legal practice places member in category of known risk areas (i.e. handles mortgage and estate transactions);
- e) complaints against a law firm or member (e.g. member not returning phone calls, member has not discharged mortgage on a timely basis, client still paying interest on a mortgage that was to be discharged); or
- f) newly formed practices.

In other jurisdictions spot audits are ordered with no notice provided to the member. We have taken a more practical approach since our auditors travel from outside jurisdictions. Typically the member is given at least two week's notice before the auditor attends in Whitehorse.

“I had misunderstood the goal and the nature of the audit process so my initial reaction was anxiety. I thought that anything short of perfection would give rise to consequences. Instead, I found a very human process which educated me about trust accounts in a hands-on and practical way. The auditor was diligent, but extremely helpful and respectful. Afterwards, I was relieved - it had not been the persecution I had feared and I was much better equipped for the future.”

EXECUTIVE UNDERTAKES ORGANIZATIONAL EFFECTIVENESS

Laura Cabott, First Vice-President

IN MAY, 2009 THE NEW EXECUTIVE (and a former president) with facilitator Lyn Hartley, spent a full day discussing the Law Society's current organization effectiveness (and ineffectiveness) and future plans.

The purpose of the session was to assess the current state of the Law Society, determine key strategic issues, share knowledge to help transition between past and new Executive and prioritize initiatives.



Some of what is working well:

- accomplishing our administrative goals;
- utilization of other jurisdictions and the Federation resources;
- ability to prioritize;
- obtaining the fee increase so we can undertake new initiatives;
- improved structure for discipline process; and
- talented lawyers who represent the Yukon well nationally.

Some of the challenges that we face include

- engaging membership and communication;
- having effective meetings;
- the Legal Profession Act;
- real discipline;
- limited resources;
- using staff effectively;
- mobility;
- improving government relations; and
- moving forward.

The session ended with recognition to continue thinking at the strategic level but to also to create specific action steps for each strategic issue identified. Having prioritized the most important and pressing issues or decisions facing the Law Society, Executive members are currently working on:

1. Governance and developing and defining clear roles and responsibilities of Executive members, committees, and staff;

2. Communication Strategy;

3. Legal Profession Act: strategy to review the legislation, engage and work with government toward improvements to the Act.

4. Discipline: build on work to date to improve the process and its credibility.

5. Mobility: establish a committee to analyze Yukon's position and develop a strategy.

Notwithstanding it was a glorious spring day in Whitehorse and we were inside, all of the participants felt that the session was valuable and likely something the Executive should do more often.

TASK FORCE ON THE CANADIAN COMMON LAW DEGREE

THE FINAL REPORT OF THE TASK FORCE on the Canadian Common Law Degree charged with reviewing existing academic requirement for entry to bar admission programs came out last month. It recommends that law societies adopt a uniform national requirement for entry to bar admission programs. Included in those national standards are competency requirements relating to skills, problem solving, legal research, oral and written communication and substantive knowledge in the foundations of law along with a standalone course in ethics and professionalism.

The report can be found at: <http://www.flsc.ca/en/pdf/CommonLawDegreeReport.pdf>. If you wish to do so, please submit your comments to the Law Society before December 31, 2009.

MEMBERSHIP:

Renewals will be sent out shortly and memberships must be renewed by January 31, 2010. As January 31st falls on a Sunday, payments received from members on Monday, February 1st will not be subject to suspension. If you do not intend to renew your membership, please contact the Law Society well in advance of the deadline to discuss resignation or change of status options.

NEW RESIDENT MEMBER PROFILE

PHILIPPA (PIPPA) LAWSON WAS CALLED to the Ontario Bar in 1991. She practised administrative law for 12 years as a consumer advocate with the Public Interest Advocacy Centre in Ottawa before establishing an internet law clinic (www.cippic.ca) at the University of Ottawa in 2003. Pippa is now working part time as a litigator with Yukon Government, Legal Services, while maintaining a national practice in privacy, telecommunications, and consumer protection law.



Philippa Lawson

YUKON LAWYERS' ASSISTANCE PLAN UP AND RUNNING

YUKON LAWYERS' ASSISTANCE PLAN UP AND RUNNING

THE YUKON LAWYERS' ASSISTANCE PLAN COMMITTEE was re-established on September 29, 2009. The current members are Judy Renwick, Thomas Ullyett, Lee Kirkpatrick, Melissa Atkinson, Anne Marie McColman, Glenda Murrin, Lawrence Purdy and Carrie Burbidge.

The nature of the legal profession can cause high levels of stress leading to other related health issues and harmful behaviour patterns in lawyers. Whether it is substance abuse, anger, depression, burnout or some other manifestation, stress can prevent members of the profession from leading balanced and healthy lifestyles.

Some alarming statistics: Suicide among male lawyers is three times more likely than among men in the general population. Nineteen percent of lawyers suffer from a major depression, a rate 3.6 times higher than non-lawyers. Anxiety, burnout and

stress remain the number one health issues among lawyers. Fifty to seventy percent of disciplinary issues in the legal profession are alcohol related.

The focus of the first meeting was to confirm the vision of the committee which is a commitment to promote a lifestyle of balance and wellness for all members; to promote and support a professional culture of health and balance; and, to prevent problems through early intervention and support. Its mission is to provide effective and timely assistance to members of the legal profession dealing with problems in the areas of health, addiction, stress, burnout, work, and family, even financial pressure through crisis intervention via a crisis line, counselling and education. This proactive service is in keeping with national and multi-jurisdictional movements to address concerns of stress and corollary health issues suffered by those in the legal profession.

The goal of the committee is to ensure that the membership is educated about potential health impacts, how impacts can be alleviated and how to seek confidential assistance to address impacts. It is also hoped the committee will be able to provide information about health and wellness programs offered in Yukon, and will encourage participation to reduce the negative impacts of stress and other impediments to living a balanced lifestyle.

The Law Society of Yukon has entered into a contract for confidential counselling services with Nimco and Associates. Up to five sessions are paid for by the Law Society through secure confidential billing where lawyers' names are not disclosed to the Law Society.

Further assistance will be available when negotiations are completed for a crisis line to be operated by the BC Lawyers' Assistance Plan. Lawyers can access this service directly by contacting Nimco & Associates Inc. at 867-668-4058.

“When I left my appointment I felt like a huge weight had been lifted off my shoulders. Just talking with someone about my feeling of being overwhelmed by the demands of family and work was a big relief and allowed me to begin dealing with the issues leading to those feelings.”

UPCOMING CLE:

The CLE Committee is planning a CLE on the new Supreme Court Rules – one year later. The plan is to provide an update and a forum for attendees to discuss their experiences and observations. *Details to be provided shortly.*

CLIA:

For those of you with mandatory professional liability insurance coverage, the deadline to submit your 2nd installment payment is Friday, December 18, 2009.

YUKON LAW FOUNDATION UPDATE

Deana Lemke, YLF Executive Director

THE BOARD ACKNOWLEDGES THE HARD WORK and dedication of Malcolm Campbell who has served on the Board since 1995, and as Chair since 2007. His tireless and positive support on behalf of the Foundation has been greatly appreciated.

There have been a few changes to the membership of the Yukon Law Foundation Board of Directors. Three members are appointed by the Government of Yukon and three members are appointed by the Law Society of Yukon. Chair Malcolm Campbell finished his term with the Board in September 2009 and was replaced by Mike Reynolds, who has served as a Board member for two years. Norah Mooney was appointed as a new member in September for a two-year term. Current membership includes:

- Mike Reynolds, Chair
- Rick Smith
- Janet Wood
- Tom Ulyett
- Lesley McCullough
- Norah Mooney



Deana Lemke



Mike Reynolds

Through legislation, the Law Foundation receives interest on lawyers' trust accounts (IOLTA) from the banks and uses that interest to fund grants and scholarships. As we all know, interest rates have made a significant drop this past year, and the Law Foundation has been severely affected by the extremely low interest rates. In fact, for the past several months, income received from IOLTA has essentially been zero. Some banks offer better interest rates than others so it is important for lawyers to be aware of how responsive their banks are in this tough economy. In the near future, the Law Foundation will be distributing a more detailed newsletter to lawyers specifically about the Foundation, what its funding is based on, what types of programs and services its funding supports, and how the IOLTA banking arrangements have been working.

As you may be aware, the Law Foundation puts out a call for grant proposals twice a year – in the spring and fall. The foundation's mandate is to fund law-related activities and programs, such as legal education, legal research, law reform and the maintenance of the Public Law Library.

GRANT RECIPIENTS

This spring and fall, eight grants were approved, for a total of \$109,097 in funding, as follows:

- **The Law Library Society of the Yukon:** \$2,357 for new textbooks
- **Lynn MacDiarmid:** \$10,000 for preparing 2008 Headnotes for the Yukon Law Reports
- **Supreme Court of Yukon:** \$5,400 for financial assistance re hosting the annual Bench and Bar Seminar
- **Human Rights Commission:** \$19,580 for Training Trainers in Duty to Accommodate Education and Policy Development
- **The Law Library Society of the Yukon:** \$35,673 for new textbooks (\$1,953) and subscriptions (\$33,720)
- **Law Society of Yukon:** \$3,812 for partially funding their CanLII levy costs
- **Yukon Legal Services Society:** \$30,000 for partial funding of a staff lawyer position for the Poverty Law pilot project
- **Yukon Public Legal Education Association:** \$2,275 for reprinting the booklet, *A Child's Right to Love*

Scholarship applications are invited prior to each academic school year to assist students to continue their education in law or law-related studies. In determining who will receive scholarships, the Board considers criteria such as the student's academic achievement, Yukon residency, community involvement, and financial need. Each recipient is required to sign a letter of understanding indicating their commitment to return to the Yukon to work for at least a two-year period. If they don't return to the Yukon, the recipient agrees to pay back the funding to the Yukon Law Foundation. The Foundation also provides funding to assist articling students with travelling for their Professional Legal Training Course.

The next call for grant applications will be in the spring of 2010. Visit our website for more information or to download grant and scholarship applications: www.yukonlawfoundation.com or contact Deana Lemke, Executive Director, at 667-7500 or e-mail execdir@yukonlawfoundation.com.

SCHOLARSHIP AWARDS

This year, the Board was pleased to award scholarships in the total amount of \$12,800 to the following Yukon students:

- Nataschaa Chatterton
- Bhreagh Dabbs
- Monica Fras
- Evan Kelly
- Kelly McGill
- Sue Kemmett
- Kirsten Macdonald
- E. Joie Quarton

In addition, funding was provided to articling student Brynn Enros to assist with Professional Legal Training Course costs.

CANADIAN BAR ASSOCIATION

Peter Morawsky, CBA Branch President

This year, the Yukon Branch's executive is:

President:	Peter Morawsky
Past-President:	Melissa Atkinson
Vice-President:	Norah Mooney
Secretary-Treasurer:	Colleen Harrington

THE CANADIAN BAR ASSOCIATION WAS INCORPORATED by Act of Parliament in 1921. Section 2 of the Act of Incorporation states:

"The objects of the Association shall be to advance the science of jurisprudence; promote the administration of justice and uniformity of legislation throughout Canada so far as is consistent with the preservation of the basic systems of law in the respective provinces; uphold the honour of the profession of the law, and foster harmonious relations and co-operation among the incorporated law societies, barristers' societies and general corporations of the Bars of the several provinces and cordial intercourse among the members of the Canadian Bar; encourage a high standard of legal education, generally to do all further or other lawful acts and things touching the premises."

For the last 88 years, the CBA has faithfully followed the objects set for it by Parliament so many years ago. Today, the mission statement of the CBA is:

- to improve the law;
- to improve the administration of justice;
- to improve and promote access to justice;
- to promote equality in the legal profession and in the justice system
- to improve and promote the knowledge, skills, ethical standards and well-being of members of the legal profession;
- to represent the legal profession nationally and internationally, and
- to promote the interests of the members of The Canadian Bar Association.

As President this year, I have issued a challenge to our members and to our sections. The challenge is to begin this year to work locally on "improving the law". To do that, I would like to challenge each CBA section to:

- identify at least one provision of the Yukon statutes that should be improved;
- explain why it needs to be improved; and to
- recommend the appropriate improvement(s).

We need to recognize that improvement of the law has to be an on-going and long-term project. There will not be any huge changes over the course of one year. But, the local bar needs to start speaking up and being heard on the issue of law reform. After all, if we don't do it, who will? Remember, we the members of the Yukon Bar, collectively, are the subject matter experts in the Yukon on Yukon law.

I would also like to take this opportunity to invite those members of the Bar who are already CBA members to get active in those sections that interest you.

To those members of the Bar who are not members of the CBA, I would like to invite you to check us out. I think you will find that a membership is worth the price.

IN THE NEW YEAR...

The Social Committee is currently organizing a Skating/Shinny party for Sunday, January 31st, 2010 5:15 – 8:30 pm at the Canada Games Centre.

More details will be announced shortly!

