

VOLUME 6 ISSUE 2

SDLA Legal Briefs



SDLA NEWSLETTER

Volume 6 #2
August 2013

SDLA Legal Briefs Newsletter

MESSAGE FROM THE BENCH ONTARIO COURT OF JUSTICE

ONTARIO COURT OF JUSTICE

As this is my first contribution to the SDLA newsletter, allow me to introduce myself. I was appointed as the Regional Senior for the Ontario Court of Justice, Northeast Region in late June 2012. Since then, I have been learning the perils of driving Hwy. 144 as I maintain my residence in Timmins though I frequently work in Sudbury. I have been a member of this Bench for 14 1/2 years and have sat in all base and satellite courts in the Northeast, except for three locations which I intend to visit in the next year.

As with any institution, change is constant. Justice Humphrey has gone back to sitting as a regular judge. Justice Buttazzoni has transferred in from Sault Ste. Marie but still spends considerable time there given that one of our judges there is on sick leave.

The Criminal Protocol which has been in place since June 1st, 2010 in Sudbury will be reviewed starting in September. It has served us well but improvements are always possible. Edmond Paquette and Glenn Sandberg of your Association have agreed to sit on this review committee. Please forward any thoughts and comments to them. Our first meeting is on September 11, 2013.

POA Court has now transferred to Tom Davies Square freeing up Courtroom "E" at 155 Elm Street. That courtroom has severe limitations so we will be making some limited use of it until it is renovated.

Video Remand Courts are now heard at 10:00 a.m. on Tuesday and Thursday with bail court starting at 9:30 a.m.

Finally, I would take this opportunity to invite you to get in contact with me to discuss any issue of interest to our court.

Martin Lambert
Regional Senior Justice
Northeast Region

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DON'T MISS THESE SPECIAL EVENTS DURING COLLOQUIUM 2013!

THE HONOURABLE MR. JUSTICE MURRAY SINCLAIR, CHAIR OF THE TRUTH AND RECONCILIATION COMMISSION OF CANADA.

GUEST SPEAKER AT LUNCH—FRIDAY, OCTOBER 18TH

The Honourable Mr. Justice Murray Sinclair was appointed to the Truth and Reconciliation Commission of Canada when it was established in 2009. Its purpose is to learn the truth and to inform Canadians about what happened in this country's 130 residential schools.

More than 150,000 Aboriginal children were placed in government-funded, church-run schools starting in the 1870s until the 1960s. Many of these children were not allowed to speak their language or practice their own culture.

The Commission continues its review of records and hearings with testimony from officials of the institutions, survivors, their families, and other personally affected by the residential school experience and its subsequent impacts. The Commission is expected to complete its work in 2014.

Justice Sinclair was appointed Manitoba's first Aboriginal Judge in 1988. In 2001, he was appointed to the Court of the Queen's Bench of Manitoba.

He has been awarded a National Aboriginal Achievement award in addition to many other community service awards, as well as five honorary degrees for his work in the field of Aboriginal justice. He has been an adjunct professor of Law and an adjunct professor in the Faculty of Graduate Studies at the University of Manitoba.

THE HONOURABLE MR. JUSTICE STEPHEN GOUDGE, ONTARIO COURT OF APPEAL

GUEST SPEAKER AT DINNER—THURSDAY, OCTOBER 17TH

Justice Goudge is best known as the Commissioner of the Inquiry into Paediatric Forensic Pathology in Ontario, which was created in 2007 to address serious concerns over the way criminally suspicious deaths involving children are handled in the province.

The Commissioner was asked to make recommendations to address systemic failings and restore and enhance public confidence in paediatric forensic pathology in Ontario. Many of Justice Goudge's recommendations have since been implemented.

In 2013, Justice Goudge received the Guthrie Award from the Law Foundation of Ontario, in large part because "he is an inspirational champion of access to justice through his activities outside the courtroom." In addition to being a highly respected appellate judge, he has worked with many legal organizations in an effort to move toward a more inclusive and accessible justice system.

Justice Goudge has been engaged in considerable efforts outside the courtroom to develop creative solutions in administrative justice, alternative dispute resolution, legal aid, and middle-income access to justice.

Justice Goudge was a preeminent litigation counsel with what is now the firm of Gowlings and lectured at the University of Toronto from 1974 to 1986. He was appointed a judge of the Ontario Court of Appeal in 1996.

LEE STUESSER, DEAN OF LAW, LAKEHEAD UNIVERSITY

GUEST SPEAKER AT LUNCH—THURSDAY, OCTOBER 17TH

Before his appointment as Dean of new law school opening in Thunder Bay this fall, Lee Stuesser had a distinguished reputation for his writings on advocacy, evidence, and criminal law. His textbook, *An Advocacy Primer*, is used in classrooms across Canada and he just completed a second edition of the Australian textbook, *An Introduction to Advocacy*.

The curriculum at Lakehead University's new law school focuses on natural resources law, issues relating to the training and retention of lawyers in small and sole-practitioner firms, and Aboriginal law.

Born and raised in northern Saskatchewan, Dean Stuesser received a Bachelor of Education from Brock University, an Arts HBA from the University of Manitoba and a Master of Laws from Harvard Law School. He was a Professor at the University of Manitoba for 20 years and also taught at Ottawa and Royal Roads University before heading up the Canadian Law Program at Australia's Bond University.

MILLER, MAKI CELEBRATES 100 YEARS!

On May 24, 2013, Miller Maki held a gala event to celebrate its centennial year. Members of the local Bar and beyond were invited to join in the celebration at the Cavern at Science North for an evening of cocktails and hors d'oeuvres, while a slide show in the background evoked memories of times gone by. A number of dignitaries were in attendance to help mark the occasion including Madam Justice Louise Gauthier, Peter Griffin, President of the Advocates' Society, Mayor Marianne Matichuck and Madam Justice Hennessy who read congratulations on behalf of Chief Justice Smith. Making the evening even more memorable, was the presence of a number of past and present staff members, some of whom travelled great distance to help us raise a glass to 100 incredible years.

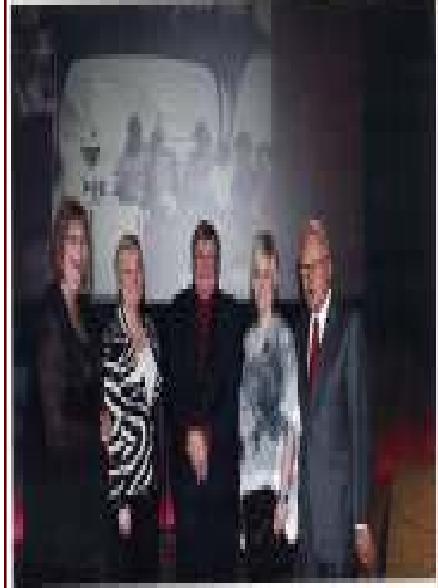
For those members who were not able to join us, or for those of you who the cocktails got the better of that night, Miller, Maki can actually trace its roots back to 1909, when Mr. R. R. McKessock first hung his shingle in Sudbury. When George M. Miller joined him in 1913, it was not long before he was left to run the firm by himself while Mr. McKessock served King and Country at the outset of World War 1. Mr. Miller was charged with not only keeping the firm afloat but also with the responsibility of supporting Mr. McKessock's family. Needless to say 100 years later, he was quite successful in this endeavor.

In 1920, Mr. Miller ventured out on his own, but it wasn't until the late 1930s when he took on his first articling student in Mr. Kauko E. Maki. After the war, they were joined by Mr. William A. Inch and Mr. D'Arcy Mulligan. Together these forefathers of our firm, have had an undeniable influence not only within our hallowed halls, but in the community at large. From those humble beginnings and through the many changing names and faces throughout its history, Miller Maki has remained a constant in the landscape of Sudbury's legal community. The firm currently boasts 12 lawyers and over 30 staff members, all of whom continue to follow in the great traditions started so many years ago.

The Partners of Miller Maki wish to extend their gratitude to all of those who attended and helped to make this an evening to remember. The memories shared with friends old and new, were certainly worthy of 100 years.

Thank you!

Submitted by M.J. Lucille Shaw



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SDL A GOLF 2013

The latest edition of the SDLA golf tournament was held at Cedar Green on Friday August 23, 2013. Once again this year the weather cooperated with temperatures that were ideal for golf, and the best ball format which was implemented for this year's tournament and adopted by the majority of golfers was not only well received, but also appeared to speed up play as much as possible, so that all foursomes were able to arrive back at the clubhouse, some much earlier than in past tournaments, and everyone was able to sit down at the same time to enjoy their meal.

This year's tournament did offer the option of best ball competition among the foursomes, and of the thirteen foursomes that had signed up to play, nine of them took advantage of the opportunity. We can thank Leo Arseneau for this suggestion, and also for donating a new "scramble" trophy as part of the hardware for those who participated in the tournament.

Participation numbers were up this year from last, but still not up to some of past halcyon years and certainly not up to the number that would be possible if many of the individuals who have taken part in the past were to show up once again. I think anyone who would ask around to those who did participate would find out that once again everyone enjoyed themselves and there were several comments indicating that this was one of the few occasions when literally all of the lawyers in town could get together and mix and mingle with peers that they do not have the opportunity to interact with on a regular basis depending on the nature of their practice.

This year's event saw new blood infused into the champions' position, with Matthew Leef, an articling student at Weaver, Simmons, coming in with the lowest score at 82 as part of the medal play championship. I had the pleasure of attending a discovery in Orillia with Matt earlier in the year, and he indicated that he was chomping at the bit to be invited by Berk Keaney out to the Idylwylde to demonstrate his golf prowess. I don't know if this has happened yet, but clearly Mr. Leef has the golf talent to fit right in.

In connection with other medal play contenders, the runners up were as follows;

Leo Arseneau 83

Berk Keaney 84

George Fournier 85

In connection with the "scramble" winners, the victorious team was actually in the co-ed division, consisting of Mike Carré, Richard Moran, Jennifer Dowdall, and J.M. Bray, achieving a score of sixty seven.

Because we now have a surplus of trophies, by way of Executive decision, it was determined that there would be both a co-ed trophy, and at least for the time being a male only trophy and in connection with the latter there was a tie, with the team of Andrew Buttazoni, Ed Paquette, Terry Waltenbury, and Jacob Gauthier scoring a sixty-nine to match the team of Gerry Michel, Randy Lalonde, Michael Hennessy, Jim Longstreet, and Michael Gauthier theirs being an amalgamation of two foursomes after Richard Huneault and J.J. Paquette were unable to fulfill their golfing obligations. As indicated during the award presentations, Michael Mensour launched an official protest due to the extra player as part of the quintet, but predictably and justifiably said protest was rejected.

It should be noted that the Buttazzoni quartet had attempted to secure an advantage for their team by sporting identical shirts, apparently from an earlier figure skating trip to Memphis. Unfortunately they could not procure a shirt small enough for their fourth member Jacob Gauthier and the fashion cops quickly gave the effort an emphatic "thumbs down."

This of course left Mr. Mensour even more chagrinned when he learned that through a politically correct oversight, the big P trophy was not to be awarded this year, and of course since he had participated as part of a scramble team, he was no longer eligible for the low Lebanese award.

And since Roy Sullivan was a no show this year, there was no active discussion concerning his prior pleas for a seniors' award as part of the tournament.

Continued...

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SDLA GOLF 2013

Yours truly would like to thank Karen Lische for her thoughtful gesture in presenting me with a plaque as part of this years' tournament. I did check the original trophy once I got back to the office and can confirm that the first inscription on it is actually 1978, listing Berk Keaney as the first official winner of the inaugural SDLA tournament held as we discussed with mixed results at the Idylwylde.

As the evening wore down, Mr. Leef was observed posing for pictures with the champion's trophy, clutching it affectionately, while planting a kiss, giving everyone the impression that he was probably going to sleep with it later that night.

We would like to thank all of this year's participants as well as the various sponsors who donated prizes, and the "gofers" at Miller, Maki who made the calls and collected many of the prizes and in particular Natalie Sache, this year's Articling student, and would again suggest that those who did enjoy themselves at this year's tournament encourage other members to participate next year. I am still in the process of finalizing the date, but anticipate that it will be Friday, August 22 2014 and will confirm same as soon as I am able to do so.

Thank you

Michael O'Hara

August 2013

MESSAGE FROM THE SUPERIOR COURT OF JUSTICE

Counsel dealing with personal injury litigation may have noticed that the Judiciary is becoming more demanding in the information that is requested for Court approval of infant settlements and persons with disability.

As of August 2013, the SDLA website has guidelines regarding what is expected in the documentation to be provided for approval.

I highly encourage everyone dealing in this area of law to review these guidelines so that multiple attendances before the approving Judge will be lessened.

I would also encourage all personal-injury counsel to attend the Colloquium 2013, Oct. 17th and 18th at which point a session on this particular issue will be addressed.

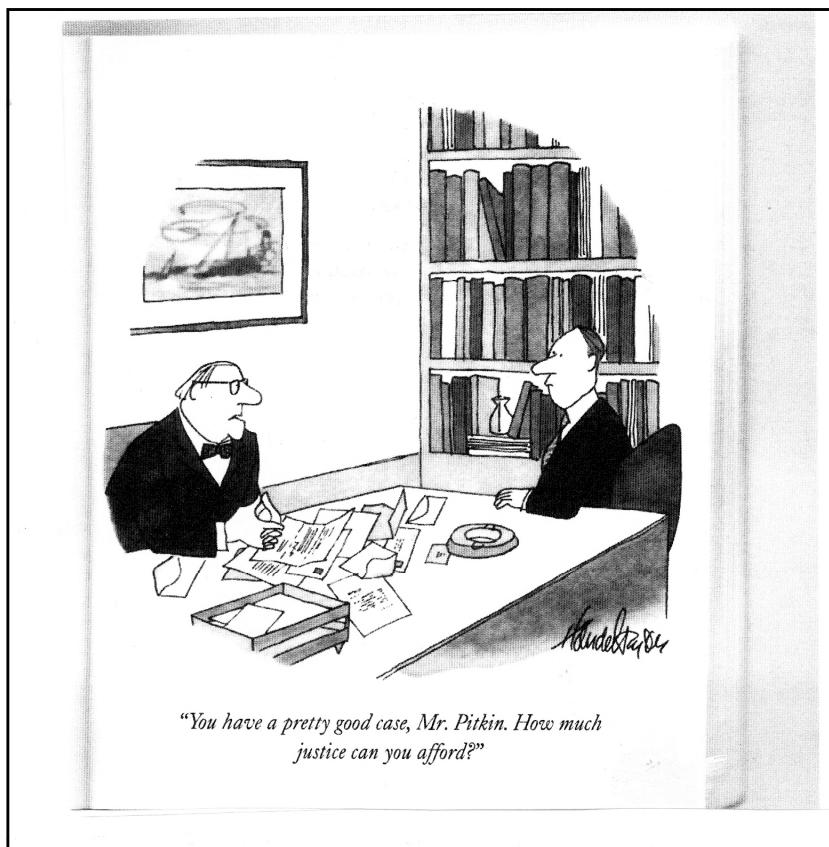
R. Del Frate SCJ

August 2013

www.ssla.ca

SUBMITTED BY YOU...

LIBRARY NEWS



LIBRARY NEWS

Doing research online just became a little easier for the practicing lawyer. Now by utilizing online access to past LSUC CPD programs you are now able to print and download articles older than 18 months free of charge from the Law Society's CLE collection, powered by the Great Library.

What this indicates to you is that the contents of the LSUC binders that you all love and borrow from your law library on a regular basis are now online...Did I mention free?

"The service - [AccessCLE](#) - which had been 100% pay-per-view since its inception in 2007 and contains over 6,000 PDF articles going back to 2004, articles represent the individual presentations from CLE/CPD seminars put on by the Law Society. The Great Library's partnership with the Law Society's CPD team is ongoing and continues to receive and add metadata to articles from recent presentations."

The 18 month window is a rolling period. Content within the recent 18 month window is still available, but is pay-per-view. You can search for both free and paid articles with either AccessCLE itself or through the Great Library's discovery engine, [Infolocate.ca](#).

I've included the actual web url here for those of you whom are reading the hard copy of this newsletter. Type this web site address in your bowser to go to the site

<http://infolocate.ca>

Further, should you have any questions, suggestions or comments please feel free to contact staff at your law library.

Rannah

Voted #1 ABA Journal Aug. 2013

Excerpt from a recent poll in the American Bar Association Journal

What's your favorite law novel?

- Crime and Punishment
- Bleak House
- The Trial
- Les Miserables
- Billy Budd
- Presumed Innocent
- The Scarlet Letter
- The Bonfire of the Vanities
- An American Tragedy
- The Paper Chase
- Bartleby the Scrivener
- Native Son
- The Stranger
- A Tale of Two Cities
- A Time to Kill
- To Kill a Mockingbird
- The Caine Mutiny
- Their Eyes Were Watching God
- QB VII
- The Firm
- The Count of Monte Cristo
- The Handmaid's Tale
- Anatomy of a Murder
- The Fountainhead
- The Ox-Bow Incident
- Old Filth

#1. To Kill A Mockingbird by Harper Lee (1960)

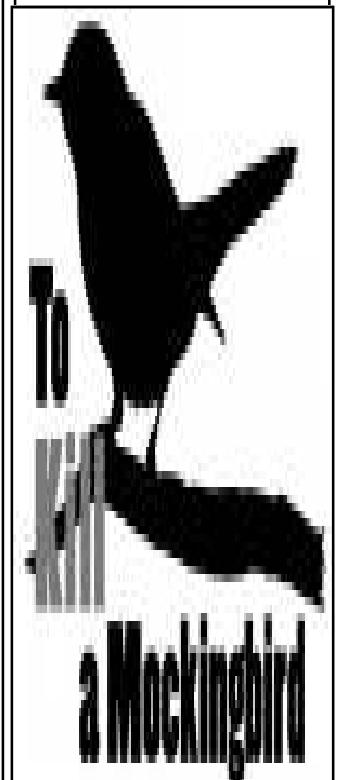
Seriously, are you surprised? This most beloved of law novels features Atticus Finch—a lawyer who loses his biggest case, has his kids call him by his first name and struggles with the notion of turning one of them over to the local sheriff. And yet, since its introduction to the decade of the '60s, this classic Depression-era bildungsroman has been the inspiration for tens of thousands of law school applications and, among practicing lawyers, more than a little reflective glory.

Atticus is more than a lawyer. He's won both the Pulitzer Prize and an Academy Award. He was voted the greatest American film hero by the American Film Institute. He forever resembles Gregory Peck. He holds such a firm imprint on American culture that even lawyers discuss him as though he were real.

When he speaks, it's with the voice of aphorism that sweetens even the bitterest truth. "The one thing that doesn't abide by majority rule is a person's conscience." Atticus said that. "You never really understand a person until you consider things from his point of view—until you climb into his skin and walk around in it." Atticus said that.

And lots of lawyers, given the chance to be in the skin of Atticus, would like to think that they would stand against bigotry, venality and even simple stupidity with the same paternal aplomb. That takes courage, and in courage lingers the strong probability of defeat.

"I wanted you to see what real courage is, instead of getting the idea that courage is a man with a gun in his hand. It's when you know you're licked before you begin but you begin anyway and you see it through no matter what. You rarely win, but sometimes you do." Atticus said that, too.
ABA JOURNAL July /Aug. 2013



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OJEN At It Again

Many legal professionals in Sudbury know OJEN because of our Mock Trial programs at local high schools. This summer, OJEN continues our outreach work that provides programming to Aboriginal youth and youth in high-risk situations. We are still working hard to build partnerships with youth and First Nations organizations in the Sudbury/Manitoulin area and we hope to provide programs with our partners this fall.

OJEN's mandate is to improve access to justice by strengthening the relationship between the justice system and youth. Programming with justice sector volunteers empowers youth and strengthens relationships. Many youth only contact the justice system when they are in crisis: after they have been charged with a criminal offence or when they interact with Child and Family Services. OJEN's programming helps youth focus their energy towards a positive interaction, and ensures that justice sector volunteers and youth interact in non-crisis situations. Programs are both short and sweet—a question and answer period between a justice sector employee and youth—or it can be more involved—a four session program where youth identify a justice issue that is important to them and work with a volunteer to affect change in their community.

OJEN is always looking for dynamic volunteers from the justice sector to work with you. If you are interested in volunteering in the Sudbury/Manitoulin area, please contact OJEN at info@ojen.ca or sign up at www.ojen.ca/get-involved. "OJEN At It Again"



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