Briefly!

Published by Law Courts Center OCTOBER 2015

A Glimpse of Tomorrow ... Wither BC (Designated) Paralegals?

The future of paralegals and support staff was *not* on the agenda at the 9th Paralegal & Support Staff Conference last October 2, 2015. Somehow, it managed to become *the* topic. It started when SCBC Judge Butler asked if the designated paralegals (DP) in the room had appeared before the courts. The conversation came up again when appointed bencher Peter Lloyd talked about access to justice and life bencher Anna Fung QC explained how the regulation of law firms would impact paralegals in the future. Then, during his lunchtime address, SCBC Judge Smith asked how the designated paralegal programme could have been designed better to allow paralegals to appear before the courts.

Finally, PCBC Associate Chief Judge Phillips focused her presentation on the future of support staff. Her slides included many developments not only within Canada but also around the world. Considering the political capital the law society spent on convincing the courts to allow DPs to appear before them, the results were disappointing.

The day before the conference, the DP programme ended at the provincial court level, quietly, with one or two paralegals having appeared a combined total of 3 to 4 times in Prince George. (The Supreme Court had chosen not to extend the programme past December 31, 2014.) The DP programme continues to exist by virtue of its inclusion in the *BC Code*, which will allow this class to provide legal advice and handle undertakings under the supervision of their lawyer.

Based on the current issue of the Benchers' Bulletin, the law society is going to be soliciting feedback from lawyers in the province regarding DPs. I anticipate the law society will follow up with the courts once the survey work is complete.

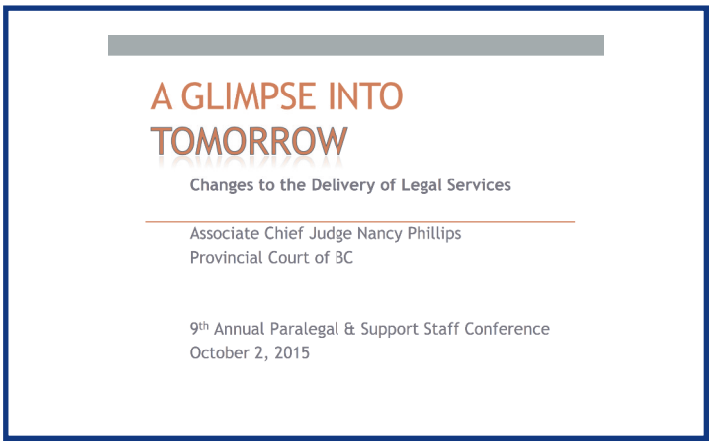
A week before the conference, on September 25, 2015, Attorney General Anton attended the benchers meeting and provided us with her views on access to legal services (which is, as you know, distinct from access to justice), our government's legislative agenda and the various pilot projects coming from her ministry. She encouraged the law society and the notaries to try and submit to her a proposal with a view to try and have it tabled for legislation by 2017. Hopefully, when the legislative amendments occur, the LSBC will have jurisdiction to regulate non lawyers.

Beyond our provincial walls, we should think about the impact of the mobility agreement from the Federation of Law Societies of Canada. And what it would mean for licensed paralegals from Ontario to practice here.

Will 2018 be the year when paralegals will be allowed to play a more meaningful role in our justice system?

To our legislators and regulators, I hope you do not tarry. !

Dom C. Bautista returns to co-teach Civil Litigation 102 on November 23/24.



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October 13	**Lecture: Drafting Family Law Affidavits when violence has been experienced**
October 21	**Part 7 Benefits 101**
October 22	**Medico Legal Terminologies 101**
October 27	**Diversity Dialogues: Practicing & Parenting**
November 10	**Seminar: Probate The Registry Perspective**
November 10	**Lecture: Legal Advice v Legal Information**
November 13	**Seminar: Return to Work**
November 14	**BC Court of Appeal Procedures 101**
November 23/24	**Civil Litigation Procedures 102**
November 25	**Chambers Applications Procedures 102**
November 26	**Diversity Dialogues: Implicit Bias**
December 1	**Workshop: Writing to Eliminate Implicit Bias**

Medical terminology is like a puzzle: medical terms can be taken apart and / or built up – roots, combining forms, suffixes and prefixes. The learner will …

1. Construct and deconstruct selected medical terms relating to body systems, procedures, diagnoses, medical specialists, body or body part positions and measurements, by using prefixes, suffixes and combining vowels.

2. Demonstrate understanding of bodily movements.

3. Illustrate the anatomical aspects of the body in terms of planes, directions and positions.

4. Classify diagnostic and imaging tests according to their descriptions, names and abbreviations.

5. Describe the structures and functions of the musculoskeletal and nervous systems.

6. Identify basic pharmacological principles and practices that relate to medication administration for personal injury clients.

7. Summarize relevant aspects of the client clinical record as it relates to medical documentation.

8. Generate plain language versions of medical record entries from both handwriting and text samples.

9. Create and perform scenarios depicting selected medical terms and abbreviations relating to body systems, procedures, diagnoses, medical specialists, body or body part positions and measurements by using prefixes, suffixes and combining vowels.

The Law Society has pre-approved 7.0 course hours towards your Continuing Professional Development requirements and 0 hours towards ethics & practice management.

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

: Pauline Barratt BSc, MEd, RN says: Medical terms are not a foreign language! It is quite easy once you know what the rules are. Let me show you how!

For more information please call .

❑

❑

Legal Implications of Medical Documentation Errors

Imagine, for a moment, that a loved one has been admitted to hospital for a routine hip replacement surgery. Ina, your relative, has had her share of health complaints but has managed to live independently. Ina does have a few memory lapses, and her accent is a little difficult to understand because after immigration from Europe she was a homemaker and learned English at home, from the family.

Now Ina is in hospital and the admitting physician has written up her admission orders and diagnoses. It's just too bad that this physician has even worse handwriting than that which the unit clerk usually sees. But she is skilled and has spent many years sorting out poor handwriting. So she goes ahead and transcribes the information and the orders. Of course the physician has written DAT, which means 'diet as tolerated', as well as other orders. And on the admission note he illegibly scribbled " ▲❋❖❋❒ ❋ ❄❙▲❒❋❁❋❋❁▯✎". The clerk had a very difficult time reading this phrase but she worked out the first word as 'severe'. And finally she decided that the second word is 'dysphasia' (difficulty speaking), a diagnosis evidenced by the fact that she has heard the patient speak and the patient is definitely very difficult to understand. So the clerk goes ahead and transcribes the orders and the dietary requisition. Then she leaves the documents to be initialed by the patient's registered nurse (RN).

Tom, the RN, has had a busy day as usual but he knows he must initial the documents before the orders can be acted upon. So he quickly scans the orders and the admission diagnoses, and initials the orders.

That night, the patient's dinner is brought to her bedside. DAT (diet as tolerated) tonight is crumbed chicken breast, mashed potato, and peas. Ina, tired from a stressful day, decides to do her best to eat. Minutes later Ina is found gasping for breath, turning blue and panicking. She has choked on some chicken and peas. Staff call a code blue and quickly respond to Ina's distress. However some of the food has gone deeply into her respiratory tract and she requires special procedures to remove it.

The consequences for Ina? Her hip replacement surgery was cancelled, and she spent a week in intensive care because of the aspiration pneumonia that resulted from her choking.

The cause? 1/ A physician's poor handwriting in which he wrote 'severe dysphagia' (difficulty swallowing) but which was almost illegible and thus interpreted as 'severe dysphasia'. 2/ A busy unit clerk who incorrectly interpreted the handwriting and did not check with the physician. 3/ A busy RN who rushed through initialing the clerk's transcriptions and orders. And 4/ the dietician who would normally try to visit each patient to find out what 'diet as tolerated' meant for them and what their food preferences were. However, that day there were so many admissions and special diets ordered that the dietician had no time for bedside visits so Ina received the standard meal for dinner.

The long-term outcome? Well Ina's family sued the physician, the hospital, and the staff for negligence, and they won. There are no defensible excuses for illegible handwriting (the physician), omitting checking medical information that is confusing or cannot be read (the clerk), or rushing through checking a unit clerk's transcribing without due care and attention (the RN).

The above case, while fictional, is very plausible. Medical errors occur on a daily basis and a proportion of those errors are the result of misspelling, illegible handwriting, transcription errors, and other documentation issues.

What best practices can we adopt when reviewing a clinical record? Well, first one should never assume that what was written in the emergency intake form or the admission record was transcribed correctly. Check all transcriptions for accuracy. Check that all physician orders were acted upon correctly and in a timely manner. Question abbreviations. Do they mean what was intended or were they misinterpreted? Are the abbreviations even ones that are sanctioned by the health care facility? A colleague of mine once questioned the abbreviation BWD on a chart of a deceased patient only to be told by the physician that he meant "bloody well dead", a term that is unacceptable and disrespectful.

Write me if you wish to get the second half of my article where I am going to focus on medical terms and abbreviations that can be easily misspelled, confused, or can result in errors in terminology. **!**

Pauline Barratt RN BSN MED LNC is leading the Medico-Legal Terminologies course on October 22, 2015.

Culture Club: Should the Courts Become Legal Chameleons? (1/2)

On June 2, 2015, the Honourable Judge Shehni Dossa and William Smart, Q.C. spoke to the Diversity Dialogues on multiculturalism in Canada and how the legal community might better deal with the cultural lens within the courtroom. Judge Dossa offered her thoughts on the limitations that the courts face when considering culture and Mr. Smart discussed the practical application of such considerations.

Diversity Dialogues is an series of evening conversations that focuses on gender and equity issues of the legal profession. October 27, 2015 features Practicing and Parenting and November 26, 2015 features Implicit Bias.

Cultural bias and cultural literacy continue to be major themes in Judge Dossa's lectures. Previously, she has spoken of various challenges that affect both immigrants and Canadians, including the changing societal demographic, the problem with cultural fluency and the challenges that can occur when cultures clash. A very thoughtful jurist, she has observed that Canadians and, more specifically, British Columbians pride themselves as being a tolerant and multi-cultural society. She has encouraged us to consider what happens when that broadmindedness extends beyond cultural celebrations, food and the arts. When the administration of justice is the subject, how willing are we to extend our acceptance of multiculturalism?

In her remarks that evening, she touched on a number of factors that make up culture as a whole, including language (both verbal and non-verbal) and the values held within a particular culture that differentiate it from Canadian culture.

In order to communicate with the court, litigants must be able to make themselves known through a common language. Some litigants must use the services of an interpreter in order to be understood. Others are able to speak English well enough to relay information. But does that mean they understand what is being said back to them? And does it mean that others get the full picture of what the litigant is telling them?

Not everyone who grew up outside of Canada understands communication the same way. In certain cultures, information is provided only on a "need-to-know" basis, and sometimes that basis is that a third party never needs to know! A certified court interpreter who is not only familiar with the language spoken by the litigant but also familiar with the culture the litigant is filtering the information through is a very useful tool in court situations. They are able to not only understand and translate the words that a litigant is speaking, but they are also able to interpret the underlying meanings and nuances of what the litigant is, or more likely, is not saying. For example, in a domestic assault case where a wife is being asked to give evidence against her husband who assaulted her, we may be able to understand that the wife would be embarrassed or scared to speak against her husband, but in certain cultures, that also means being ostracized from the family and moreover, being shunned by the community. Advocates who are not culturally sensitive are quick to extract an abused woman from a volatile situation, but they may not understand that by doing so, the wife is leaving that situation and cutting all ties to the only life she may know in Canada. In essence, she is being "saved" from a life of certainty, though not a good life, and being put into a position of uncertainty.

Judge Dossa stressed that cultural sensitivity is needed in such situations, as well as other situations where there is danger of a litigant being adversely affected through otherwise noble actions. She encouraged tolerance of cultural diversity, but also warned not to make blanket assumptions that a non-Canadian culture is wholly unlike Canadian culture. There are always similarities between cultures and culture is not static.

Mayette Ostonal is a paralegal at Mackenzie Fujisawa LLP. Her article concludes next month.

What #a2J Really Looks Like

(continued from page 3)

to see the dispute all the way through a three week trial. Other people in his situation would have walked away, however, in his view, the more people that walk away, the less justice we have. He truly believes that justice must be accessible to everyone or justice will fail.

Although free legal education exists, a self-represented litigant needs to take the initiative of learning the rules and procedures themselves. Much of the frustration with the justice system is because it is not proactive; it is reactive. As suggested by the 2013 report, *Access to Civil and Family Justice: A Roadmap for Change* , public education would help foster an efficient and effective way to resolve disputes at an early stage. Instead of focusing on dispute resolution, the goal is dispute prevention.

Even if Mr. Mejia had all the legal education he needed, or if he had the funds to hire a lawyer, there is no guarantee that the outcome of his case would have been any different. However, perhaps his access to justice would have been less chaotic. !

Sharon Allegrini is Amici Curiae's human rights clinic manager. She is a paralegal at Bull Housser & Tupper.

Law Courts Center October 27 2015 5:30 to 7PM

Diversity Dialogues 103: Practicing & Parenting Is Work Life Balance a Myth?

While there are no rules on how to divide the time between the practice of law and parenting, having an opportunity to discuss what has worked (or not) is a good thing. This session is designed to spur thoughtful conversation.

Here is are sample questions we plan to speak to:

Timing-is there a sweet spot to have children?
Firm support-what did you find useful or not useful?
Business Development - How has having children impacted your business development activities?

Join Jan Lindsay, QC and Alan Ross as they discuss how they have made practicing and parenting possible for them. They will share the process they each took to make thoughtful choices.

You may submit your questions that you would like them to consider when you register.

Jan Lindsay, QC is a partner at Lindsay LLP. Her practice has concentrated on defence of personal injury claims and motor vehicle accidents, including coverage issues and liability disputes. In 2014, she served as the President of the Law Society, the first to also be a mother. Jan managed to balance a full-time career as a Langley lawyer with raising four children-attending "too many hockey and soccer games to count"-while also volunteering in a range of community initiatives.

Alan Ross is a partner at Alexander Holburn Beaudin + Lang LLP. He is a member of the firm's Motor Vehicle and Insurance Practices. His practice is primarily litigation-based with an emphasis on the defence of personal injury, life and disability claims. Alan lives in Vancouver with his family. He can be found hurrying to some extra-curricular activity, and on the rare occasion, he manages to play golf.

Proceeds from this event will fund the Temporary Foreign Worker Uncontested Divorce project of the Amici Curiae Probono Paralegal Programme.
Venue: Justice Education Society Room 260 800 Hornby St Vancouver
CPD hours: Zero.

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

❑ Single Seat Rate (limited to 50 seats):	$ 78.75
❑ Webinar License Per Person:	$ 78.75

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. v1509

Diversity Dialogues & Workshop: Implicit Bias

Implicit Bias - Does Justice Wear a Blindfold or a Mask? (11/26/2015 from 5:30 to 7pm)
Judge David St Pierre Provincial Court of BC

Data proves that black defendants in the U.S. fare worse than their white counterparts on almost all measurable outcomes within the justice system. Before we get too smug here in Canada and pass this fact off as being unique to our neighbours to the south we need to examine our own outcomes. In Canada, while Aboriginal people make up about 4% of the Canadian population, as of February 2013, 23.2% of the federal inmate population is Aboriginal (First Nation, Métis or Inuit). Researchers have found that while explicit bias does exist and is likely responsible for a part of this disparity it also shows that explicit bias has been declining in recent years.

What is going on then? Is Justice truly blind or is she masking some other unconscious and even more dangerous biases? Let us have this conversation, shall we? Join me on 11/26/2015 from 5:30 to 7pm.

CPD hours: 1.5 including 1.5 hours for client care and ethics.

Eliminating Bias in Your Writing (12/1/15 ❑ 3:30 to 5pm or ❑ 5:30 to 7pm)
Cheryl Stephens LLB is a consultant in professional communications and training.

In this workshop you will practice ways to:
· Clarify your intent
· Respect your reader
· Avoid expression of bias

Implicit bias can be difficult to spot, especially when it is a component of systemic discrimination. This session will define systemic discrimination and help you recognize when it sneaks into your writing style.

CPD hours: 1.5 including 1.5 hours for client care and ethics.

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

RATES: (any materials will be provided electronically. GST is included) GST R128573300

❑ Diversity Dialogues 104 Single Seat Rate 11/26 5:30pm (limited to 50 seats):	$ 78.75
❑ Diversity Dialogues 104 Webinar License Per Person 11/26 5:30pm:	$ 78.75
❑ Eliminating Bias in Writing Workshop Single Seat Rate 12/1 3:30pm (limited to 14 seats):	$ 78.75
❑ Eliminating Bias in Writing Workshop Single Seat Rate 12/1 5:30pm (limited to 14 seats):	$ 78.75

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For more information please email <dom@lawcourtscenter.com>, or call 604-685-2727. v1510

What Access to Justice Really Looks Like - An SRL's View

Alberto Mejia spoke at the Amici Curiae Open House last September 2, 2015. When he emigrated from Mexico, he had a high school education and no relations in Canada. While providing for his family, he funded himself through school, eventually becoming a freelance photographer, a graphic designer, and a teacher at LaSalle College.

In August 2009, his daughter passed away unexpectedly. Devastated with grief, he was unable to work for a period of time.

In September of 2010, he returned to teaching at LaSalle College as an instructor in digital media arts. Although he had consistently received positive reviews from students, the employment relationship with the management at LaSalle College soured over issues regarding administration and conduct. In December of 2010, his employment was terminated.

The loss of employment was hard for Mr. Mejia and his family. He had no employment insurance or savings. Mr. Mejia firmly believed that he had been wrongfully dismissed, defamed, and that his copyright had been violated. He decided to sue LaSalle College but did not know how to do it.

As the old adage goes, if you're going to play the game, you have to know the rules.

He knew he needed legal help but he could not afford a lawyer. He used what public resources were available, including the Lawyer Referral Service. As much as he tried to inform himself of the rules of law, his draft of the notice of civil claim ended up being about 30 pages long. On review of the draft, a pro bono lawyer advised him that it was too long and contained evidence instead of only facts.

A self-represented litigant (SRL) likely does not understand the difference between fact and evidence and as a result they end up treating the pleading as if it was a journal entry. More often than not, an SRL is emotionally vested into their own case because they bear the consequences personally. This can be a detriment as an SRL may lack the focus to remain objective to the strengths and weaknesses of their own case.

One of the problems with our justice system is that there are separate pockets of organizations available to assist litigants, rather than a centralized, cohesive service. This shortcoming is something that he experienced firsthand.

The Lawyer Referral Service (through Access Pro Bono) provides 30 minute appointments for free legal advice. However, it took him about 10-15 minutes to explain what he needed help with. He spent the remaining time hurriedly learning what he needs to do next. In addition, each time he went for his appointment, a different lawyer would assist him and he would again have to start his story from the beginning. Different lawyers would give him different advice because each lawyer he saw practiced in different areas of law.

Also through Access Pro Bono, the Civil Chambers Duty Counsel provided assistance to Mr. Mejia during pre-trial hearings which he appreciated and found invaluable. There were several pre-trial hearings that he had to attend.

At the courthouse, Mr. Mejia initially found the court clerks to be abrupt and abrasive. He felt that they did not understand that he was trying to learn the procedures. However, over time, he says that the court clerks became nicer to him, whether it was because he was there so often or because he was starting to get his court filings correctly, he does not know.

The Justice Access Centre would help correct some of Mr. Mejia's documents before sending him back to the court registry to file the documents. The assistance he would receive, however, was simply one part of a procedure that he needed to fulfill. In one instance, Mr. Mejia applied for indigent status but did not realize that he would be sent to the courtroom immediately after filing his documents. Much to his chagrin, he appeared in court in his jeans and jacket instead of dress clothes.

When the Amici Curiae clinic launched in 2011, he was one of its first clients. At this clinic, he received assistance from volunteer paralegals with preparing his documents. Appointments with the paralegals could be scheduled for up to two hours.

The trial for Mr. Mejia's case started in January 2014 and lasted about three weeks. Representing LaSalle College were lawyers from a large law firm with vast resources available at their fingertips. He was limited to what was available through pro bono volunteers and online. Mr. Mejia was part of a David-versus-Goliath fable except in this case, Goliath was the justice system.

Our Goliath is massive and complicated. His armour is formed by rules and procedures. He calls out to David to approach him because Goliath progresses forward too slowly.

While Mr. Mejia did not defeat the justice system with a sling shot (in fact he won his case on his claim for copyright infringement but lost on his claims for wrongful dismissal and defamation), he was most certainly seen as the underdog and may have been underestimated in his fervor

(continued to page 2)

SCHEDULE FOR NOVEMBER 14, 2015 (9:00 AM TO 5:00 PM)

Law Courts Center

BC Court of Appeal Procedures 101 (BCCA 101)

Learn the BC Court of Appeal Procedures with a special emphasis on self-represented litigants. You will be provided with guiding principles for the 6 most common applications that appear in chambers. These cover indigency status, leave to appeal, a stay of execution, security for costs, extension of time to file appeal materials, and removal from the inactive list. This 7 hour CPD course provides 1.0 hour of professional responsibility, ethics, client care and relations.

SELF-REPRESENTED LITIGANTS

In 2014, out of 720 civil appeals and applications for leave to appeal filed, 188 cases (26%) involved a self-represented litigant. This is a decrease from 2013, where the figure was 30%. Of 250 civil cases disposed of by the Court in 2014, 52 (21%) involved at least one self-represented litigant. This is also a decrease from 2013, where the figure was 24%.

There is a higher prevalence of self-represented litigants in family appeals. In 2014, almost 44% of the family appeals heard involved self-represented litigants. This is an increase from 2013, where the figure was almost 38%.

On the criminal side, there were 309 appeals or applications for leave to appeal filed. Of that total, 42 (14%) were appeals or applications by self-represented litigants. This is the same figure as 2013. Of the 203 criminal appeals disposed by the Court in 2014, 11 (5%) involved self-represented litigants, a drop from 11% in 2013.

BC Court of Appeals Procedures 101

The schedule for this course:

9:00 AM	What is an appeal?
9:15 AM	Views from the Bench Judge Kathryn Neilson
10:00 AM	Automatic rights to appeal or appeals requiring leave
10:30 AM	Coffee break
10:45 AM	Leave to appeal application
11:45 AM	Lunch (on your own)
12:30 PM	Appeal (after leave is granted or appeal with automatic rights)
3:00 PM	Coffee break
3:15 PM	Pre-appeal matters
4:00 PM	Post-Appeal Matters
4:15 PM	Inactive appeals / abandonments
4:30 PM	Other commonly used forms
4:45 PM	Good byes + Q/A

LOCATION Justice Education Society Room 260 800 Hornby ST Vancouver V6Z 2C5

INSTRUCTORS:

JUDGE KATHRYN NEILSON BC Court of Appeal

DOM BAUTISTA Law Courts Center Executive Director

Jenny Ho and Pat Terlecki Amici Curiae Paralegals

Registration:

For lawyers, go to: WWW.LAWCOURTSCENTER.COM

Course Fees: (course materials and GST 128573300 included)

❑ Single In-Person Seat (TRA 101)	$548.80
❑ Amici Curiae Volunteer (note mentees may ask to be waitlisted)	$0.00
❑ Please send me a copy of the manual only as I am not able to attend.	$246.75

1510 B!

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

A Two Day Course: November 23 and 24, 2015 (9:00 am to 5:00 pm)

Law Courts Center

Civil Litigation 102

This two day program is designed for juniors to gain an understanding of the civil litigation process and its Rules. At the end of their studies, the attendees will be able to put the theory into practice and they will have the tools to successfully assist in a civil litigation file from start to finish.

"The explanations made a difference. It is easier to have someone with so much experience lay it all out rather than just reading the Rules."

For junior lawyers, solos, paralegals and legal secretaries!

""Let me show you how the different parts of civil litigation are connected!"

Course Prerequisite

There is pre-course work that will be assigned.

Course Reporting for CPD

For those with CPD requirements, this course is 14.0 hours long with 1 hour devoted to ethics, professional responsibility, ethics, client care and relations. If you meet 70% of the course expectations, a ***Certificate of Completion*** is issued to you.

Location Law Courts Center CPD Room 840 Howe St #150 Vancouver BC

Instructor Yvonne Choi, Legal Assistant, *Harris & Company LLP*

Reservations Please complete the form below and return to: **Law Courts Center**, Legal Education Program, 150 - 840 Howe Street, Vancouver, BC V6Z 2L2. Make cheques payable to Law Courts Center.

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

Course Fees: (course materials and GST included)

- Single Seat	$924.00
- Multi-seat & Accredited Group Rate (Amici Curiae & Greater Vancouver Legal Nurse Consultant Association)	$872.55
- Please send me a copy of the manual only as I am not able to attend.	$246.75

Registration:

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1508B!

A View from the Bench: Why Pleadings are Crucial for Self Represented Litigants

Madam Justice Loo spoke to the attendees of the Amici Curiae Open House on September 2, 2015. She began her discussion with the subject of pleadings and their importance. She stressed that the pleadings form the foundation of the lawsuit. They define the issues, what is relevant, the documents that need to be disclosed, and the evidence that is required. The pleadings should be referred to throughout the action. As documents are exchanged and examinations for discovery are completed, the parties should review their pleadings to see whether amendments need to be made. She suggested that as part of the process in drafting pleadings it is important to let the client tell their story and then the lawyer can further flesh it out. The client's story helps provide the lawyer with the background required e to determine the issues, the applicable law and remedies. She cautioned the paralegals that while some forms are now full of check boxes, paralegals when drafting pleadings, should avoid *sameness*.

Madam Justice Loo referred us to the *H.Y. Louie Co. Limited v. Bowick* (2015 BCCA 256) case. There, an action was commenced for damages for breach of contract. The defendant had billed and received payment from the claimant for over $700,000 in goods and services which were never delivered or provided. Following examination for discovery the defendant consented to two judgments totalling $711,000. When the plaintiff sought to enforce the judgments, the defendant made an assignment into bankruptcy. The plaintiff filed an application pursuant to s. 178 of the *Bankruptcy and Insolvency Act*, to have the defendant's debts to the plaintiff survive the bankruptcy on the basis that the defendant obtained goods under false pretences. The Court of Appeal found that the defendant's debts did not survive the bankruptcy on the basis that plaintiff did not advance a claim of false pretences against the defendant in the original Notice of Civil Claim, but only a claim for breach of contract. The lesson is that the court refused to grant relief that was not sought in the Notice of Civil Claim.

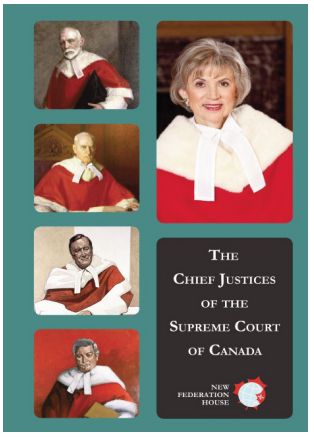
On the subject of self-represented litigants (SRLs), Madam Justice Loo shared with us that she is not surprised that SRLs find the court process complex and difficult. She reminded us that lawyers spend 7 or 8 years at university, and then another year articling. After they are called to the bar, there may still be a number of years before they conduct a trial.

There are numerous issues facing SRLs, not the least of which is knowing the *Supreme Court Civil Rules*. Many SRLs also have cultural and language barriers to accessing our Court system. Some do not trust authority, for example, (*see the page 2 article on Judge Dossa*.)

She reminded us that the issue of access to justice affects all of us and that we all have a role to play to ensure that those needs are met. She encouraged us to consider that access to justice include educating the public about the law. For example, persons may marry, without knowing the legal rights and obligations which flow from that commitment and on the dissolution of marriage. Persons may enter into employment without fully appreciating their rights and obligations and the rights and obligations of their employer. Access to justice or knowledge of the law doesn't arise when a claim is filed, it should arise much earlier. We have an obligation to improve legal education not just in the courthouse, but before legal problems arise.!

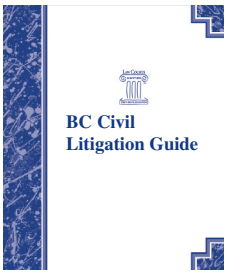
Christine Millar recently joined Amici Curiae. She is a workplace law paralegal at Harris and Company.

New Title in our Bookshelves



The Chief Justices of the Supreme Court of Canada

On Twitter: @lccdombautista



BC Civil Litigation Guide

SCHEDULE FOR NOVEMBER. 25, 2015 (9:00 AM TO 1:00 PM)

Law Courts Center

Chambers Application Procedures 102

In this course, you will learn all about Part 8 Applications. At the end of your studies, you will have:

- an understanding of how to set up a file in order to prepare for a chambers application;
- an awareness of how to respond to an application;
- an understanding of the applicable Rules of Court and related forms used in filing chambers applications;
- the ability to have an Order entered by the registry on an urgent basis;
- an understanding of the jurisdiction of a master and a judge; and
- develop best practices to work with self-represented parties.

COURSE PREREQUSITE

There is pre-course work that will be assigned.

COURSE REPORTING FOR CPD

The Law Society has pre-approved 3.5 course hours towards your Continuing Professional Development hours with 0.0 hours toward ethics, practice management and client care. If you receive a minimum of 70% on your course work, a ***Certificate of Completion*** *is issued to you.*

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

INSTRUCTOR Gerrie Campbell, senior paralegal.

RESERVATIONS Please complete the form below and return to: **Law Courts Center**
150 - 840 Howe Street, Vancouver, BC V6Z 2L2. Make cheques payable to Law Courts Center.

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

REGISTER ONLINE:

www.lawcourtscenter.com

REGISTRATION CAP 101 (INCLUDES HST #128573300)

❑ Single Seat (includes the desk reference manual)	$421.12
❑ Multi-seat or Accredited Group Rate (includes the desk reference manual)	$393.68
❑ Please send me a copy of the manual only as I am not able to attend.	$263.20

This is what you will be learning about that day

9:00 Chambers procedure - background

9:15 Description and discussion of procedure/flowchart

9:30 Review Rule 8-1

10:00 Time calculation exercise

10:15 Best practices in working with self-represented litigants

10:30 Coffee

10:45 Service requirements for third parties, by fax

11:00 Order / Form 35

11:15 - Post Chambers Form
- costs associated with chambers applications
- Short Notice (short leave)
- Requisition/Form 17
- Practice Direction 20

11:30 Coffee

11:45 - Consent Orders
- Order / Form 34
- Desk Orders

12:15 - Costs relating to chambers applications

12:30 - review/questions
- review of open book post course work

12:45 Good byes

Version - September 30, 2015

Excerpts from the Chambers Application Procedures Manual

Preparing for a Chambers Application

The question to consider before making a chambers application is whether or not the application is necessary considering the time and expense involved. Be aware of the costs associated with applications to court and weigh these costs against the real benefit to your client.

Interlocutory applications are made for a myriad of reasons including when something that should have been done or provided has not been and you need to compel the other party to do this. This includes requests for lists of documents, examinations for discovery, particulars and anything else that might be needed to move the litigation forward. Interlocutory applications can also be to get interim relief against a party pending final determination of an issue at trial.

If the opposing party does not respond to your request, make a second phone call or send a second letter. Refer to your first letter. You need to give the opposing party ample opportunity to comply with your request.

If the opposing party still does not comply or respond to your first two requests, send a third and final letter. In your third letter you may say that if they do not respond by a specific date you will set down a court application compelling the other party to provide the information, documents, etc. Your letters can then be appended to an affidavit in support of your application. A typical amount of time between requests might be one to two weeks depending on the nature of the request.

In cases of urgency, you may not leave as much time between your requests or you may have time to make only one request. For example, a mediation might be scheduled for the near future and the information is required in advance. In these circumstances write one strongly worded letter. Keep the approaching hearing and other dates in mind. In last minute applications, the court will ask why the information was not requested earlier and you will need a good excuse for the delay, or the court may not hear your application on an urgent basis and may not allow your request for costs.

If you have not heard from opposing counsel prior to the hearing date, contact them to find out if they will be attending and what their position is, so you can provide this information to the court. It is in everyone's interest to agree on issues that are not in contention, and to identify those areas on which you disagree.

The information you provide to the court should be contained either in the pleadings or in the affidavits filed in support of the application.

Be careful about using courier slips. These may not be accepted as proper proof of delivery by the registries.