



SDLA NEWSLETTER  
MAY JUNE 2016

# SDLA LEGAL BRIEFS

## MESSAGE FROM THE SDLA PRESIDENT

On May 11<sup>th</sup>, 2016, I was able to attend, on behalf of the Association, at Osgoode Hall at the Law Society of Upper Canada’s Annual General Meeting and from May 12<sup>th</sup> to May 13<sup>th</sup> 2016, Sophie Mageau and I were able to attend FOLA’s (Federation of Ontario Law Associations) Spring Plenary.

FOLA is a unique opportunity to have our voice heard on equal pegging to some of the larger urban centres and discuss with other communities within the Northeast Region and the rest of Ontario, the issues which face the practice of law in Ontario.

I will try to hit the highlights of the Spring Plenary, but I would be glad to discuss, with any of you, the Plenary in further detail upon request. The materials are also available on their website at ([www.fola.ca](http://www.fola.ca))

### Practice of Family Law:

A hot topic of conversation at FOLA’s conference was the upcoming report of Bonkalo J. in relation to self-represented and unrepresented litigants within family law.

FOLA had specifically provided their submissions in relation to expanding the field of practice for paralegals into family law matters.

In brief, FOLA questioned the underlying assumption that paralegals would provide more cost effective service. Setting out that there was no empirical data to support the underlying assumption and further, setting out that paralegals’ lack the experience and training, means that it may take a paralegal longer to complete a task than a lawyer, effectively undoing any costs savings. Continued on page 4

## CARDINAL

Many of you may have wondered when a few of the tomes from our library disappeared from their shelves last month only to reappear some time later.

Like many locales in Sudbury, North Bay and Atikamesksheng Anishnawbek, the books will feature in the background of the CTV murder mystery, CARDINAL,

which follows detective John Cardinal as he attempts to solve the murder of 13 year-old Katie Pine.

CARDINAL is an adaptation of the critically acclaimed Forty Words for Sor-row by Giles Blunt (raised in North Bay) and was adapted for the small screen by Aubrey Nealon (known for her work on Saving Hope and Orphan Black).

The series should air in the 2016 to 2017 television season for CTV and I for one will certainly be tuning in to witness our law books as they receive their fifteen minutes of fame.

JMR

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## The Advocates' Society Medal Dinner Honouring Jim Simmons

### The Advocates' Society Medal Dinner Honouring Jim Simmons

Jim Simmons was presented with The Advocates' Society Medal at a sold-out dinner on April 14<sup>th</sup>, 2016 at the Vale Cavern at Science North. The event was attended by lawyers and judges from throughout Ontario and Jim's family and friends. Also in attendance were a number of directors from the Advocates' Society as well as the current president, Martha McCarthy, vice-president Brad Berg and The Treasurer of the Law Society of Upper Canada, Janet Minor. Speakers at the event included James Ross, Berk Keaney, Geoffrey Larmer and Justice Robbie Gordon. Thank you as well to the master of ceremonies, Harold Cares.



PHOTO:  
MARTHA MCCARTHY, ADVOCATES' SOCIETY PRESIDENT, JAMES SIMMONS Q.C., JANET MINOR TREASURER LAW SOCIETY OF UPPER CANADA

The evening was a celebration of Jim and his numerous accomplishments and the contributions he has made to the legal profession and the community. It was wonderful to see so many lawyers gather to recognize Jim and celebrate with him receiving this prestigious award.

I would like to thank The Advocates' Society for organizing and hosting the event. I also want to thank the numerous generous sponsors who made the evening possible. The sponsors included McKellar Structured Settlements, Giffin Koerth, Collins Barrow, Weaver Simmons, The Sudbury District Law Association, Girones Lawyers, Feifel Broadbent and Gualazzi, Orendorff and Associates and Paquette and Paquette.

Lucille Shaw

Director of The Advocates' Society

# SDLA Legal Briefs Newsletter

## Dinner with the Treasurer

On April 4, 2016 I represented the Ontario Bar Association at a cocktail reception and dinner with the Treasurer of the Law Society, Janet E. Minor at Churchill's Restaurant in North Bay. Approximately 30 lawyers were invited to this dinner through their local district law associations, the Ontario Bar Association, CDLPA, and the Advocates Society. Jack Braithwaite, Lucille Shaw and Jim Simmons from Sudbury were in attendance.

The cocktail reception provided an opportunity to discuss current issues and initiatives of the Law Society. Most of the discussion centered around three main topics: the Law Practice Program, expanding the scope of practice for paralegals and the Compliance Entity Regulation.

The Law Practice Program was developed by the LSUC to assist students who cannot find a 10-month articling placement. According to the Treasurer, law students continue to struggle to find articling placements and employment when articles are completed. This problem is

unique to Ontario. The LPP was developed as an alternative to traditional articles. Students entering the program complete a four-month training course and a four-month work placement. The work placement can be paid or unpaid. The Treasurer encouraged us to recommend this program to the local bar as it provides a more affordable way for smaller firms to benefit from a student.

There was a lot of discussion over dinner regarding expanding the services that paralegals provide. In attendance at the meeting were Cathy Corsetti and Michelle L. Haigh, two Paralegal Benchers. The reasoning behind this expansion is the continuing problem of family litigants not having proper representation. Treasurer Minor indicated that approximately 70% of family law litigants do not have Counsel. The LSUC is concerned about access to justice. Should this change take place, paralegals will have to go through further education to be eligible for the expanded service.

The final big topic of discussion was **Compliance Entity Regulation**, which is being proposed by the LSUC as a pro-

active measure to avoid disciplinary proceedings against lawyers. The Treasurer explained that "small and solo firms" receive the majority of complaints to the law society. Many of these complaints fall under the areas of conflict of interest and lack of communication. The proposed regulation will require that small and solo firms demonstrate that necessary systems are in place. The idea is that by implementing compliance checks, complaints against lawyers will be reduced and dealt with without discipline.

The evening was very enjoyable (especially the desert) and provided an opportunity to weigh in on these important topics. Treasurer Minor encouraged an open discussion, and seemed to take most comments seriously.

The only suggestion I would have would be to include a greater number of the bar.

*Stephanie E. Baker*

## FOLA (FORMERLY KNOWN AS CDLPA) PLENARY MAY 2016

FOLA was also concerned that a paralegal's lack of experience and training may lead to the client not receiving as high a level of service as from a lawyer. FOLA stressed that, contrary to the underlying assumption that there are "simple family matters", family law deals with the intersection of many complex areas of law and that a high level of skill and competence is required to safeguard the interests of the client and that anyone practicing in this area must have that high level of competence.

FOLA is exploring certain projects begun in other jurisdictions that increase access to justice by having on-site limited retainer family lawyers and continues to express its support for a unified family court throughout the province.

### Retention of Female Lawyers within the Criminal Bar:

Following on, and after a review of, the Criminal Lawyers' Association's (CLA) study into the issue, FOLA passed certain motions to form a subcommittee and make efforts to address a glaring issue within private practice in our profession.

The stark reality for the private practitioner is that there is inadequate supports in place to allow a private practitioner to take a leave from practice, primarily to start a family, or, in the litigation field, once they have started a family, sufficient flexibility in the courtroom to allow for the lawyer to perform her or his duty to her or his client and manage the duties owed to his or her family.

The CLA's report shows that many promising lawyers have been forced to exit the practice of criminal law and, further, that this trend disproportionately impacts female practitioners, especially female practitioners starting a family.

This issue is something that is deleterious not only to the individual lawyers, but to the practice as a whole and the general public, who are losing bright, hard-working lawyers faced with a difficult choice, which simply does not exist in most other professions.

### Compliance Based Entity Regulation:

The LSUC is currently considering changing the manner in which it regulates lawyers to a compliance based regulatory system. FOLA's position is that it generally supports efforts to proactively ensure competence of lawyers, however, FOLA is concerned that the position paper provided by the LSUC is vague on how it proposes to introduce entity based regulation and whether regulating law firms will result in new difficulties, falling especially on sole and small practitioners.

### Library & Levy:

There was a general consensus of the continued importance of law libraries (referred to as practice resource centres) and a concern that the LSUC was not transparent in the money paid by LIBRARYCO (the entity that oversees and funds the library) to LSUC, the Library Levy removal from our most recent lawyers' fees, and how the Library Levy has historically been used to fund

the library system.

FOLA's subcommittee is working diligently to stress the continued importance of libraries and library support staff to the LSUC and to seek clarification on the LSUC's plans for the library system moving forward.

### Rules of Professional Conduct:

LSUC is currently considering amendments to the Lawyers' Rules of Professional Conduct, in particular, LSUC is considering reforms to marketing, short term legal services, conflicts of interest, doing business with a client, and dealing with incriminating physical evidence of a client.

### Real Estate Law:

The real estate committee provided a report to FOLA in relation to needs and developments in the area including, their work to have a data-bank of resource material for real estate lawyers, to push for an electronic funds transfer system, to have the LSUC audits conducted at times that did not interfere with sensitive closing dates in busy real estate times (i.e. June 31<sup>st</sup>), their efforts to ensure fair compensation in the relocation contract that is currently being negotiated, letting us know that the Tarion Review is underway, and a way to reduce condo fee deposit issues.

I do have their report and I would be more than willing to share same with interested members.

***Continued on next page...***

## FOLA PLENARY

### FOLA Benefits of Membership:

I know that was a lot to take in, so, for all of you, who bravely slogged through the article, or for those who read for content and skipped to this heading, like me flipping to the sports pages, I did want to provide you with some idea how our membership to FOLA may benefit you, other than keeping you up-to-date on issues within the profession and providing you with a voice on those issues.

Your FOLA membership does provide you with opportunities to travel with other lawyers at discounted rates. Two trips are currently planned one to Egypt and one to Italy. These two opportunities will soon be placed on the FOLA website.

*James Ross*

## LACROIX LAWYERS FORT MCMURRAY DISASTER RELIEF CHALLENGE



It was hard not to be affected by the images of people fleeing Fort McMurray.

Stirred by the devastating impact of the fire, together with our staff we decided to have a dress down day to raise funds to assist the people of Fort McMurray.

We challenged law firms in Sudbury to organize their own fundraising events and join us in lending support.

True to form, the legal community responded immediately and gave generously to this worthy cause.

So far, over \$1,575.00 has been collected and donated to the Canadian Red Cross Alberta Fire Relief Fund which will be matched by the Federal Government.

Special thanks to Wallbridge, Wallbridge; Paquette and Paquette; and Arseneau Poulson for giving us some extra motivation!

We are fortunate to be part of the legal community in Sudbury.

Thank you for your generosity.

The staff and lawyers of Lacroix Lawyers/Avocats

## COLLOQUIUM 2016 OCTOBER 20-21

Planning for Colloquium 2016 to be held on October **20-21, 2016** is in its final stages. The following programs will be offered:

Advocacy  
Real Estate  
Droit Penal  
Family  
Estates  
Criminal Law  
Aboriginal Law  
Business Law  
Civil Litigation  
Droit de Famille  
Evidence

This year we will have Chief Judges from all four levels of Court. (I would be surprised if there was another legal conference that had all chief judges attending.) The Thursday lunch speaker will be the Honourable Justice Smith, Chief Judge of the Superior Court of Justice. The Friday lunch speaker will be the Honourable Justice Maisonneuve, Chief Judge of the Ontario Court of Justice. The Honourable Justice Strathy, Chief

Judge of the Ontario Court of Appeal will be attending and speaking during the civil litigation program. Chief Justice Beverly McLaughlin will be the speaker at the gala dinner on Thursday evening. The dinner will again be held in the Vale Cavern at Science North.

Other notable speakers this year include Justice Pardu from the Ontario Court of Appeal, Justice Perell from the Superior Court of Justice and Brian Greenspan.

We anticipate very strong attendance at the event which will be accredited by the Law Society of Upper Canada for CPD purposes. We will again be using an on-line registration system. A notice will be emailed when registration opens. Please note that the program will be held at the **Radisson** this year. Our new coordinator is Noémi Paquette. You can email her with any questions or suggestions at [sudburycolloquium@gmail.com](mailto:sudburycolloquium@gmail.com). We are very interested in any and all comments and feedback.

This conference has grown significantly since its inception about six years ago. Given our stellar list of speakers and the quality of the content of the program, we anticipate and even larger attendance this year. Our goal is to create a sustainable program so that we can continue to offer, on an annual basis, quality legal education and mentoring in a collegial atmosphere. This is a program designed by and for lawyers from Northeast Ontario. I encourage you all to attend. I also encourage anyone interested in being involved in organizing Colloquium 2017 or with ideas for next year's programming to contact myself of Noémi.

See you all in October!

Lucille Shaw  
Steering Committee

### JOSEPH JAKABFY 50 YEARS AT THE BAR!

### LAW BALL 2016

The SDLA office received a telephone call from Mr. Jakabfy on May 24, 2016.

Mr. Jakabfy wished to inform the office that after 50 years he has cleared out his locker in the Barrister's lounge.

Joe mentions that he has not retired. He wishes to free up his locker for another lawyer who may wish to uti-

lize the service to hold their gown., etc.

We appreciate the notice of an empty locker!

Thank you Mr. Jakabfy!

Congratulations on your 50 years at the Bar!

*Rannah*

### LAW BALL 2016

**THE 2016 LAW BALL WILL BE HELD ON SATURDAY NOVEMBER 19, 2016. THIS YEAR THE BALL WILL BE HELD AT THE HELLENIC CENTRE 486 ESTER ROAD, SUDBURY, ON.**

## SDLA 2016 GOLF TOURNAMENT

This year's tournament will again be held at **Cedar Green and the date is Friday, August 19<sup>th</sup>, 2016.**

This year's registration fee will remain the same as last year, \$125.00, but the main difference is that this year golf carts will be included in your registration fee so that all participants will be entitled to enjoy 18 holes of golf, with the benefit of a cart, followed by the usual steak dinner and prizes and mementos for this year's tournament.

Again members will have the option of regular medal/stroke play or what has become quite

popular for many participants, the scramble format.

As always we would ask that you notify either myself or the library office as to your intention to play, and as soon as you have put together your foursomes please advise in that regard as well.

There is no real need to designate which format you intend to elect, because obviously the score cards you hand in will be indicative of the choice.

It is helpful to have an early response concern-

ing those who intend to participate in this year's tournament so please contact either myself or Rannah and or Nina at the law library and please forward the registration fee at your earliest convenience.

We look forward to hearing from everyone as soon as possible and should there be any questions please contact me at your convenience.

Thank you MPO

## “Tweeting Lawyer”: Powerful Platform or Risky Undertaking?

Although there is a high adoption of social media by lawyers in personal lives, lawyers have not widely embraced social media for professional purposes. 84.5% of respondents to the American Bar Association's 2015 Legal Technology Survey indicated that they use a social network for non-professional reasons. While only 20% of the lawyers indicated that their firm was on Twitter and 37% on Facebook, more than 73% of the firms have a presence on LinkedIn

Social media creates a risk of inadvertent disclosure of privileged or confidential information, including identities of current, former or prospective clients. Clients' confidentiality must be maintained at all times and social media should not include any information about clients, unless clients have consented. By creating social media networks through social media sites, firms run the risk of disclosing that a particular client has retained the firm. Besides, Facebook have the capability to geotagging in posts or photos that could reveal the geographic location of your confidential client meeting. While online com-

munication may seem casual, lawyers should be aware that rules are not relaxed and should protect the online confidential and privileged information as a face-to-face communication.

By enabling online communications between lawyers and prospective clients, social media platforms may create inadvertent lawyer-client relationships and trigger ethical obligations for lawyers. Online posts or tweets in responses to legal questions or suggestions to particular courses of action may be misconstrued as a consultation and create in a client's mind a lawyer-client relationship. Using disclaimers in the firm's profile or comments before posting information online may help lawyers avoid creating inadvertent lawyer-client relations.

More

<http://www.slaw.ca/2016/04/19/the-ethics-of-the-tweeting-lawyer-powerful-platform-or-risky->

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**The Mindful Lawyer CPD Series**



Lawyers, the time has come to evaluate and care for your most important asset — YOU. Lawyers are remarkably efficient at taking care of clients, transactions, cases, files, and juggling all of the pressures that come along with impossible deadlines, high-stake deals and endless responsibilities.

More often than not, we can easily disconnect from the “person” at the centre of this storm. Indulge in guilt-free time away from your demanding work life to reconnect with essential time management, relaxation, and emotional intelligence skills. Most importantly, connect with your colleagues and earn those elusive professionalism credits while nourishing your soul.

Take part in the Mindful Lawyer Series from the OBA and reap the benefits in your professional and personal life. Archived video from past Mindful Lawyer CPD programs can be found below. The OBA will also continue to respond to members' needs and design upcoming Mindful Lawyer CPD programs accordingly.

Interested lawyers register on the OBA website  
1 hour Professionalism CPD June 1, 2016  
12:30—1:30

[https://www.cbapd.org/Login\\_en.aspx?Branch=ON&Code=16MIN0601T](https://www.cbapd.org/Login_en.aspx?Branch=ON&Code=16MIN0601T)

Module 9  
Avoid Burnout: Train for Resilience

Most lawyers have experienced burnout at some point in their career. Learn how to identify the signs early on, develop an organized and proactive approach to managing your professional life and start to train for resilience in every aspect of your life.

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