Briefly!

Published by Law Courts Center FEBRUARY 2016

Implicit Bias: Does Justice Wear a Blindfold or a Mask?

Is being biased necessarily bad?

Judges under severe time constraints to dispense judgments rely on shortcuts to help them manage their case loads, including making certain assumptions about the parties appearing before them. They have to categorize information that they are receiving efficiently, a task that can unconsciously incorporate some type of bias.

But when one looks at the alarming statistics that show an over-representation of Aboriginal peoples in our corrections system one has to give pause. Provincial Court of BC Judge David St Pierre began the Diversity Dialogues session on *Implicit Bias: Does Justice Wear a Blindfold or a Mask?* last November 26, 2015 by citing statistics that the Correctional Service of Canada recently released. Even after accounting for factors like seriousness of the crime, the record of the accused and personal circumstances, there is still a significant over-representation of Aboriginal peoples being incarcerated.

Bias comes from a lifelong exposure to media, much of which negatively stereotype the actions of groups based on race. The use of negative words towards racialized groups is palpable. One merely has to compare at how the riot after the Charleston shooting and the riot that occurred in Vancouver after we lost the Stanley Cup finals were described.

As for judges and judging, our hearings are open to the public. Reasons for judgment are on record; but what goes on subconsciously in the minds of the judges is not. And this arguably is the most important part of the judicial decision making process.

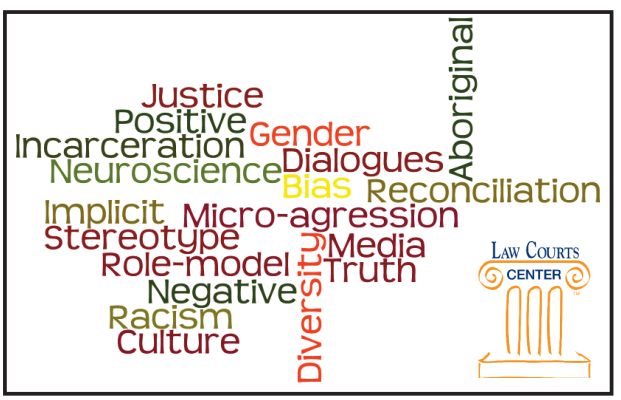
If we take into account explicit bias – acts openly exhibited by judges, researchers have found that explicit bias has found a marked decline even though it still exists.

Implicit bias, on the other hand, is challenging, because judges may not feel that they have these.

Judge St Pierre then discussed the neuroscience of decision making and micro-aggression theory.

He spoke about the use of functional MRIs to study the human brain while making decisions to get some of the constructs that impact judicial decision making. Professor Anthony Greenwald who invented the Implicit Association Tests, found some interesting results. In one test, the amygdala, a part of the brain which gets activated when someone experiences fear and anxiety, exhibited an increase in activity on white subjects who saw black faces. In another test, the insula, a part of the brain which gets engages when someone feels disgusted, exhibited an increase in activity when homophobic subjects showed bias against gays. "*While there are so many automatic subconscious processes that take place that are the product of a judge's learning and experience, there are factors that may affect judgments in an unintended way. Judges brain's, just like everyone's brains, have a need to simplify classification processes in order to make sense of the world.*"

(Continued to page 3)



www.lawcourtscenter.com

February 9	**Access to Justice Issues for DTES Women**
Feb 16	**Trial Preparation - Plaintiff Firms 101**
Feb 19	**Litigation Practice Basics 101**
Feb 23	**Trends in Firm Management Seminar**
Feb 25	**Diversity Dialogues 106: Redressing Historical Justice in the Classroom and Beyond**
Mar 8	**Access to Justice Issues for Women in the Downtown Eastside Part 2: Affidavit Writing**
Mar 23	**Part 7 Benefits 101**
Mar 29	**Judge Buller: First Nations Court**
April 12	**Judge Silverman: TMCs & CPCs for SRLs**
April 22	**MVA Forms Seminar: 6020, PCR & CWMS**
April 28	**Trust Accounting 101 (in-person & webinar)**
May 17	**Aboriginals as SRLs**

SCHEDULE FOR FEBRUARY 16 2016 (9:00 AM TO 5:00 PM)

Law Courts Center

Trial Preparation for Plaintiff Firms 101

Mastering the Civil Rules of Court & Best Practices in Trial Preparation

This is your best opportunity to learn about the Civil Rules of Court as they apply to trial preparation. You will work with the different Forms and learn how they can impact your case. This course is a prerequisite to the intermediate level course. For those with trial experience, you will pick up new strategies and for those new to trial preparation, you will learn what must be done and when.

Within the context of the new Civil Rules, this course will cover these topics:

- When does trial preparation really begin?
- Developing your documentary evidence.
- Optimizing your experts and their reports.
- Lay witnesses: where to find them and how to keep them.
- Applicable Rules of Court.
- Managing costs for a successful Bill of Costs.
- Reading the opposition.

CONTINUING PROFESSIONAL DEVELOPMENT CPD REPORTING

For lawyers and other professionals, this course provides 7.0 CPD hours, with 1.0 hour devoted to professional responsibility and ethics.

*A **Certificate of Completion*** is issued to you, if you earn at least 70% of the course requisites.

LOCATION Law Courts Center CPD Room, 150 - 840 Howe St Vancouver BC V6Z 2L2.
INSTRUCTOR Gerrie Campbell, Senior Paralegal

For more information please call 604-685-2727 or write: dom@lawcourtscenter.com.

REGISTER ONLINE:

www.lawcourtscenter.com

REGISTRATION (INCLUDES GST #128573300)

❑ Single Seat	$548.80
❑ Multi-seat or Group Rate for members of Amici Curiae	$521.36
❑ Please send me a copy of the manual only as I am not able to attend.	$152.25

1602 B!

Preparing for Trial: Mediation and the Consequences of Refusing to Mediate

To prepare your plaintiff-client for trial, one of the steps in many litigated files is mediation. Mediation may be voluntary, in which case the parties have agreed that it is a good idea, or by a Notice to Mediate, in which one party has sought mediation. Regardless of how you initiate mediation, the steps you take to prepare your client for trial are also the steps you need to take to prepare your client for mediation.

Now what happens if one side comes to mediate and the other does not participate in a meaningful way? Some recent case law has come out from Ontario and the UK on this topic.

English courts have encouraged the use of mediation to resolve litigation and have shown a willingness to penalize parties who do not participate in mediation when invited.

In *Dunnett v Railtrack* [2002] EWCA Civ 302 the court refused to order costs to a victorious party who refused mediation.

In *Halsey v Morton Keynes NHS Trust* [2004] EWCA 3006 Civ 576 the English Court of Appeal set out a list of factors to take into account in determining if a party was reasonable in refusing mediation.

The English Court of Appeal in *PGF II SA v OMFS Company 1 Limited* [2013]EWCA Civ 1288 refused to order costs to the Defendant where it had unreasonably refused to mediate. In the PGF II Sa case the Court of appeal held:

- silence in the face of an invitation to participate in ADR is on its face unreasonable;
- failure to respond to such an invitation may make a party liable for penalties in costs;
- not providing reasons for refusing to mediate leaves the other side unable to accommodate them;
- depriving a party successful in court of costs may seem harsh but should encourage participation in ADR.

In Canada, the Ontario Superior Court had an opportunity to consider a similar situation. In *Ross v. Bacchus*, 2013 ONSC 7773 the plaintiff was awarded $248,00 in damages by a jury in a six day motor vehicle negligence case.

The Court said:

"*Counsel for the defendant agreed to brief mediation at limited cost but wrote, " (the insurer) are not interested in settling this case". Mediation took place...but the defendant's insurer stood firm. I infer that it took a six-day trial with all its attendant risks for the sake of $50,000. This is a litigation strategy that the defendant could well afford , but the plaintiff could not. I infer that the insurance company conducted itself this way in the hopes of intimidating the plaintiff and deterring other plaintiffs who have meritorious cases….*

It is clear to me that the defendant's participation in mediation was a sham…

I would award $140,000 in costs, plus $17,00 in disbursements …. By reason of the refusal to mediate I augment the award by $60,000 plus HST."

Note that the trial judge referred several times to provisions in the *Ontario Insurance Act* which appear to require defendants to attempt expeditious settlement and allow for consequences in costs.

Compare that case with *Branco v Alliance Insurance Co. of Canada* 2004 CanLII 45036(ONSC). This was a case stemming from a motor vehicle collision in which the plaintiff recovered modest damages from the defendant. The case was defended in a number of ways including that it did not meet the Ontario "threshold question": that is, that any injury sustained was not disfiguring or resulting in permanent impairment. The defendant did not deliver an offer to settle prior to trial, and the plaintiff sought increased costs as a result.

The trial judge said:

"*I am not aware of any obligation on the part of an insurer to deliver an offer to settle prior to trial. In this action…it was reasonable for the defendant to proceed on the basis that it had some possibility of being successful on the "threshold motion" and that… the jury award might be negligible. It was also reasonable not to serve an offer to settle in the face of the plaintiffs' offers…"(which varied up and down considerably).*

The insurer had every right to make its own assessment of the likely jury award and conduct itself accordingly."

What these cases do not address is the evidence required to establish them. In British Columbia, all commercial mediations are confidential, and mediators insist on the parties agreeing that the mediators are not compellable witnesses.

This evidentiary issue aside, recent case law seems to indicate that some jurisdictions are strongly encouraging the use of mediation before trial. The courts seem prepared to punish parties, even when successful at trial, when they unreasonably refuse to mediate. If a party does refuse mediation, it had better be able to show a legitimate reason why.

Where participation is no more than perfunctory, litigants in these jurisdictions may face severe cost consequences.

What will happen in BC remains to be seen. **!**

The full article appears in the March 2014 issue of Briefly!. I am indebted to Barb Cornish of Singleton Urquhart for bringing most of these cases and the issues raised here to my attention. Brian Gibbard

Costs, Conduct, and Civility & the Self-Represented Litigant

For some self-represented litigants (SRLs) that Amici Curiae volunteer paralegals and lawyers assist in our clinics, we get to discuss with SRLs about how they should conduct themselves when appearing before a judge, master or registrar. The court may cut them some slack when it comes to following deadlines and court decorum but there are limits to its patience. Take *Wright v. Sun Life Assurance Company of Canada,* 2015 BCSC 1899, for example. The defendants made an offer to settle to the self-represented plaintiff, who rejected the offer. The court reviewed Rule 9-1(6) of the Supreme Court Civil Rules which sets out the following factors a court may consider in respect of an offer to settle:

a) Whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any other date;

b) The relationship between the terms of settlement offered and the final judgment of the court;

c) The relative financial circumstances of the parties; and

d) Any other factor the court considers appropriate.

As it turns out, the proposed terms of settlement were better than the result the plaintiff achieved at trial on his claim. He should have accepted the defendants' offer. The court highlighted, with some disapproval, that had the plaintiff accepted the offer, additional discoveries, two trial management conferences, an application to extend the deadline for expert reports, three weeks of trial, and Court of Appeal proceedings all could have been avoided. In short, the court did not like having its time and scarce resources wasted. It ordered double costs on Scale B against the plaintiff.

This is a somewhat surprising case, given how reluctant the court has been historically to award costs against SRLs. However, the plaintiff's conduct in this case was found worthy of punishment. He conducted himself poorly throughout the proceeding and ignored directions, deadlines, and orders. The court found that his actions revealed unreasonable positions that seemed designed to maximize the litigation expense for the defendants when he personally had nothing at stake in terms of incurring legal expenses. The court also found that he made scandalous accusations about the defendants' counsel and maligned his own previous counsel.

This case is a reminder to all that the purpose of costs is to deter frivolous actions or defences; encourage conduct that reduces the duration and expense of litigation; discourage conduct that has the opposite effect; encourage litigants to settle whenever possible so that judicial resources may be used towards other cases; and to have a winnowing function in the ligation process by requiring litigants to make a careful assessment of the strengths and weaknesses of their own case (*Wright*, citing *Hartshorne v. Hartshorne*, 2011 BCCA 29).

What you should not do:

- Do not defame the opposing party or their counsel. Remember that documents filed at court are public (unless they are family law proceedings) and anyone may access, or apply to access the court file.
- Do not expect the judge to always explain the court procedures and rules of court. It is okay to ask the judge questions but you need to keep in mind that you are using valuable court time in doing so and you should not be surprised if the judge ends your line of questioning in order to preserve time for other court proceedings. You need to learn the procedures and rules that apply to your situation. There are resources online and organizations that offer pro bono advice. If you need clarification, make a point of asking someone knowledgeable in the legal process.
- Do not file lengthy affidavits if they serve no purpose. The affidavits will contain your story, but there must be a function to that story. Are you using it for an application to extend a deadline? Are you using it to provide evidence to refute the opposing side's allegations?

What you should do:

- Be courteous and civil to the judge and opposing side. There is no benefit to being rude or drawing out the litigation process just to make it more costly.
- Allows follow court directions and orders. If you do not, you may be found in contempt of court.
- Take offers to settle seriously. Even if you do not want to accept the offer, you can make a counteroffer. !

Sharon Allegrini heads Amici Curiae's human rights clinic and is a paralegal at Bull, Housser & Tupper LLP.

SCHEDULE FOR FEBRUARY 19, 2016 (9:00 AM TO 5:00 PM)

Law Courts Center

Litigation Practice Basics 101

Nurturing your value to the firm, a new perspective

This is a one day course designed to assist junior support staff gain a better prospective of the legal profession, to provide fundamental knowledge for working in a law firm, and to develop the practical skills for succeeding as a junior member of a litigation team.

Learning Outcomes:

1. explain what the expectation of the public has towards lawyers and legal professionals specifically their duty and professional obligations;
2. know the difference between confidentiality v privilege and keeping both;
3. develop a set of professional goals designed to increase your value to your firm;
4. attend to basic correspondence etiquette;
5. demonstrate an understanding of how to manage a work/life balance; and
6. be aware of potential influences brought on by gender and culture.

COURSE REPORTING FOR CONTINUING PROFESSIONAL DEVELOPMENT

The Law Society has pre-approved 7.0 course hours towards your CPD requirements; there is 2.0 hours for client management and ethics. In addition, if you receive a minimum of 70% on the course work, a Certificate of Completion is issued to you.

LOCATION Law Courts Center 150-840 Howe Street, Vancouver BC V6Z 2L2

INSTRUCTORS: Yvonne Choi, legal assistant, Harris and Company LLP, and Dom Bautista, executive director, Law Courts Center.

PAYMENTS Please make cheques payable to: **Law Courts Center**, Legal Education Program, 150 - 840 Howe Street, Vancouver, BC V6Z 2L2. For more information please email <dom@lawcourtscenter.com>, or call 604-685-2727.

REGISTER ONLINE:

www.lawcourtscenter.com

REGISTRATION (INCLUDES HST #128573300)

❑ Single Seat	$548.80
❑ Multi-seat or Accredited Group Rate (Amici Curiae)	$521.36
❑ Please send me a copy of the manual only as I am not able to attend.	$263.20

Law Courts Center
150 - 840 Howe Street, Vancouver BC Canada V6Z 2L2

Here are some of the topics that we hope to engage you with in your one day workshop

Ethics & Professional Responsibilities
First Impressions ... and Every Impression After That
o What Kind of Support Staff are You?
o Personal Life vs. Work Life
CAUTION: Social Media Posting
• Find Your #OOTD (Outfit Of The Day)
Your Day in The Office
• How do You Stay on Top of Competing Priorities?
• Communication: Emails, Letters, and by Phone
Sticky Situations – What to Say and Do
The ABC's to Making Your Lawyer a Star
Opening & Closing Files Mind the LSBC Rules
Client Management Etiquette
Building Client Relations
Firm Culture – Do You Fit In?
Work & Life – What's Your Balance?
Make Yourself Indispensable
Volunteering – Doing Well by Doing Good
The Skill of "Thank You" Cards
Meeting Your Goals & Increasing Your Value to the Firm

How LAAs can Increase the Firm's Value to Its Clients

It isn't just returning calls promptly anymore – that is every client's basic expectation. As the frontline for lawyers, Legal Administrative Assistants (LAAs) are in the position to establish and develop a strong relationship with the firm's potential and existing clients. Being the liaison between the clients and the lawyers, LAAs can effectively increase the value of the firm to its clients. The ways and the amount an LAA can help are dependent on the organization of each firm, however, here are 5 general starting points:

1. Know Your Clients
Knowing who your clients are will set the foundation of the relationship between the LAAs and the firm's clients. Your work revolves around your clients so make your day about them. This is a simpler task when it comes to clients who are individuals, however, when it comes to clients who are companies, it is important to establish whom the instructing clients are and how they are associated with the file. Occasionally, instructing clients become the topic of a termination case so it is crucial to know who your client is.

2. Know Your Firm
Knowing the lawyers and support staff in your firm will better serve your clients. Clients may call with new files in areas of law which your lawyer may not advise on. However, learning the capacity of your firm's lawyers and support staff will allow you to quickly take care of and serve your clients. This also applies when your lawyers are out of the office, and you receive an urgent call from a client. By being able to quickly direct your client's call to another lawyer in-house, you display reliability and, in turn, build on your relationship with your clients. Additionally, you were able to keep the work in-house instead of mistakenly referring it to another firm.

3. Get the Correct Spelling
Take the time to verify the spelling of clients' names – they will remember your mistake. For our clients to trust us, we have to show them that we can take care of the details. .

4. Take the Initiative
Clients like to know whom they can speak to about administrative matters – LAAs, this is you. Clients prefer to have one contact instead of one contact for each department. If you are able to assist with an accounting question, take on the responsibility and go the extra mile. It may not be a part of your job description, but clients are impressed when they can make one call and get the answer to their question. Sometimes, this is not achievable. Let your client know that either you or another staff will be getting back to them. If you say you are going to do something, make sure you do it. Accountability and reliability are essential to building the firm's value to its clients.

5. It's Okay to File Drop
Sometimes, clients are under the impression that the LAAs are not involved with their files and cannot provide much assistance. Regardless of how they came to that conclusion, it becomes difficult to better serve and to build a rapport with such clients. Instead of letting these clients be, there are subtle ways to begin building a rapport. Referring back to number 1, know your client by reviewing your client's files: What are the ongoing matters that your client may call about? In which court or tribunal is the matter being filed in? What is that status of the file? Then speak to your supervising lawyer so that the next time this client calls and wants to schedule a call with your lawyer, go ahead, it's okay to file drop. Take initiative by showing your client that you are aware of the proceedings of your client's file and that you care about the circumstances of your client's file. This will quickly ease your client to start relying on you and, more importantly, valuing you.

These are a few starting points that any LAA can consider incorporating into their practice. These tips can increase your firm's value to its clients and, in turn, increase your value to your firm. Nowadays, it is significant to firms to have LAAs who are client-focused.

LAAs are like the rhythm section of a jazz band – they can keep the firm running on time and in-sync with each member of the team. **!**

To learn more about this and other key skills, join us for Litigation Practice Basics on February 19, 2016.

Implicit Bias: Does Justice Wear a Blindfold or a Mask?

(Continued to from 1)

Micro-aggression theory describes how brief negative and repeated experiences can add up to cause a person to reach a point of anger long before they appear before a judge because of how they have been maltreated. The compounding effect of small denigrations can impact the attitudes and body language of a defendant, often to their detriment.

A judge may not necessarily recognize this and may end up applying further sanctions against a defendant. Thus, micro-aggressions can be more damaging than explicit discrimination.

Solutions

While judges like to think of themselves as possessing a certain skill-set as it relates to unbiased judgment they are still not impervious to unconscious bias. They are human after all. Awareness alone is not enough, but it is a good first step.

While it would be impossible to ignore attributes like gender, race, and socioeconomic status of the parties before them, perhaps the judiciary can set these factors aside when writing reasons for judgment.

It reminded me of last February 2015, when Provincial Court of BC Associate Chief Judge Nancy Phillips spoke about *The Imperative of Cultural Awareness*. She encouraged the audience to try and to take some time, even a few minutes, to try and understand the person appearing before them.

Judge St Pierre also suggested judges should consider dismantling biased associations by:

- saying no to cultural stereotypes;

- thinking about positive role models (ie Nelson Mandela, Adrienne Clarkson, Michaëlle Jean); and

- choosing positive visual cues to surround one's environment (ie women from different cultures practicing law, medicine, engineering and the arts)

He ended by recognizing that eliminating bias is a multilayered process. Each institution is embedded with implicit bias. He reflected upon how much damage has been done by the time the accused appears before a judge.

The research available in the US can be applied to our justice system. Based on the data available, we must plan to address the disparities.

Embarrassed as we should be about the over-representation of first nations people in our justice system, Judge St. Pierre is hopeful that implicit bias can be eliminated or minimized.

"*We must make an effort to reduce the unbelievably sad disproportionate outcomes that plague our system when it comes to our Aboriginal sisters and brothers*."

The Diversity Dialogues library now includes Judge St Pierre's session.

I invite you to attend these two events: *Access to Justice Issues for Women in the Downtown Eastside* on February 9, 2016; and *Redressing Historical Justice in the Classroom and Beyond* on February 25, 2016.

Finally, the first TRC & Law Dialogue is set for March 29 with PCBC Judge Buller talking about the First Nations Court. !

Dom C. Bautista is the executive director of Law Courts Center.

Establishing the Value of Support Staff

Outsourcing. Digitization. Artificial Intelligence. While these developments are now taking place in BC, support staff still have a crucial role to play in their firm. Join Yvonne Choi on February 19, 2016 as she trains junior staff in Litigation Practice Basics 101.

TRC & the Law Dialogue Series 2016
On Reconciliation, A2J and Redress

Reconciliation in many ways has been achieved when respect and reciprocity has been present. We turn our attention to the Downtown East Side to look at their access to justice issues including the role of the First Nations Court; then we will talk about how redress can play a pivotal role in moving communities past and present. All events are available by web.

Proceeds from this event will fund the Temporary Foreign Worker Uncontested Divorce project of the Amici Curiae Probono Paralegal Programme.

Redressing Historical Injustice in the Classroom and Beyond
Feb 25, 2016 Thursday 5:30 to 7:30pm

In 2012, the University of British Columbia acknowledged the unjust expulsion of Japanese Canadian students in 1942. One of the steps taken by the University to recognize this history was the creation of the Asian Canadian and Asian Migration Studies Program (ACAM) where students and faculty grapple with what it means to recognize and address difficult histories in the classroom and beyond. Are there lessons that can be applied to what the legal profession can do? $125.00 per person

Access to Justice Issues for Women in the Downtown Eastside Part 2
Mar 8, 2016 Tuesday 5:30 to 7:00pm

Join Amber Prince, counsel with Atira Women's Resource Society. Atira serves a diverse group of women such as Indigenous women, women living in poverty, single mothers, women struggling with health issues and women impacted by violence. This session facilitates a skills-based workshop on how to draft affidavits for women impacted by violence & women who face other barriers to accessing justice. $ 78.75 per person.

First Nations Court: A View from the Bench
March 29 Tuesday 5:30 to 7:00pm

Join Provincial Court of BC Judge Marion Buller as she discusses the role of the First Nations Court in providing support and healing to assist in rehabilitation and reducing recidivism. Learn how the FN courts are able to acknowledge and repair the harm done to victims and the community. $125.00 per person

Note: Previous Diversity Dialogues are available for viewing. http://tinyurl.com/lccdiversitydialogues

RATES: (any materials will be provided electronically and taxes included) GST R128573300

REGISTER: www.lawcourtscenter.com

PAYMENTS Please make the cheques payable to Law Courts Center and return to:
Law Courts Center 150 - 840 Howe Street, Vancouver, BC V6Z 2L2.

For more information please email <dom@lawcourtscenter.com>, or call 604-685-2727. v1602

Law Firms and Staff Perks

We all know the biggest cost of running a law firm – it's staffing! And great staff is a law firm's biggest asset. Most firms have addressed the issues of group insurance and medical services plan contributions, and many also provide some sort of pension contributions or plans for their staff. Many firms also pay for staff education. These are the big ticket items, but there are lots of other staff perks that a firm – no matter how large or small – can provide in order to help attract and retain great staff.

It is always cheaper and smarter to invest in your current valuable staff than to lose them and have to recruit, train, and retain new employees. There are many ways to achieve this, and you will have to consider your firm culture and budget before deciding what works for you.

What are some perks you can offer? The first category is the Freebies – this is the Win-Win category. Think about what your law firm can offer your staff that doesn't cost you anything. Do you do wills at your firm? You could offer all staff and their families a will at no charge. This kind of goodwill can come back to benefit your firm as well. Do you buy lots of computer equipment at good prices? You could arrange with your suppliers to extend the employer pricing to the employees. Do you have clients that could provide special deals to your employees? Your clients will appreciate the business, and your staff will benefit from "VIP" treatment.

It is completely, absolutely free to praise employees publicly for a job well done. Consider a "wall of fame" where emails from happy clients are featured. A happy work environment may be the best perk of all. Every firm culture is different, but it is universal that employees appreciate and respond to positive feedback and a supportive environment.

Technology has changed the way everyone works. Can you offer staff the ability to work from home part of the time? Would more flexible hours be an option? The cost and hassle of commuting with everyone else grows every year – why not try to make this easier for your staff? Working from home can offer many benefits, not the least of which is interruption free work time. IP phone systems, remote connections and email allow employees to work anywhere while looking as if they are sitting in your office.

Law firms are full of experts – consider holding staff seminars on topics that may have broad appeal.

The next category involves spending money. If your firm has a budget for staff perks, you can use it in many ways. It makes sense to plan how you will get the biggest bang for your buck each year. You could offer gym memberships that are employer subsidized, hold regular staff events such as pizza days, or movie nights, you could sponsor a staff sporting event, you could put together a team to raise funds for charity or you could hunt Zombies. Just make sure you are inclusive so that there is something for everyone.

How do you monitor the success of your "staff rewards" programs? Will it be a reduction in staff turnover, positive feedback, or just finding the office is a more pleasant place to work? Whichever it is, you and your staff will be happy you have made the effort. !

Carol Donohoe has been an administrator for 20 years. She is leading the Law Office Management 102 course on February 23 2016.

Supple leather brief cases perfect for chambers, CPCs, TMCs or trials!

LAW COURTS CENTER
TRENDS IN FIRM MANAGEMENT SEMINAR
FEBRUARY 23, 2016

Trends in Firm Management (LOM 102) 9AM to 1PM

It has always been about maintaining the public's trust in the legal profession and your clients' trust in your firm. But what is at stake has changed. Last 2011, our law society benchers (governors) began looking at regulating firms in order to improve its ability to protect public interest. Law Firm Regulation Task Force chair, Herman Van Ommen, QC explains: "*Regulating firms provides the chance to place responsibilities where they belong*." There are 10 areas under consideration: conflicts of interest, accounting, lawyer and firm succession planning, marketing, mentoring, training and supervision, client service complaints and client relations, file management, privacy and confidentiality, safe workplace and interpersonal relations, crisis and personal assistance, and conduct and competence issues.

The onus lies not only with the lawyers and the support staff; it extends to the administrators, HR, trust accounts and IT managers as well. In fact, they are the vital cog who makes sure the firm is running smoothly, that the firm meets its obligation to its clients, regulators and to society as a whole.

Knowing what the expectations are and establishing the processes to make sure that these are met are two key responsibilities.

Regardless of the size and practice area of a law firm, it is a business. A serious business that needs to be professionally managed.

For managers in many firms, who have to wear many hats, the is the time to take steps to professionalize your training.

This half day seminar for small firm practices focuses on finding new ways to facilitate change, updating workplace policies and developing best practices to manage the firm, more so now as the Law Society of BC is now regulating the conduct of firms.

Join veteran administrator Carol Donohoe as she conducts a master class in new ways to manage the new small firm practice. Curated topics: HR, IT, new media, and the dreaded D team. Attend in-person or by web.

9:00 Introductions
9:15 How we manage our human resources where the generational values continue to widen and yet we rely on them to provide top notch legal services to clients
10:00 Break
10:15 How we communicate using new media and the ethical considerations
11:00 Break
11:15 What kind of IT infrastructure should we have to store, access and retain information
12:00 How do we prepare for the dreaded D team: departure, disability, disasters, disbarment & death
12:45 Q&A

CPD 3.75 hour including 3.75 hours for professional responsibility and client relations.
Fee: $288.75 per person

REGISTER: www.lawcourtscenter.com

Law Courts Center
150-840 Howe Street, Vancouver, BC Canada V6Z 2L2

SCHEDULE FOR MARCH 23, 2016 (9:00 AM TO 5:00 PM)

Law Courts Center • Canadian Paralegal Institute

Part 7 Benefits 101

This course will provide you with an understanding and a hands on practice in identifying the difference between Part 7 benefits and special damages and in calculating Total Temporary Disability (TTD) benefits.

At the end of your studies, you should be able to correctly:

1. Determine what documents must be submitted to perfect an application for Part 7 accident benefits.
2. Describe how you calculate the limitation date for a claim for Part 7 benefits?
3. Explain why is it inappropriate to combine a Part 7 claim and a tort claim in the same action?
4. Calculate how many weeks are Employment Insurance benefits payable before TTD benefits are triggered?
5. Determine who is eligible to receive "homemaker's" benefits and how much is payable weekly for this Part 7 benefit?
6. Clearly explain to a client what their Part 7 benefits are.

CONTINUING PROFESSIONAL DEVELOPMENT CPD REPORTING

This course is an elective in Canadian Paralegal Institute's Qualified Paralegal Program in Civil Litigation. For your mandatory reporting of CPD hours, this course is 7.0 hours with 1.0 hour devoted to professional responsibility and ethics.

*A **Certificate of Completion*** is issued to you, if you earn at least 70% of the course requisites.

LOCATION Law Courts Center CPD Room, 150 - 840 Howe Street, Vancouver, BC V6Z 2L2.

INSTRUCTOR Gerrie Campbell, Senior Paralegal

QUESTIONS? Please write dom@lawcourtscenter.com or call 604-685-2727.

Registration:

WWW.LAWCOURTSCENTER.COM

Course Fees: (course materials and GST 128573300 included)

❑ Single In-Person Seat	$548.80
❑ Multi-seat or Amici Curiae Rate	$521.36
❑ Please send me a copy of the manual only as I am not able to attend.	$152.25

1602 B!

Law Courts Center
150-840 Howe Street, Vancouver, BC Canada V6Z 2L2

Extending Physiotherapy, Registered Massage or Chiropractor Treatments

Once you have been retained by a person who has been injured in a motor vehicle accident, there are several things that must be done to ensure your client's claim is underway and advancing in a timely fashion.

Your basic auto plan policy helps pay for your medical care and treatment. Medical benefits (Part 7) coverage is for anyone injured or killed in a motor vehicle accident in BC or any BC resident injured or killed in North America. Medical benefits include coverage for ambulance services, medications, chiropractic, registered massage therapy, kinesiology and physiotherapy treatments. Pursuant to section 88(1c) of the *Insurance (Vehicle) Regulations*, ICBC is required to pay all reasonable and necessary expenses for medications and therapy.

Not all therapies are included see S. 88(1) of the *Regulations*. Treatments such as kinesiology and massage are subject to the "corporations" medical advisor which in many cases will be the client's general practitioner (GP).

Chiropractic, Registered Massage Therapy and Physiotherapy treatments are mandatory benefits which ICBC is required to pay for; however they will only pay for these therapies if they are commenced shortly after the accident (8 weeks – this is a policy of ICBC and applies to massage therapy). ICBC will only pay for a limited number of treatments, and will not pay for treatment for serious life threatening injuries that may not sufficiently heal within that time frame. It is highly important to recommend to your client that they see their general practitioner as soon as possible after the accident for an assessment, even if they feel they have not sustained any injuries. Even a minor injury could be a significant one that requires treatment. High levels of adrenaline tend to mask symptoms after an accident. As general practitioners are aware, once the adrenaline levels subside, pain is usually felt. Continued visits to the general practitioner are required so that the doctor can make his notes regarding the motor vehicle accident date, location of the accident, whether the police and ambulance attended the scene, any hospital involvement and the injuries sustained at that time. These records and a medical legal report will be obtained at a later stage in the claim.

Referrals will be made by the GP for one or more treatments with a massage therapist, physiotherapist or kinesiologist. Referrals from the GP are not needed for chiropractors, but getting helps bolster credibility. ICBC usually only pays for 12 sessions/visits. MSP no longer pays for these treatments.

If further treatments are required, another referral will need to be obtained from the general practitioner and the referral should contain the:

- Date;
- Further treatment is required;
- Treatment is required as a result of the motor vehicle accident;
- Number of treatments he is recommending;
- Opinion of being required to be reassessed after a specified date;
- (optional) referral for a different mode of treatment; and
- Doctor's signature.

ICBC has new policies in effect in some offices. Some claim offices require the client take the referral directly to the treatment caregiver and then the caregiver would contact the adjuster directly for approval, the length of treatment, whether a work hardening program would be of a benefit and their direct billing procedure , etc. A copy of the referral should also be provided to the lawyer for the file. If your claim centre does not follow this procedure, then you should contact the adjuster and provide the referral to the adjuster for approval. Be sure to check to ensure referrals and further referrals are handled appropriately and on a priority basis. ICBC will pay a rate which is approximately $23.00 per visit. ICBC does not pay the user fees which are the responsibility of the injured party.

If the client is not receiving monies from their Short/Long Term Disability Plan, EI Sick Benefits, or CPP Disability Benefits either because they do not qualify or there is no plan and is awaiting total temporary disability benefits from ICBC, it can be difficult to pay for these treatments. There is an option which is available through some of the caregivers, a "Direction to Pay" which essentially allows the injured person to continue with their treatments without having to pay the user fees up front, which can be anywhere from $25.00 - $50.00 per visit. The facility will keep a running total and this must be paid in full at the time of settlement, before the client receives their settlement monies. While it may be difficult finding a therapist to agree to a Direction to Pay, but it is always an avenue which should be looked in to for the client's recovery.**!**

Gerrie Campbell is a senior paralegal. She will present Part 7 Benefits 101 on March 23, 2016.

SCHEDULE FOR APRIL 28, 2016 (9:00 AM TO 5:00 PM)

Law Courts Center

Trust Accounting 101 – From Fundamentals to Best Practices

Learn about the Trust Regulation Department of the Law Society of BC and seven key concepts in trust accounting. You will also learn how to set up and operate trust accounts pursuant to the *Legal Profession Act* and Law Society of BC Rules. Finally, you will gain an understanding of the reporting requirements of the law society. Discover the best practices and tips from senior auditors of the Law Society of BC Trust Regulation Department. This 7 hour course focuses on professional responsibility, ethics, client care and relations. *You have a choice between attending in-person or by webinar.*

LOCATION Law Courts Center CPD Room 150 - 840 Howe St, Vancouver BC V6Z2L2

INSTRUCTORS:

KRISTA ADAMEK Law Society of BC Trust Regulation Department Auditor

DOM BAUTISTA Law Courts Center Executive Director

Registration:

For lawyers, go to: WWW.LAWCOURTSCENTER.COM

Course Fees: (course materials and GST 128573300 included)

❑ Single In-Person Seat (TRA 101)	$625
❑ Single Webinar Seat License (TRA 101w)	$625
❑ Please send me a copy of the manual includes shipping and GST.	$152.25

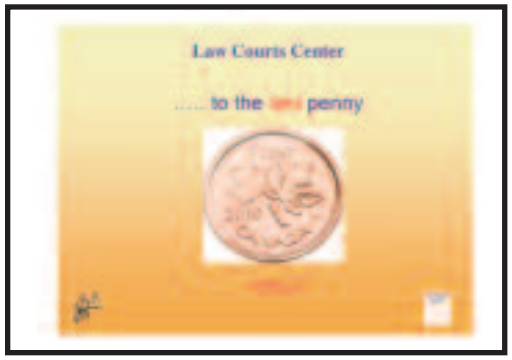
1602 B!

Trust Accounting 101 - 3 lessons from the LSBC suspension of Ms Sas, QC

Rare it is for a Queen's Counsel to be suspended by the Law Society of BC, let alone her being a former bencher (a governor), but last January 26, 2016, Catherine Sas was suspended for four months for misappropriation of trust funds and her misconduct. She is to begin serving her suspension on March 1, 2016, even as she has appealed the decision on facts and determination.

Here are 3 lessons that I picked:

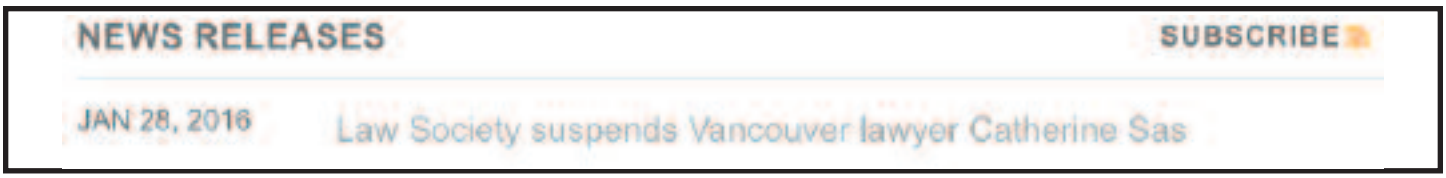
1. There is no materiality in trust accounting.



2. **Handling unclaimed trust money is a pain *but***

a lawyer's conduct in withdrawing funds from trust to general without meeting these requirements, particularly when the lawyer has no entitlement to the money but issues a bill to "zero out" the trust balance, may lead to disciplinary action for failure to comply with the Law Society Rules.

3. Expect our regulator to rely increasingly on social media to let the public know.



Finally, a look at what the hearing panel considered on what penalties to assess, the hearing panel considered the remediation of rehabilitation and the potential impact of the penalties might have on her practice, the panel opted to suspend her for 4 months. The suspension will hopefully serve as a deterrent to lawyers who might be tempted to do the same thing that Sas did.

If you want to learn more about trust accounting, join us for a full day course on April 28, 2016 in-person or by web. CPD:7.0 including 7.0 for practice management and ethics.

Law Courts Center

Law Courts Center 150-840 Howe Street, Vancouver, BC Canada V6Z 2L2