

THE ASSISTANT



BC Association of Legal Assistants

Issue II - 1998, Volume 6

PRESIDENT'S COLUMN

By Jasbir Bains

The 1997/1998 year has been a difficult one for the directors, mainly because for the second year running most of the directors did double duty. This is one reason why the AGM was not held on April 8, 1998. We received a set back when the Registrar of Companies turned down our application for occupational title protection. However, we can turn the rejection into a positive, because now we know what the "official" positions are of the other organizations involved in the legal profession. To us it appears that the main concern was related to education and the next Board must turn its attention to education. In fact, I received phone calls from various people connected with the legal profession wanting to know about our association. Now is not the time to sit back and rest and neglect all the gains made in the past. Now is the best time ever to march on with our goal of achieving certification.

The first meeting of the new directors was held immediately after the AGM on April 9, 1997, for the sole purpose of appointing new chairpersons of committees and officers. The following committee chairpersons and/or officers were appointed:

Jasbir Bains	-	President
Jerena Laursen	-	Vice President
Glenis Bryson	-	Secretary/Membership
Gemma Hale	-	Treasurer
Ann Halkett	-	Newsletter/Programs
Jerena Laursen	-	Public Relations
Connie Iverson	-	Programs
Glenis Bryson/ Jerena Laursen	-	Education

The next meeting was held on May 6, 1997. In the meantime, Jerena Laursen had submitted her resignation as a director and an officer. However, she agreed to remain as BCALA's representative on Selkirk College's Legal Assistant Program advisory committee. As a result of Jerena Laursen's resignation, Ann Halkett was appointed Vice President and I took over the public relations duties.

At the June 4, 1997 meeting, Connie Iverson advised that with Ann Halkett, she was developing a 1997 lecture series and that the first seminar was organized for June 19, 1997, regarding "Party and Party Bills of Costs". The seminar was a huge success with about 70 people attending.

Continued on page 3.

INSIDE THIS ISSUE:

Membership Update	2
Secretary's Report	2
BCALA Endowment Fund.	3
Capilano College Practicum	5
Capilano College Distance Educ. Program.	5
Limitation Periods & How They Run	5
LTO Filing Tips	9
Industry Canada Update	9
The Seven Commandments of Keyboard Ergonomics	9
Those American Judges	13
Title Insurance in B.C.	15
VCC - Continuing Educ. Legal Assistant Program	17
Insensitive Firing May Extend Notice Period	19
Recent Wrongful Dismissal Awards	21
Highlights of Govt. Fee Increases	23
New Builders Lien Act.	25
Practice Update	26
Law Primer	27

MEMBERSHIP UPDATE

As of the April 15, 1998 AGM we had 58 voting members and 26 non-voting members.



SECRETARY'S REPORT

By Glenis Bryson

At the annual general meeting of the members of the BC Association of Legal Assistants held on April 15, 1998 the following people were elected as directors for the ensuing year:

- Jasbir Bains
- Glenis Bryson
- Ann Halkett
- Gemma Hale
- Connie Iverson
- Thora Arnason

The president delivered his report to the members and touched briefly on the highlights of the past year. (A summary of that report is reprinted on page 1.)

At the directors' meeting immediately following the 1998 AGM the following people were elected as officers:

- Jasbir Bains - President
- Glenis Bryson - Secretary
- Ann Halkett - Vice President
- Gemma Hale - Treasurer

and the following people were appointed as chairpersons and/or co-chairpersons for the various committees for the ensuing year:

- Jasbir Bains - Public Relations
- Glenis Bryson - Education
- Thora Arnason - Membership
- Ann Halkett - Newsletter
- Connie Iverson - Programs

We invite all members to contact committee chairs to provide assistance in any area of interest for the upcoming year. We are working very hard on expanding our membership throughout British Columbia and would welcome help.

THE ASSISTANT

Address: P.O. Box 4127
Main Post Office
Vancouver, B.C. V6B 3Z6
Editor/Vice President: Ann Halkett
Telephone: (604) 689-7400 Fax: (604) 689-3444
E-mail: Halkett30@aol.com

Committees/Directors

President/Membership:

Jasbir Bains 661-1701

Secretary/Education:

Glenis Bryson 684-4777

Treasurer:

Gemma Hale 685-1343

Membership:

Thora Arnason 631-3164

Programs:

Connie Iverson 294-9594

Capilano College Legal Assistant Student Representatives:

First Year: Heather Woods and Arminder Randhawa

Second Year: John Kim

Advertising

Rate includes four yearly issues:

Full page	\$200	Quarter page	\$ 75
Half page	\$100	Business card	\$ 50

Contact Ann Halkett for details.

History and Purpose

The BC Association of Legal Assistants (BCALA) is a voluntary non-profit association formed in 1979 to promote the professional development and continuing education of legal assistants in B.C. If interested in becoming a member contact Thora Arnason.

Submissions

Articles for *The Assistant* are gladly accepted. If possible please provide submissions in both hard copy and disk form (formatted for Word Perfect 5.1). The deadline for submissions for the next issue is July 24, 1998. The editor reserves the right to edit articles for brevity and grammar.

Disclaimer

All opinions or views expressed in *The Assistant* are those of the writers and not necessarily endorsed by BCALA or its directors.

Subscription

Annual subscription for non-members is \$24.00. Make cheque payable to BC Association of Legal Assistants and mail to the editor's attention at the above address.

Reprints

Articles may only be reprinted with permission. Contact Editor for details.

The next seminar was held on July 29, 1997. This time the topic was Rule 65 and amendments to the Supreme Court Rules. About 70 people attended.

A board meeting was held on Sept. 3, 1997. The main item for discussion was the proposal from IKON whereby it would print the newsletter and would become the official printer of BCALA. The Board accepted the IKON proposal subject to further clarification.

On or about September 17, 1997, we received notification from the Ministry of Finance and Corporate Relations that our application for occupational title protection had been turned down. The letter gave no reason but stated that:

"...interested parties have raised some concerns as to the percentage of members the society represents throughout the province along with weak membership requirements for admission.

You may wish to contact the Law Society of B.C. to assist the society in strengthening the above concerns and reapply for occupational title protection at a later date".

The members dinner was held on October 8, 1997, at Listel O'Doul's Hotel. The topic was "Employment Update for Legal Assistants". The dinner was sold out with 108 attending and several people had to be turned away.

On behalf of the directors I would like to thank all organizations, especially Agentis, IKON, Russell & DuMoulin, Farris Vaughan, Richard Buell Sutton, etc. who have assisted BCALA in the past year.

As President I would like to thank all the directors for putting in countless hours to ensure that everything goes smoothly. A special thanks goes to Connie Iverson and Ann Halkett for organizing the seminars which have been well attended albeit by non-members.

Last, I would like to wish the new board of directors the best of success and urge them to carry on and see through the changes that this board began.

BCALA ENDOWMENT FUND

By Gemma Hale, Treasurer

In 1994 the BC Association of Legal Assistants (then known as the Western Association of Legal Assistants) established an endowment fund with the Capilano College Foundation. Any and all funds donated are tax deductible (which is irrelevant as we are a non-profit Society) and are eligible for matching funds from the Provincial Government Matching Endowment Program. As this is an endowment fund the capital of the fund remains intact and, once the Association has donated \$2,500.00 (matched by \$2,500.00 from the provincial government), the interest income is used to fund a scholarship or bursary.

To date the total donated to the Capilano College Foundation by BCALA is \$1,500.00. The Association is presently looking into setting up a similar fund for financial awards at Selkirk College and at Vancouver Community College.

The terms of reference as to who will receive the bursary are based on a combination of criteria including G.P.A. and the student's financial need. The recipient, who must be enrolled in the full-time program, is selected by the Capilano College Scholarship and Awards Committee on recommendation from the Legal Assistant Faculty and, depending on the income available from the endowment fund, the award will be given in the Spring and/or Fall.

We believe this is a worthwhile donation made possible through monies generated primarily from seminars and in part from membership dues. With an increasing number of members joining the Association from Selkirk and V.C.C. we are looking at providing similar modest awards to these institutions as well.

JOIN BCALA
Continue your education
and professional development.

WESTERN LEGAL INFORMATION SERVICES INC.



SERVING ONLY THE LEGAL PROFESSION

- Real Property Services
- Land Searches
- Land Registrations
- Corporate Provincial & Federal
- Personal Property Registries
- Motor Vehicles
- Litigation
- Process Serving
- NUANS
- Trademarks
- Manufactured Home Registries
- Birth/Death/Marriage Certificates
- Bankruptcy
- Corporate Supplies



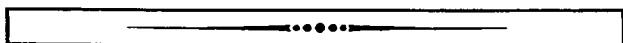
WESTERN LEGAL
INFORMATION
SERVICES INC.

For more information
call Nancy Wilson
at (604) 713-7200

New Westminster • Vancouver • Victoria • Abbotsford

CAPILANO COLLEGE PRACTICUMS

The legal assistant students at Capilano College will be finishing their course work on May 1, 1998. The students must complete a six month practicum in a law firm, corporate legal department, or government office. This year's students come from a wide variety of backgrounds and will make great legal assistants. Contact Marion Cragg at 984-4959 for more information.



CAPILANO COLLEGE DISTANCE EDUCATION PROGRAM

This program is offered each term via the Internet for students unable to attend the part-time program either at Capilano College or Douglas College. Course content is the same as the part-time Legal Assistant Program, with both written materials, mailed to the students, and instruction over the Internet by instructors. Examinations are also conducted via the Internet. Chat lines between students provide continuity and connection during the term.

Please note that this is not a correspondence course as students are expected to keep pace with the school term.

For application and registration information contact Lisa Larkins, Legal Assistant Department at 986-1911, Local 2295 or 983-7594.

JOB ANNOUNCEMENTS

For a nominal fee of \$100 BCALA will mail job notices to all its members- many of whom are specialized legal assistants with a number of years of experience. If you're tired of trying to find help through the want ads we have qualified people who want to see you.

LIMITATION PERIODS AND HOW THEY RUN

By Pierre Cantin

Reprinted with permission from Singleton, Urquhart, Scott's "Letter of the Law" newsletter - Vol. 10, #1

Limitation periods are a potential nightmare for lawyers and clients: you know you have a solid cause of action but fear you may be out of time. Even clear, comprehensive rules do not help because most cases are fact specific.

Any analysis of limitation periods always revolves around the Limitation Act. This overarching legislation usually dictates if it is too late to bring a specific cause of action. To properly analyze the Act, you must answer the three questions discussed below.

What limitation period applies?

The Limitation Act states that the default period is six years - i.e., if your particular facts do not fall within any other piece of legislation, the six-year period applies. Limitation period provisions are found in other acts but they deal mainly with administrative remedies. For example, the Labour Relations Act sets the time limit to appeal a Labour Board decision.

For the usual action for damages, one must turn to the Limitation Act to determine if a specific limitation period applies. The Act sets periods-two, six or ten years-for many potential actions. It also states that there is no limitation on others, the most notable example being actions based on sexual misconduct. Before assuming that the six-year period applies, you must make sure your case does not fall within any of the stated provisions.

This may sound obvious, but it is not. For example, a two-year limitation period applies to tort actions "...for damages in respect of injury to property". The authorities have held that "injury to property" refers to property damaged by intrinsic act and not to claims for damage occasioned by defects in the property. If you are suing the manufacturer or designer of a piece

Continued on page 7.

ACCURATE *Realtime* REPORTING

903 - 1127 Barclay St., Vancouver, BC V6E 4C6
 Office & Fax: (604) 685-6050 Cell: (604) 377-0612
 e-mail: catkot@smarrt.com



PLEASE READ THIS NOTICE. IT MAY CHANGE A MOST IMPORTANT ASPECT OF YOUR LITIGATION

TO: ALL LITIGATORS

I am one of the "Group of Seven" who realtime-reported the 11-month *Gustafsen Lake* trial for Judge Josephson. For the past few months, besides regular reporting, I have been transcribing audiotapes of Supreme Court trials. You will be interested to know audiotapes are not turned on in time, speaker misidentification occurs routinely when counsel's voices are indistinct, given that channel 2 and 3 mikes are both at the lectern, spellings and exhibit lists are non-existent, and of course inaudibles are an inevitable result of such a backward step in technology.

COURT REPORTER'S FEE LESS THAN OR EQUAL TO TYPING COMPANY'S!

All of the above-noted potentially serious problems can be completely eliminated very simply: Take me to Court! In my survey of Vancouver lawyers, I have found that most prefer the attendance of a reporter to that of an audiotaped transcription, the hesitation being cost. However, with my low overhead and clean writing style (therefore faster turnaround), I can afford to match a transcription company's rates, and you're still ahead as far as speed, accuracy, and all the add-on services I provide. See for yourself:

<p>(A) <u>Typing Company's Transcript Fee:</u> (3- to 4-week turnaround) 85 pages @ \$5.00 pp (Or + 1) Total Per Day: \$425.00</p>	<p>(B) * <u>Reporter C. Kottmeier's Court Fee:</u> (2-week turnaround or better) NO ATTENDANCE FEE WHEN FULL DAY ORDERED! 85 pages @ \$5.00 pp (Or + 1) Total Per Day: \$425.00</p>									
<p>(C) * <u>Reporter C. Kottmeier's Court Fees Split by Parties (2-week turnaround or better)</u> <i>Client pays \$70.00 less per day than if ordering O + 1 from typing company!</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Attendance (\$40 pr/hr)</td> <td style="width: 33%;"><u>Counsel 1:</u> \$100.00</td> <td style="width: 33%;"><u>Counsel 2:</u> \$100.00</td> </tr> <tr> <td>85 pgs @ \$6.00 pp (Or + 1):</td> <td style="text-align: right;"><u>255.00</u></td> <td style="text-align: right;"><u>255.00</u></td> </tr> <tr> <td style="text-align: right;">Total Per Day:</td> <td style="text-align: right;">\$355.00</td> <td style="text-align: right;">Total Per Day: \$355.00</td> </tr> </table>		Attendance (\$40 pr/hr)	<u>Counsel 1:</u> \$100.00	<u>Counsel 2:</u> \$100.00	85 pgs @ \$6.00 pp (Or + 1):	<u>255.00</u>	<u>255.00</u>	Total Per Day:	\$355.00	Total Per Day: \$355.00
Attendance (\$40 pr/hr)	<u>Counsel 1:</u> \$100.00	<u>Counsel 2:</u> \$100.00								
85 pgs @ \$6.00 pp (Or + 1):	<u>255.00</u>	<u>255.00</u>								
Total Per Day:	\$355.00	Total Per Day: \$355.00								
<p>(D) * <u>C. Kottmeier's Audiotape Transc. Fee:</u> (2-week turnaround or better)</p> <p>85 pgs @ \$6.50 pp (1 party): \$ <u>552.50</u> 85 pgs @ \$8.00 pp divided by 2 parties: \$ <u>340.00</u> ea.</p>	<p>(E) * <u>Reporter C. Kottmeier's Uncertified Disk:</u> (Take transcript with you at day's end)</p> <p>\$150 + Attendance (\$40 pr/hr) Total Per Day: \$350.00</p>									

* (Uncertified transcript at day's end, e-mailed daily, expedited, realtime, etc., are also available at very competitive rates.)

In closing, as a businessperson, I'd appreciate the opportunity to work with you. However, if your loyalties lie with someone else, as Secretary of our court reporters' association (BCSRA), I welcome your comments, observations, or opinions on your audiotape/transcript experiences. I'm sure you'll agree litigants deserve the best product for their money!

Yours sincerely,

Catherine Kottmeier,
 Official & Realtime Reporter

of property for inherent defects, the limitation period is six years; if you are suing a repairman who damages your property, the period is two years.

When did the cause of action arise?

Once you know the limitation period, you must determine when it starts to run. In the Limitation Act, time starts on "...the date on which the right to bring the action arose". And that happens when all the necessary elements of the action come into existence, not when the plaintiff is made aware of them.

Generally speaking therefore, when the act and the consequent damage have occurred, the limitation clock starts ticking, even though you may not even be aware that damage has occurred (as is often the case for inherent defects). Although this may seem harsh, it is not an absolute rule. The Limitation Act contains provisions that postpone the running of the limitation period in certain circumstances, which leads us to the third step in our analysis.

Can postponement provisions delay the running of time?

The Limitation Act provides relief from the rule stated above, but only for certain individuals and for certain well-defined, but wide-ranging, actions. As long as you are one of those individuals (e.g. minors and incapacitated persons) or if your action falls within one of the stated claims (e.g. a claim for personal injury, damage to property, etc.), you may benefit from the postponement provisions.

These provisions say that the limitation period does not begin until

- the identity of the defendant is known to the plaintiff, and
- facts are available to the plaintiff, the nature of which a reasonable person, knowing those facts and having sought appropriate legal advice, would have found that a cause of action would, apart from the effect of the expiration of the limitation period, have a reasonable prospect of success.

This means, for example in the case of inherent defects in an item, that time would start to run not

when you discover you have a cause of action but when a reasonable person would have discovered the inherent defects and sought legal advice, which would have indicated that a cause of action existed.

There are two sub-categories under which time can be postponed under the Limitation Act. The first is a change of the law. An action may, on undisputed facts, be thought to have no reasonable prospect of success when the cause of action arises, but years later the law may change so that the cause of action may, for the first time, be considered to have had, when it arose, a reasonable prospect of success. If that occurs, the running of time would be postponed until the law changed.

The second category is the circumstances where the interests of a plaintiff will dictate that he not bring, or postpone bringing, an action against a defendant whose identity is known, even though the facts within his knowledge demonstrate that such an action would have a reasonable prospect of success. It is uncertain when a set of facts would fall under this category, as minimal case law exists. An example might be whether it would be reasonable for a patient to sue a doctor while still in that doctor's care.

NR ASSOCIATED
REPORTERS
INC.

4th FLOOR
625 HOWE STREET
VANCOUVER, B.C.
CANADA V6C 2T6

FOR
APPOINTMENT
TEL.: (604) 687-3903
FAX: (604) 681-3745

WHY SHOULD YOU JOIN BCALA?

- quarterly newsletter
- annual salary survey of working members
- job notices sent only to members
- lecture series on topics of interest (members attend for free)
- continuing education and professional development
- occupational title protection process underway
- networking



Computer Aided
Transcription by

ECLIPSE

ADAMS & PHELPS LTD

Registered Professional Reporters

682-6757

- Real-Time Reporting
- Specializing in major litigation
- Condensed Transcripts
- Computer Disks
- Free Boardrooms
- Chambers Appeal Books
- Travel
- Litigation Support

1700 - 1075 West Georgia Street, Vancouver, B.C. V6E 3C9
Telephone: (604) 682-6757 • Fax: (604) 682-6756

REMINDER TO ALL LEGAL ASSISTANTS

We are now providing registry services for both
Prince George and Prince Rupert Land Title Districts.

One-Stop Search and Registry Services

including Court Registries, Property Taxes, Process Serving.....
for any region in the Province north of Hope.

Quality People



Quality Service

NORTHERN REGISTRY SERVICES

Call: (250)564-0616 1-800-292-8388 Fax: (250) 563-8622
#152 - 1011 Fourth Avenue, Plaza 400, Prince George, BC V2L 5S7

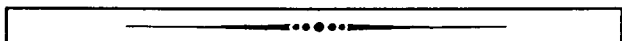
LTO FILING TIPS

By Nancy Wilson, Director of Sales and Marketing,
Western Legal Information Services Inc.

When filing a Form 17 with a Vesting Order or a Foreclosure Order, you must make application on the Form 17 to merge any charges filed after the Certificate of Pending Litigation.

The address listed on a title search is NOT necessarily the address of the property itself; it is the address given by the owner for the receipt of property tax notices. Therefore the address on the title will be different from the property address if the owner lives elsewhere.

Solicitor/notary stamps must be clearly marked on the documents in order to be accurately scanned by the LTO systems, or a defect fee may result.



INDUSTRY CANADA UPDATE

The following publications and forms are available free from the Corporation Directorate's Information and Publication Unit at (613) 941-9042 or on the Internet (<http://strategis.ic.gc.ca> - once connected to Strategis, click on "The Marketplace: Services, Laws and Regulations" and then on "Corporations Directorate"):

- Name Granting Guidelines
- Incorporation Kit (includes the forms required for incorporation)
- Small Business Guide to Federal Incorporation.

**Law Society of B.C.
Discrimination Ombudsperson**

Gail H. Forsythe
Phone: (604) 687-2344

**If you work for a lawfirm, and
need assistance with a work-related problem,
call for free and confidential assistance**

THE SEVEN COMMANDMENTS OF KEYBOARD ERGONOMICS

By Irene Harris, Registered Occupational Therapist and Certified Work Capacity Evaluator, OT Consulting/Treatment Services Ltd. Reprinted with permission.

Although many of us use computers, few have considered the effect of these machines on our posture. This is a dangerous oversight. Everything about your workplace, including placement of your keyboard and the height of your computer screen, affects your posture. Incorrect posture puts stress on vulnerable areas of the body like the neck, wrist, and lower back.

As an occupational therapist who works with clients in the sedentary workforce, I often see the effects of poor workplace posture. It's more than just an ache at the end of the day. Everyday pain in the neck, wrist, or lower back may progress to *cumulative trauma disorder* - a long-term pain that can keep you from doing your job or enjoying your time off.

People often ask me how to tell whether they are using the correct posture at work. I tell them that they need to position the body so it is anatomically correct, so that the vertebrae line up with the correct curvatures and the discs are not compromised. The joints should be positioned in mid-range of motion and the muscles should be aligned for correct biomechanical and physiological use.

This response tends to elicit a look of bewilderment. So, rather than confuse people with jargon, I've outlined, in plain English, "seven commandments" of ergonomic health on the job. You may wish to sit at your workstation while you read them.

1. Mind the Spine

If you sit for a long time in front of a computer, you owe it to yourself to do it properly. The first thing

Continued on page 11.

CAN YOUR CLIENT
RETURN TO WORK?

PHYSICAL CAPACITY EVALUATIONS
Assessment of Physical Capacities, PCE

- Determines the client's ongoing physical limitations
- Assesses current level of physical function/work potential
- Provides recommendations for treatment and return-to-work



OT CONSULTING/TREATMENT SERVICES LTD.

210 - 3438 Lougheed Hwy., Vancouver, B.C. V5M 2A4

Phone: (604) 215-3660 * Fax: (604) 215-3669



**COST OF
FUTURE CARE**

"How Much Is Enough?"

Considers . . .

- Loss of independence
- Permanent disability
- Expenses related to equipment, services and supplies
- Future consideration
- Rehabilitation planning
- Wage loss

you need to do is make sure the chair fits your body. Is your lumbar lordosis maintained, or, in other words, is your lower back curve supported? Bend your elbow to 90 degrees and put your hand behind your back. It fits nicely into a curve back there, doesn't it? That's your lumbar curve. This curve should exist while you are seated: Your chair should have an outcropping at this level to support and maintain the natural curve of your lower back.

When this curve is flattened, people tend to sit in a slouch (rounded shoulders, rounded back). It's the first step to a Quasimodo imitation. Remember, you age by the minute, and sitting with improper posture tends to age you so that, even when you are walking or standing, you will look hunched. It is of utmost importance to maintain that low back curve when sitting so that the rest of your body lines up correctly.

2. Beware of the Chair

Your feet should not dangle when you sit, nor should they be wrapped around the struts of your chair. They should be firmly planted on the floor. You should have enough room to cross your legs under your desk when you are sitting, but you should not sit for long with your legs crossed because of the danger of varicose veins. Your chair should be high enough so the crease in the front of your elbow (epicondylar fossa) is the same height as your keyboard tray. If it's not, raise your chair. If your feet still dangle, use a footstool. If you find you have to lower your chair to get the elbow-keyboard tray alignment and your hips and knees are no longer bent at 90 degrees, stop. Do something to raise your keyboard.

3. Assist the Wrist

The alignment of the wrist with the keyboard is of utmost importance. You've probably heard of carpal tunnel syndrome, a condition caused by pressure on the nerves which pass through the wrist. If you progress to this diagnosis, your livelihood is threatened. As a means of prevention, keep a straight wrist. What is a straight wrist? To understand this concept, do this exercise. Place the entire length of your forearm on a table or desk surface. (Your elbow should be bent.) With your palm facing the table,

pretend you are cupping half an orange. Lock your wrist in this position and look at it. The back of your hand (knuckles) will appear to be bent slightly backward.

Look at your thumb. It should be aligned at 12 o'clock with your forearm. This is the position your wrists should be in when you are keying, so that the important vessels transported by the carpal tunnel are not compromised.

4. Align the Arms

Your arms should be directly beside your trunk, almost touching it, when you are keying. This position protects your neck. When you sit with your elbows away from your body, you are placing stress on your neck. The keyboard should be positioned so you can type while your elbows are bent beside your trunk. You should be able to perform your most frequent tasks within a forearm's reach from your body. Your monitor should be positioned 12 to 24 inches away from your body, which translates into an arm's reach. Easy, right?

5. Check the Chin

Your chin should be directly over your sternal notch. To locate this area, touch your breastbone, then run your fingers up toward your head until you come to the hollow in your neck. The curve at the top of your breastbone (sternum) is called the sternal notch. When you are working, your chin should be directly above this notch, not to the right or left of it. You may have to reposition your monitor so that you can keep your chin over your sternal notch. Also, when working, your chin alignment should be parallel to the floor.

6. Centre the Nose

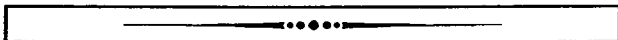
Your nose is an important anatomical landmark, too. The keyboard should be positioned so your nose is lined up between the g and h on the keyboard. This alignment will prevent your wrists from moving out of the correct anatomical position. Your nose should line up with the centre of the screen. The screen will then be at the correct height to maintain your cervical

curve (the curve of your neck). Tall people may have to raise the monitor.

7. Take a Break

Remember to take a break every hour when you are working at a computer for long periods. A break means repositioning the body: You can do a few stretches or make some phone calls.

If you organize your workspace so that the anatomical landmarks described are aligned, correct posture will be your reward. You will be working to prevent the effect of cumulative trauma disorder. The commandments will seem onerous to implement, especially at first, but remember, you are important. Work healthily.



Books for British Columbians

*British Columbia's
Specialty Bookstore*

 **Your Source...**

...for BC Government Legislation & Selected Ministry Publications

Special Order Service for Federal Government Publications

Mall Orders: Pre-pay by Cheque or credit card

- Revised Statutes of BC (also available electronically)
- Consolidated Regulations of BC
- Federal Legislation
- BC Legal Manuals
- Standing Order Service
- Ministry of Energy and Mines
- Geological Survey Publications & Mapping
- Trade Manuals & Codes
- Nautical Charts
- Topographical Maps



**Crown
Publications Inc.**

521 FORT STREET, VICTORIA, B.C. V8W 1E7 (250) 386-4636 FAX (250) 386-0221

email: crown@pinc.com website: www.crownpub.bc.ca

PHONE, FAX OR EMAIL ORDERS

250-386-4636 FAX 250-386-0221



UNITED REPORTING

VANCOUVER'S LARGEST OFFICIAL REPORTING FIRM

- Computerized transcription
- Free ASCII disks
- Real-time transcription
- Daily and expedited transcripts
- Condensed transcripts and keyword indexing
- Examinations for discovery
- Examinations in aid of execution
- Arbitration hearings
- Registrars' hearings
- Appeal book preparation
- Travel
- Comfortable boardrooms

United Reporting Service Ltd.
610 - 1030 West Georgia St.
Vancouver, BC V6E 4H4
Fax 689-1077

689-1088

Visit our new web site:
www.court-reporter.com

THOSE AMERICAN JUDGES

Internet extract

Here are some actual statements made during court cases:

Judge: I know you, don't I?
Defendant: Uh, yes.
Judge: All right, tell me, how do I know you?
Defendant: Judge, do I have to tell you?
Judge: Of course, you might be obstructing justice not to tell me.
Defendant: Okay. I was your bookie.

From a defendant representing himself...

Defendant: Did you get a good look at me when I stole your purse?

Victim: Yes, I saw you clearly. You are the one who stole my purse.

Defendant: I should have shot you while I had the chance.

Judge: The charge here is theft of frozen chickens. Are you the defendant?

Defendant: No, sir, I'm the guy who stole the chickens.

Lawyer: How do you feel about defence attorneys?

Juror: I think they should all be drowned at birth.

Lawyer: Well, then, you are obviously biased for the prosecution.

Juror: That's not true. I think prosecutors should be drowned at birth too.

Lawyer questioning his client on the witness stand...

Plaintiff's Lawyer: What doctor treated you for the injuries you sustained while at work?

Plaintiff: Dr. J.

Plaintiff's Lawyer: And what kind of physician is Dr. J?

Plaintiff: Well, I'm not sure, but I remember that you said he was a good plaintiff's doctor.

Judge: Is there any reason you could not serve as a juror in this case?

Juror: I don't want to be away from my job that long.

Judge: Can't they do without you at work?

Juror: Yes, but I don't want them to know it.

Lawyer: Tell us about the fight.

Witness: I didn't see no fight.

Lawyer: Well, tell us what you did see.

Witness: I went to a dance at the Turner house, and as the men swung around and changed partners, they would slap each other, and one fellow hit harder than the other one liked, as so the other one hit back and somebody pulled a knife and someone else drew a six-shooter and another guy came up with a rifle that had been hidden under a bed, and the air was filled with yelling and smoke and bullets.

Lawyer: You too were shot in the fracas?

Witness: No sir, I was shot midway between the fracas and the navel.

Defendant: Judge, I want you to appoint me another lawyer.

Judge: And why is that?

Defendant: Because the Public Defender isn't interested in my case.

Judge (to Public Defender): Do you have any comments on the defendant's motion?

Public Defender: I'm sorry, Your Honour. I wasn't listening.

Judge: Please identify yourself for the record.

Defendant: Colonel Ebenezer Jackson.

Judge: What does the "Colonel" stand for?

Defendant: Well, it's kinda like the "Honourable" in front of your name. Not a damn thing.

Judge: You are charged with habitual drunkenness. Have you anything to say in your defense?

Defendant: Habitual thirstiness?

Defendant (after being sentenced to 90 days in jail):
Can I address the court?

Judge: Of course.

Defendant: If I called you a son of a bitch, what would you do?

Judge: I'd hold you in contempt and assess an additional five days in jail.

Defendant: What if I thought you were a son of a bitch?

Judge: I can't do anything about that. There's no law against thinking.

Defendant: In that case, I think you're a son of a bitch.

LEGAL ASSISTANT DIRECTORY

If you would like your name to appear in a legal directory for legal assistants please mail your name, law firm name and telephone number to the BC Association of Legal Assistants, P.O. Box 4127, Main Post Office, Vancouver, B.C. V6B 3Z6

or E-mail: Halkett30@aol.com

LITIGATION SUPPORT SERVICES FOR TRAUMATIC BRAIN INJURY

ASSESSMENTS

- Neuropsychology
- Situational/Functional
- Occupational Therapy
- Cost of Future Care
- Medical Legal
- Physiatry (physical medicine & rehabilitation)
- Employability
- Vocational
- Rehabilitation Plans
- Work Capacity Evaluation
- Kinesiology/Fitness

Contact: Gene Wallace-Deering
1118A Austin Avenue
Coquitlam, B.C. V3K 3P5



Phone: (604)936-6888
Fax: (604)936-7956
Toll Free: 1-800-535-9988

(Providing specialized assessment, rehabilitation and support services for the traumatically brain injured since 1983)



COAST
REPORTING SERVICES INC.

1101-808 Nelson Street, Vancouver, B.C. V6Z 2H2
Tel: (604) 662-8066 Fax: (604) 669-8030

- Competitive rates & fast transcript delivery
- Free ASCII disk available with transcript order
- Examinations for discovery, meetings, hearings and depositions
- Convenient downtown location with scenic boardrooms
- Condensed transcripts & keyword indexing
- Real-time transcription

TITLE INSURANCE IN BRITISH COLUMBIA

By Christopher Quiring, Legal Counsel for First American Title Insurance Company in B.C. Founded in 1889, First American Title Insurance Company expanded into Canada in 1991 and now has offices in Halifax, Montreal, Hamilton, Mississauga, Calgary and Vancouver.

Over the past 50 years, title insurance has only been used on a limited basis in Canada. Recently however, changes in the financial and real estate industries including new mortgage products, increased competition and consumer sophistication are demanding new ways to manage risk in real estate and lending transactions. Title insurance has provided the basis for land transfers and mortgages in the United States since 1876 and is now available across Canada.

What Is Title Insurance?

Title insurance is technically defined as "an insured statement of the condition of title or ownership of real property at the time a policy is issued". In practice, it is insurance which protects lenders and purchasers against loss or damage suffered due to title defects, survey problems and other related matters.

How Will Title Insurance Affect Legal Assistants in B.C.?

With the dramatic growth of the use of title insurance in Canada, legal assistants working in the areas of real estate and banking will undoubtedly be called upon to discuss the various applications of title insurance and ultimately to order the policies. To lawyers and their assistants, title insurance is a tool which will most often be used to help close real estate and banking transaction deals for which there is no survey or existing survey title problems arise.

The coverage provided by a policy of title insurance can be generally divided into three categories, survey coverage, title coverage, and coverage for legal fees and costs to defend title. Survey and title related issues covered by a policy of Title Insurance are of most benefit to realtors, survey coverage being the principal benefit.

Where an Up To Date Survey is Unavailable

Where a survey (or current survey) is unavailable, most lenders will now accept a policy of title insurance in its place. For a one time fee of \$150.00 (no tax on insurance premiums) the policy of title insurance protects the lender against loss arising out of problems which a new survey would have revealed. Title insurance is usually available within a few hours of placing the request making it invaluable for last minute closings where a new survey cannot be obtained in time. In these cases, a policy of title insurance is issued without the title insurance company reviewing any survey.

For an additional \$50.00 the coverage can be extended to cover the purchaser of property. This extends the coverage to cover the purchaser against loss arising out of problems which would have been revealed by a current survey. For example, if after closing a purchaser discovers that their house is encroaching onto a right of way and the holder of the right of way is insisting that part of the house has to be removed, the title insurer will cover the cost of remedying the problem. Additionally, if after remedying the problem, the purchasers sell the house and realize a loss in value because of the problem, the title insurer will compensate them for the loss in value. If the problem could be resolved with an easement agreement or variance, the title insurer will cover the legal fees to obtain the variance.

Where a Recent Survey Indicates a Problem

Legal assistants are often the first to find out that a survey problem exists. In these cases, a policy of title insurance can often be issued insuring against loss from a specified survey problem such as an encroachment.

For example, a vendor is selling a piece of property on which are built improvements which encroach onto a utility right of way. In cases like this the vendor usually has to accept an abatement in purchase price in order to induce prospective purchasers to purchase the property and the purchasers will have to assume the risk that the encroachment may have to be removed. With a policy of title insurance, the risk shifts to the insurer

and the property may often be sold without an abatement in the selling price and without any delays or extensions. In addition, the premium in residential transactions is not dependent on risk factors and our premiums will not go up where a known risk is disclosed to the insurer.

As the nature of the survey problems will vary from property to property, these policies are underwritten on a case by case basis.

Who Can be Covered by Title Insurance?

Title insurance is available to cover purchasers of property and mortgage lenders. Because of their different interests in the land, the coverage provided is slightly different and separate policies are issued for purchasers and lenders. Lenders are covered for an amount up to the face value of their mortgage and purchasers are covered for up to 200% of the purchase price for risks specified in the policy.

Title Insurance Pre-Approval

In some cases where a property with a survey related problem is being conveyed, the contract may stipulate that the vendor is to provide the purchaser and their lender with a title insurance policy or that the vendor's property has been pre-approved for title insurance. In these cases the vendor and purchaser have resolved the problem using title insurance before the deal gets to the lawyer's office, in which cases the legal assistant simply orders the required policy prior to closing.

Traditionally, without title insurance the vendor always risked having the deal fall apart because a satisfactory abatement in the purchase price could not be negotiated prior to closing. With title insurance these risks are avoided. In fact, it is not uncommon in such circumstances to have the vendor agree to pay the premium, since the cost of the insurance is generally much less than the amount of the price abatement sought by a potential purchaser.

To a purchaser this may also provide a solution to the problem of obtaining financing on a problem property.

Survey Coverage in Remote Locations

One of the most frequent uses of title insurance involves properties in outlying areas where surveys are often costly and can take weeks to obtain. Title insurance is generally available within hours without the title insurer ever seeing a copy of a survey and there is no additional premium for remote locations.

Coverage for Title Problems

Title insurance is often available to insure over known title problems, allowing the deal to close on schedule without having to negotiate extensions or other terms. A common example is a paid out but undischarged mortgage on title. In some cases a pay-out statement cannot be obtained from the lender before closing although your client has evidence that the mortgage was paid out. With title insurance, the transaction can be closed and the mortgage funded without extensions and without risk to the purchaser or their lender, as the title insurer covers the risk of loss until such time as the purchaser's lawyer can have the title problem rectified.

Payment of Legal Fees

In addition to the coverage for losses resulting from survey and title problems, title insurance coverage also includes payment of legal fees and costs to defend title, without regard to the policy amount. A large percentage of survey related claims are resolved by the obtaining of variances or the registration of easements. In cases such as these, the legal fees to obtain the variance or easement are covered by the title insurer.

Reduced Claims Against Lawyers

By recommending the use of title insurance, real estate lawyers may be able to avoid having to defend themselves against many of the things which occasionally go wrong in a transaction which are not their fault. When a purchaser realizes the existence of a problem with their new home, everyone involved in the transaction, including the lawyers, usually find themselves named as defendants in the ensuing litigation. With title insurance, the potential liability arising out of advice concerning survey or title issues is reduced. This is because the title insurance company

compensates the purchaser upon a proof of loss, not upon a finding of fault on the part of the lawyer closing the transaction.

For those working in real estate related professions, title insurance offers a new and flexible option for resolving title and survey related closing problems.



VANCOUVER COMMUNITY COLLEGE - CONTINUING EDUCATION LEGAL ASSISTANT PROGRAM

By Katherine Wellman, Q.C., Program Advisor

Vancouver Community College Continuing Education offers a certificate program for people currently working in a law office, in a notary public office or in a government or municipal office doing law related work. The aim of the program is to enable students to improve their knowledge and job skills by taking a series of evening or Saturday classes in topics ranging from letter writing to personal injury, divorce, corporate or securities practice. The program is designed to be useful and flexible. Students work at their own pace, in the evening, one class at a time, pay for classes as they take them, network with students in like jobs and with similar goals, and graduate with a certificate in their chosen practice area or areas. Most students complete the certificate program within two to three years. Employers also benefit by having motivated, efficient and knowledgeable legal assistants as support professionals who are able to improve firm productivity. Though they have a broad field of training lawyers often limit their practice to only a few areas of law. This practice may be complimented and enhanced by a legal assistant with training in a specialized area who could be profitably used to maintain corporate records, draft conveyancing documents, keep track of documents in a litigation file, or draft materials, letters and reports, prepare file summaries, or do research on line or in a library. Many possibilities exist.

Classes are held at the City Centre campus, which is close to most downtown law offices. Classes are small and the atmosphere is congenial. Most teachers are lawyers or legal assistants currently practicing in the area of study. The courses offered are both theoretical and practical with the students being given the opportunity (if they so wish) to take only one course if they want to study in just that one specific area. However, if at a later date a student wishes to pursue the certificate, that course will be on record at the college and may be applied to meet the program requirements. Credits are also given for courses taken at other certificate granting institutions. Transcripts are reviewed on an individual basis using reasonable criteria to assist the student while maintaining the integrity of the program.

The program is divided into four parts. The first part consists of six core courses - Canadian Legal Process, Legal Research, Legal Communications, Contracts, Torts and Agency, Partnership and Incorporation. These courses teach basic skills useful to legal assistants and give a theoretical base in areas of law which are the foundation for other courses. While it is recommended that these courses be taken first, the program is flexible to allow for a student to start in any course. The core courses consist of 96 hours of classroom and library study.

The second part contains four practice areas - Litigation, Conveyancing, Corporate and Commercial and Family and Estate Law. Each of the areas has four courses for a total of 72 classroom hours. Students target an area which is of particular interest to them or their employer to learn new skills or methods of practice. Each practice area class is offered at least once a year in rotation.

The third part consists of a minimum of 32 classroom hours of study in a combination of elective courses such as interviewing, small claims, or securities practice or any course chosen from a different practice area. This enables the students to broaden their horizons of legal knowledge in areas of interest and to work toward an additional certificate in another area. Elective classes are available as demand requires and will vary from

Continued on page 19.



Maybe they're just cracking under pressure.

With all the attention we're getting from our competition we must be doing some things right. And we'll continue to create more ways to serve you better, because we'd rather lead than follow.

That's why more legal professionals in British Columbia choose Agentis as their registry agent over any other company.

Service. Speed. Accuracy.
That's our commitment to you.

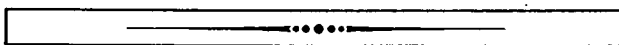


Phone: 604-257-1800 Fax: 604-257-1888
www.agentis.com

Registry Services - Process Serving - Information Brokers

year to year. New classes will be designed should a need arise- for example, a class on Rule 65 practice is currently being offered.

In the fourth part, all students work under supervision during a 500 hour (four month) practicum in a lawyer or notary's office to sharpen their skills and learn legal office procedures. Most students who already work in a law office are able to complete the practicum in that office as most employers recognize the efforts made and skill improvements resulting from the program. The practicum is usually done when a student has completed some practice area courses and may be done on a full or part-time basis. The program operates with three terms a year - April, September and January. The program is outlined in the Vancouver Community College Continuing Education flyer distributed at the beginning of each term. An information night is held at the college at the beginning of each term to provide students with an opportunity to discuss the program. Further information is available in the Legal Assistant Information Guide, available at the Vancouver Community College, Continuing Education Office, City Centre Campus, 250 West Pender St., Vancouver, B.C. V6B 1S9 or by phone at 443-8380. Through a sharing arrangement, some courses are also offered at Camosun College in Victoria.



INSENSITIVE FIRING MAY EXTEND NOTICE PERIOD

By Vanessa L.D. Wilkinson

Reprinted with permission from Singleton, Urquhart, Scott's "Letter of the Law" newsletter - Vol. 10, #1

Canadian courts have been taking a more sympathetic approach to employees who have been dismissed from their jobs.

Traditionally, the main factors courts have considered in assessing reasonable notice of termination of employment are the character of the employment and its length, the age of the employee, and the availability of similar employment based on the employee's experience, training, and qualifications.

However, in recent decisions the courts have taken into account further considerations in assessing the notice period. The Supreme Court of Canada by majority decision in Wallace v. United Grain Growers (Oct. 30, 1997), has now ruled that an employer's bad faith conduct in the manner of dismissal is another factor that is properly compensated for by an addition to the notice period.

Where employees can establish that an employer engaged in "bad faith conduct or unfair dealing in the course of dismissal", they may receive compensation or increased damages for the manner of dismissal if it affects their future prospects for employment, or if it causes "injuries, such as humiliation, embarrassment, and damage to one's self-worth and self-esteem". Like any of the factors noted above, bad faith discharge is to be taken into account in assessing the length of the notice period.

So what is bad faith conduct? In determining what actions amount to bad faith conduct, Mr. Justice Iacobucci of the Supreme Court of Canada held:

"The obligation of good faith and fair dealing is incapable of precise definition. However, at a minimum, I believe that in the course of dismissal employers ought to be candid, reasonable, honest, and forthright with their employees and should refrain from engaging in conduct that is unfair or is in bad faith by being, for example, untruthful, misleading, or unduly insensitive."

As the manner of dismissal is now a factor that can affect the length of the notice period, employers should be careful to be reasonable, honest, forthright, and sensitive when terminating employees, otherwise the employer may be found to have discharged an employee in bad faith. Damages suffered as a consequence of bad faith conduct are potentially compensable through a lengthening of the notice period, whether the damages related to the increased difficulty in finding replacement work or to mental distress caused by the manner of the dismissal.



We don't compete with our clients:

Two large registry agents prepare, either directly or indirectly*, real property documents for financial institutions. We believe that this involves competing with those in the legal profession who are our clients. The fact is

West Coast Title Search Ltd. does not and has never in our 27 years, competed with the services offered by our clients.

Can your agent say the same?

Wayne Crookes
Owner / President

*Includes the solicitation of document preparation services on behalf of related corporations or other third parties.

'Serving the legal profession since 1969'

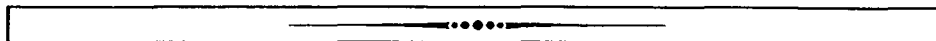
VANCOUVER NEW WESTMINSTER VICTORIA
525-9255 / 1-800-553-1936



RECENT WRONGFUL DISMISSAL AWARDS

Reprinted with permission from the Schiller Coultts Weiler & Gibson "Labour and Employment Report" newsletter - Vol. 9, #1

Case	Position	Salary	Age	Length of Service	Notice Entitlement
<u>Robertson v. Weavexx Corp.</u> (Feb 3/97) (BCCA)	--	\$130,000	44	6 Mos	12 Mos
<u>Kindret v. Shaw Cablesystems Ltd.</u> (Feb 5/97) (BCSC)	Admin. Manager	\$48,000	33	5 Yrs	7 Mos
<u>Wynia v. Keir Surgical Ltd.</u> (Apr 3/97) (BCSC)	Office Supervisor.	--	--	16 Yrs	12 Mos
<u>Shore v. Ladner Downs</u> (Apr 24/97) (BCSC)	Systems Analyst	--	32	9 Mos	5 Mos
<u>Elms v. Hywel Jones Architect Ltd.</u> (May 9/97) (BCSC)	Senior Architectural Technician	\$50,400	45	6 Yrs	8 Mos
<u>Rhodes v. Koksilah Nursery</u> (May 20/97) (BCSC)	Assistant Nursery Superintendent	\$50,000	--	32 Yrs	21 Mos
<u>Lee v. BICC Phillips Inc.</u> (May 29/97) (BCSC)	Senior Management	--	--	12 Yrs	13 Mos
<u>Dynes v. Jonah Apparel Group Ltd.</u> (Jun 12/97) (BCSC)	Factory Manager	\$37,500	56	25 Yrs	18 Mos
<u>Coppin v. MPR Teltech Ltd.</u> (June 16/97) (BCSC)	Marketing Manager	\$80,953	56	14 Yrs	15 Mos
<u>Latham v. Bartle & Gibson Co.</u> (Sep 3/97) (BCSC)	Salesman	--	44	28 Mos	4 Mos
<u>Burry v. Unitel Communications Inc.</u> , [1997] B.C.J. No. 2790 (C.A.)	Project Manager	\$62,000	51	33 Yrs	20 Mos



GOT SOMETHING TO SAY?

Send submissions for The Assistant to:

Ann Halkett, Editor
c/o Lidstone, Young, Anderson
1616 - 808 Nelson Street
Box 12147, Nelson Square
Vancouver, B.C. V6Z 2H2
Phone: 689-7400 Fax 689-3444
Deadline: July 24, 1998

ATTENTION SPECIALIZED LEGAL ASSISTANTS

Are you a specialized legal assistant? If so we would love to hear from you. We are looking for individuals to be part of a lecture series. If interested please telephone Connie Iverson at 294-9594.

ACTIVE BAILIFF SERVICE LTD.

8540 Greenall Ave., Burnaby, BC V5J 3M6

Serving the Legal Profession for 37 years

COURT BAILIFF

Court Order Enforcement
(Formerly Sheriff Services)

CIVIL EXECUTION SERVICE

- ✓ Provincial Court
- ✓ Supreme Court
- ✓ Federal Court

UNDER CONTRACT WITH THE MINISTRY
OF THE ATTORNEY GENERAL

PHONE: 434-7279
FAX: 437-7322

BAILIFF

Commercial Rent Distress

- ✓ Rent Collection

REPOSSESSION OF ASSETS

- ✓ Vehicles
- ✓ Heavy Equipment
- ✓ Airplanes
- ✓ Boats

STORAGE & SALES FACILITIES

PHONE: 434-2448
FAX: 437-7322



MISSING PIECES



LOCATORS

151-1896 West Broadway Vancouver, BC V6J 1Y9

Tel: (604) 732-3050 Fax: (604) 738-0082 E-mail: mpl@direct.ca

Toll Free: Tel: 1-888-9LOCATE Fax: 1-888-956-0366

"Serving the legal community - Internationally"

SERVICE BASE

- | | | | |
|---------------------|------------------------------|---------------------|-----------------------|
| * Witnesses | * Beneficiaries | * Defendants | * Policy holders |
| * Unnamed heirs | * Trace for document service | * Child maintenance | * Debtors |
| * Bank searches | * Profiles and work-ups | * Asset traces | * Vehicle locates |
| * Birth parents | * Estate searches | * Consulting | * World wide locates |
| * Missing persons | * Criminal skips | * Sworn affidavits | * Cheque verification |
| * Property searches | * Name/address verification | * Rush locates | * Special traces |
| * Return mail | * Custom online services | * Court searches | * Seminars/ training |

Missing Pieces Locators provides ongoing trace support to the three largest process serving companies in the lower mainland. Our tracing bureau also specializes in estate related locates and are under contract with the B.C. Public Trustee's Office, province wide.

Simply call or fax our office today and we will solve your puzzle

HIGHLIGHTS OF GOVT. FEE INCREASES EFFECTIVE MAY 1, 1998

By Hildi Steuart, Agentis Information Services Inc.
Reprinted with permission from Agentis' "Client Update" memo - April 9, 1998

Small Claims Court

New Fees

Rescheduling a trial with less than 30 days' notice	\$100
Residential Tenancy Branch orders filed	21
Default order application	25
Third-party notice	25

<i>Fee Increases</i>	<i>Old Fee</i>	<i>New Fee</i>
Notice of claim up to and including \$3,000	\$75	\$100
Filing a reply, claims over \$3,000	25	50
Issuing a garnishing order	30	40
Filing counterclaim, up to and including \$3,000	75	100
Certificate of judgment	20	30

Supreme Court

<i>Fee Increases</i>	<i>Old Fee</i>	<i>New Fee</i>
Civil jury trial non-refundable deposit	Average \$230	\$1,000
Issuing a garnishing order	40	80
Resetting a trial or hearing	75	200

Please Note:

An increase of 4% will be applied to all other existing civil court fees except probate and sheriff fees. Copies of the Order-In-Council, Numbers 318, 319 and 320, to the above fee changes and a new fee schedule will be available before May 1, 1998.

Land Title Fee Schedule

<i>Transaction</i>	<i>Old Fee</i>	<i>New Fee</i>
Change of Name	\$15	\$20
Plan-Statutory Right of Way > 1km	70	50

Any Other Plan	20	50
Cancellation of Lease	60	50
Duplicate Indefeasible Title	45	50
Certification of Power of Attorney	nil	10
Certification of Original Trust Documents	nil	10
Withdrawal	10	Lesser of fee paid or 30
Refusal to Register	20	Lesser of fee paid or 30
Cancellation after Defect	10	Lesser of fee paid or 30
Indefeasible Title	50	55
Charges	50	55
Name Search	nil	2
Title Search at LTO by LTO staff	8	9
Imaged Record at LTO by LTO staff	8	10

Registry Fee Schedule

Corporate Registry	<i>Old Fee</i>	<i>New Fee</i>
Incorporate, Amalgamate, Continue, Restore	\$275	\$300
Specialty Resolutions, regardless of content	20	100
Society Incorporation	65	75
Society Annual Report	15	25

Personal Property Registry *Old Fee* *New Fee*

Obtain a Reprint of a Verification Statement	--	\$10
Processing of any Financing Statement (by gov't staff)	5	10

Manufactured Home Registry *Old Fee* *New Fee*

Combined MHR and PPR Search	\$14	\$12
-----------------------------	------	------



The Legal Freelance Centre
A Full Service Team

Betty Garbutt

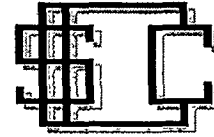
- ▶ **TEMPORARY PLACEMENTS**
- ▶ **PERMANENT PLACEMENTS**
- ▶ **LEGAL SECRETARIAL & WORD PROCESSING**

- ▶ Clerical Staff
- ▶ Receptionists
- ▶ Legal Secretaries
- ▶ Paralegals
- ▶ Legal Assistants

Emergency Nightline: 689-5933
Fax: 689-5171

689-5476 (24 hrs.)

LAW OFFICE SOFTWARE



▪ **COURT ORDER INTEREST CALCULATOR** ▪
\$399.00*

▪ **BILL OF COSTS COMPILER** ▪
SUPREME COURT - \$399.00*

▪ **BILL OF COSTS COMPILER** ▪
COURT OF APPEAL - \$199.00

FOR WINDOWS 3.11, WINDOWS 95, AND DOS
PROGRAMS ARE YEAR 2000 COMPLIANT
*SINGLE USER LICENCE

"THE BEST SOFTWARE I HAVE EVER USED...." PAT TERLECKI, LEGAL ASSISTANT, GUILD YULE & CO.

234 ABBOTT STREET VANCOUVER, B.C. V6B 2K8
(604) 688-0495 FAX: 688-0201
EMAIL: PHILSCAS@DOWCO.COM

INTERESTING DEVELOPMENTS INC.



CCURATE

BAILIFFS & COLLECTION AGENCY LTD.

"OVER 25 YEARS EXPERIENCE"

COURT BAILIFF SERVICES

- Court Enforcement
- Provincial, Federal & Supreme Court writs, orders, etc.

COLLECTION SERVICES

- Skip tracing, B.C. Online
- Credit reporting agency
- Unsecured debt collection

BAILIFF SERVICES

- Repossessions of all types
- Commercial rent distress
- PPSA services

SALES DEPARTMENT

- Autos, trucks, boats, etc.
- Planes, restaurant equipment
- Open to the public, 7 days a week

FOR ALL YOUR EXECUTION, COLLECTION & SALES NEEDS

- Law Firms
- General Public

- Government Agencies
- Financial Institutions

- Private and/or Public Companies
- Landlords/Property Management

604 526-3737

6139 Trapp Avenue, Burnaby, B.C., Canada V3N 2V3

NEW BUILDERS LIEN ACT

By Marsha Cromwell, Manager-Land Services, West Coast Title Search Ltd.

On February 1, 1998 a new Builders Lien Act (the "Act") which substantially changes the law and practice of builders liens in British Columbia became effective. As there was a great deal of controversy surrounding certain aspects of the holdback system, Sections 4(7), 4(8), 8(3) and 48(7) of the Act, which gave a purchaser the right to retain a holdback from the vendor of 10% of the purchase price, were not brought into force.

Highlights of the new Act which impact on procedure for filing in the Land Title Office include the following:

- A claim of lien may not be filed for an amount less than \$200.
- The time limit for filing a claim of lien has been extended to 45 days (formerly 31 days) after the head contract has been completed, abandoned or terminated or the improvement has been completed or abandoned. If a certificate of completion has been issued, the claim of lien may be filed no later than 45 days after the date of issue.
- A new Claim of Lien in Form 5 replaces the old form of claim of builders lien which was a sworn affidavit. The new form is basically a statement signed by the lien claimant or by the agent of the lien claimant setting out the particulars of the claim. The signature of the person making the claim is not witnessed or sworn before a commissioner for taking affidavits. A filing letter must accompany the Form 5. LTO fees are \$5.00 for each title the lien is registered against.
 - ◀ The form releasing a claim of lien has not changed. The release is still by way of Form C signed by the lien claimant. LTO fees are Nil.

- A Notice of Interest in Form 1 is a new prescribed form that states that "the owner's interest in the land is not bound by a lien claimed under the Builders Lien Act in respect of an improvement on the land unless that improvement is undertaken at the express request of the owner." The form may be signed either by the owner or by the agent of the owner. The signature of the person signing the form does not have to be witnessed. A filing letter must accompany the Form 1. LTO fees are \$20.00 and the notice will be endorsed on the title under Legal Notations.

- ◀ As the Act did not provide a form for releasing the notice of interest, the LTO will accept a release by way of Form C signed by the original owner. The agent for the owner cannot sign the release. LTO fees are \$20.00.

More detailed information, including the full text of the new Builders Lien Act, the forms prescribed for use with the Act, and a section on Questions & Answers may be accessed through the Internet website of the Ministry of Employment and Investment at:
www.ei.gov.bc.ca/directory/Ec_Dev/construc/BuildL/index2.htm

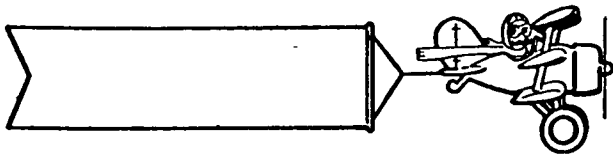
ARLYN
Personnel Agencies Ltd.

**TEMPORARY AND
PERMANENT PLACEMENT**

- LEGAL
- SECRETARIAL
- CLERICAL
- ACCOUNTING
- INFORMATION SYSTEMS
TECHNOLOGY

681-4432

1160 - 625 Howe Street
Vancouver, B.C. V6C 2T6
Fax: 681-4418



PRACTICE UPDATE

Questions & Answers

By Joanne Power, Manager Registrar Program

Ed. Note: BCALA is pleased that the Registrar of the Supreme Court of British Columbia has given permission to reprint "Questions & Answers" as selected by Ann Halkett from the March 1998 "Registrars' Newsletter".

The "Questions & Answer" portion of the "Registrars' Newsletter" is now posted on the Internet. The address is: <http://www.courts.gov.bc.ca/>

Adoption Act

Q: Do the Practice Directions of the Chief Justice apply to the Adoption Act proclaimed November 4, 1996?

A: A Practice Direction was issued by the Chief Justice on February 18, 1998. It replaced the earlier adoption Practice Directions.

Court Order Enforcement Act s.71

Q: Has there been an increase in the exemption allowed to a judgment debtor when a writ of seizure and sale is being executed against him/her?

A: Yes, the exemption allowance has been increased effective 1 May 1998 and categorized as follows:*

Household goods	\$4,000		
Tools of the trade	\$10,000		
Motor Vehicle	\$5,000	(\$2,000	for maintenance debtors)
Equity in a home	\$12,000 in the Victoria area and Greater Vancouver Regional District		
	\$9,000 elsewhere in the Province		

Plus all necessary clothing and all required medical aids (of a debtor or a dependent).

This increase also applies to Small Claims Rule 11(12) which allows an order of seizure and sale against a judgment debtor and exemptions allowed a bankrupt under the Bankruptcy and Insolvency Act.

* B.C. Reg. #28/98

Legal Profession Act s.83

Q: What options are open to a client when a lawyer has not delivered or sent a bill for services?

A: The client may apply to the Supreme Court by petition requesting an order for delivery of the bill pursuant to s.83 of the Legal Profession Act.

Rule 10

Q: Can a party file a Notice of Hearing of Petition in the original registry and name as the place of hearing some other registry elsewhere in the Province?

A: This is an interesting question because it is not specifically dealt with in the Rules, although the Rules do address the topic of the locations for trials and hearings of notices of motions. Rule 39(5) requires that a notice of trial be filed at the registry where the writ was issued but Rule 39(7) contemplates that the trial can be heard at another registry. Rule 44(14) requires that a motion be heard within the judicial district in which the proceeding was commenced but Rule 44(16) allows the registrar to grant leave for the hearing of the motion to take place in another judicial district.

Hearings of petitions are put on the chambers list which is dealt with by Rule 52(7). By necessary application, that Rule is referring to the chambers list for that registry. As the notice of hearing of petition must be filed at the registry where the proceeding was commenced, the application must be entered on the chambers list for that registry.

In addition, Rule 64(13) provides relief to parties requiring a transfer.

Rule 60B(51)

Q: Whose responsibility is it to advise the other party that an order for divorce has been entered?

A: Unless the court otherwise orders, it is the responsibility of the party who enters the order for divorce. See Rule 60B(51).

Rule 60(22)

Q: Does a "co-respondent" named in a divorce proceeding have the right to access the divorce file he/she is named in?

A: The petitioner's spouse and a person against whom a claim for relief is made in a divorce proceeding (see Rule 60B(7)) must be made a respondent and may search a divorce file. However a person named against whom relief is not claimed is not eligible to search the matrimonial file.

Appendix C

Q: Is there a charge to swear an affidavit in support of an application for indigent status?

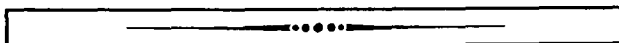
A: Rather than risk having to process a refund, it is appropriate to not charge a fee for swearing the affidavit.

Appendix C, Schedule 1, Item 20

Q: What is the effect of the "Guideline" for completion of the application for probate memorandum issued in 1988 to registry staff?

A: This memorandum was prepared by (then) Master Halbert when the flat filing fee for probate applications was replaced with a fee based on the value of the estate. The memorandum contains a number of references which are no longer relevant and should not be relied upon.

A more recent and comprehensive approach is in the Civil Documents Processing Manual, Volume III, prepared in November 1992 by the Business Analysis and Design Group of Court Services Headquarters. Tab B sets out the requirements for probate applications; Tab C sets out the requirements for Letters of Administration applications.



LAW PRIMER



Case Digests

Ed. Note: The following Case Notes are reprinted from the Civil Law Digest with the permission of the Continuing Legal Education Society. For subscription information telephone: 893-2162 or toll free (800) 663-0438. To order full text judgments telephone (604) 535-1197 or toll free (800) 927-337

CREDITORS' REMEDIES - Execution - Assets subject to execution - RRSP monies in hands of insurer under annuity contract being protected from execution by virtue of Insurance Act, s.147(2). // **FRAUDULENT TRANSACTIONS // BANKRUPTCY - Fraudulent conveyances - Bankrupt transferring funds from non-exempt account into protected RRSP account, and simultaneously designating his wife as beneficiary, less than one month before voluntary assignment in bankruptcy - Transaction void against trustee.**

Section 147(2) of the Insurance Act, as amended, provides: "While a designation in favour of a spouse, child, grandchild or parent of a person whose life is insured, or any of them, is in effect, the insurance money and the rights and interests of the insured therein and in the contract are exempt from execution or seizure". The question of annuity insurance being exempt from execution has been considered by the courts of a number of provinces. Almost all of the cases since the amendments to the insurance legislation of the provinces have confirmed that the purpose of the amendments was to protect retirement savings in the form of annuities from execution by creditors in the same way that life insurance proceeds are protected. The legislation being almost uniform, the courts of British Columbia should not lightly reach a different conclusion from the courts of other provinces unless constrained to do so by the language of the enactment and the contract. Here, in three cases under appeal, there was a designation of a spouse as a beneficiary in the event of the annuitant's death sufficient to satisfy all the requirements of s.147 except for the question of whether the proceeds of the contract could be regarded as "insurance money". That question had to be answered in the affirmative in light of the definition of "life insurance" in the Financial Institutions Act. However, in one of the cases before the court, the creditor was nevertheless entitled to a remedy under the Fraudulent Conveyance Act. The transfer of funds by S. from non-exempt accounts to an RRSP account, and the simultaneous designation of his wife as beneficiary, constituted a "disposition of property" under the Act. In view of the fact that the non-exempt accounts were the only assets of value of S. at the time, a time when he was being pursued for a large income tax debt, and in view of his voluntary assignment into bankruptcy less than one month after the transfer, it had to be concluded that the transfer was made to defeat his creditors. It was not made for "good consideration". There was no evidence that S.'s wife was even aware of the transfer at the time. Accordingly the transfer was void as against the trustee.

Sykes, Re, C.A., McEachern C.J.B.C., Prowse & Hall J.J.A., Doc. Vancouver CA016762, CA020118, CA020458, January 22, 1998, 31 pp. [CLE No. 98-11525] // Kimberly S. Campbell, for trustee; bankrupt in person; Donald R. Lewthwaite, for one

respondent; Bryan G. Baynham, Q.C. and J. Currie, for one appellant and for intervenors; R. Barry Fraser and Warren B. Milman, for one party. // Principal case authorities: Geraci, Re (1970), 14 C.B.R. (N.S.) 253 (Ont. C.A.) - considered; Minister of National Revenue v. Anthony (1995), 32 C.B.R. (3d) 109 (Nfld. C.A.) - applied; Royal Bank of Canada v. North American Life Assurance Co., [1996] 1 S.C.R. 325 - applied; Sovereign General Insurance Co. v. Dale (1988), 32 B.C.L.R. (2d) 226 (S.C.) - considered.



FAMILY LAW - Matrimonial property - Preservation - Family Relations Act, s.67(1), effectively reversing onus of proof usually associated with interlocutory injunctions.

The plaintiff wife applied under s.67(1) of the Family Relations Act for an order restraining the defendant husband from disposing of certain company shares that she alleged were family assets. Held, for wife. Under the amended s.67(1), the court "must" make an order restraining another party from disposing of a family asset or any other property at issue until that party establishes that the applicant's claim will not be defeated or substantially impaired by the disposal of the property. The change in that provision's wording from "shall" to "must" could only have been made to strengthen the imposition of the duty on a judge to make the order. The term "must" entails a more mandatory obligation admitting of less discretion in the court. The effect of the present s.67(1) is to reverse the onus of proof usually found on an application for an interlocutory injunction. Here, it was necessary to protect the wife's claim by an injunction. Further, given that the value of the shares fluctuated, it would not be right to enjoin the disposition of only enough shares to equal half the amount of their present value. The parties were required to share equally in the rise and fall in the shares' value, and that could only be accomplished by securing each share equally between them.

Lovick v. Brough, S.C., Spencer J., Doc. Vancouver F970404, March 10, 1998, 7 pp. [CLE No. 98-11892] // Howard Shapray and Francis L. Lamer, for plaintiff; M. Edward Mortimer, Q.C., for defendant.

MUNICIPAL LAW - Bylaws and resolutions - Validity - Discrimination - Vancouver City bylaw prohibiting smoking in restaurants, while allowing smoking in premises holding liquor licences which require exclusion of minors - Appeal court upholding validity of bylaw.

The respondent City of Vancouver passed a bylaw, the effect of which was to permit smoking in establishments holding Class A, C or D liquor licences, but to prohibit smoking in any restaurant, including those holding Class B licences. The petitioners sought to challenge the validity of the bylaw. The chambers judge found that the bylaw had a legitimate health purpose and that the liquor licensing laws generally prohibited minors from entering establishments holding Class A, C and D licences, but permitted them in establishments holding Class B licences. The judge considered evidence of the respondent's medical health officer that children are particularly vulnerable to the health risk of environmental tobacco smoke and that the bylaw presented what was attainable in the context of public health. The judge dismissed the petition and the petitioners appealed. Held, appeal dismissed.

Per Finch J.A. (Ryan J.A. concurring): The distinction between the holders of Class A, C and D licences and the holders of Class B licences is that the former are required by law to exclude almost all minors, while the latter are required to admit minors. Therefore the effect of the impugned bylaw was to permit smoking only in those establishments serving food where few minors are permitted and to prohibit smoking in those establishments serving food where minors are free to enter. There was a rational foundation for drawing a distinction on those lines and the respondent's decision to act on that distinction could not be said to be arbitrary or capricious. There was a clear connection between the bylaw, including the exemption, and attainment of the respondent's health objective. It was the medical health officer's preference to prohibit smoking in all public establishments serving food. It became evident from public discussion that attainment of that broad goal was not possible at the time. A bylaw with such a broad prohibition would not likely have been adopted by council, with the result that no smoking bylaw would have been adopted. The bylaw in question was a political compromise. Although it had the effect

of discriminating against a certain class of establishments serving food, it was no less valid for that, because it was within the powers conferred by ss.203 and 330 of the Vancouver Charter.

Per Hall J.A. (concurring): Restaurants are a distinct species of business enterprise although they may bear a degree of similarity to portions of hotels or neighbourhood pubs. It was therefore doubtful that it could be maintained that the bylaw contained any element of "discrimination" as that word was used in the authorities cited.

Restaurant and Food Services Assoc. of British Columbia and the Yukon v. Vancouver (City), C.A., Finch, Ryan & Hall J.J.A., Doc. Vancouver CA022505, January 16, 1998, 17 pp. [CLE No. 98-11419] // Appeal from judgment of Cohen J., [1996] Civ. L.D. 712. // Peter A. Gall, for appellant; Terrance R. Bland, for respondent. // Principal case authorities: Greenbaum v. The Queen (1993), 100 D.L.R. (4th) 183 (S.C.C.) - considered; R. v. Sharma (1993), 100 D.L.R. (4th) 167 (S.C.C.) - considered; Shell Canada Products Ltd. v. Vancouver (City) (1994), 110 D.L.R. (4th) 1 (S.C.C.) - considered.

PRACTICE - Third party proceedings - Summary determination - Rule 18A procedure not being available to resolve disputes between defendants and third parties.

The plaintiff suffered injuries when she was thrown from a rented scooter. She sued the rental company for damages. I.C.B.C. refused to defend the action, saying it had no obligation to do so, and as a result the defendant issued a third party notice against the corporation. The defendant now applied under R.18A for an order requiring I.C.B.C. to defend the action. Held, application dismissed. The Rules of Court do not authorize the resolution of disputes between defendants and third parties by way of R.18A. Generally speaking, the resolution of such a dispute should not prejudice the progress of a plaintiff's action. Here, even if the court were to decide the application in favour of one side or the other, there was a good chance the losing party would appeal. That would delay the progress of the

plaintiff's claim. The dispute between the defendant and I.C.B.C. should be resolved in a separate proceeding, which could be done either by way of a special case under R.33 or by way of an originating application under R.19.

Kirkpatrick v. Budget Rent-A-Car of Victoria Ltd., S.C., Bouck J., Doc. Victoria 97/1950, March 18, 1998, 7 pp. [CLE No. 98-12096] // Aaron A.G. Gordon, for plaintiff; Michael J. Hargreaves, for defendant; J. Derek James, for third party I.C.B.C.

WANT A FREE MEMBERSHIP?

BCALA is having a membership drive in order to make another occupational title protection application. The Registrar of Companies rejected our earlier application saying that we did not represent the number of legal assistants in the province.

We will give you a free BCALA membership for one year, or if your firm pays the fee then we will give you cash (\$65.00), if you sign up three new BCALA members before the end of 1998. Simply have the new members write your name somewhere on the BCALA application form indicating that you brought the Association to their attention.

If interested in signing up some new members write to the following address for a BCALA application form: P.O. Box 4127, Main Post Office, Vancouver, B.C. V6B 3Z6, or E-mail: Halkett30@aol.com.

LEGAL COURSES ANYONE?

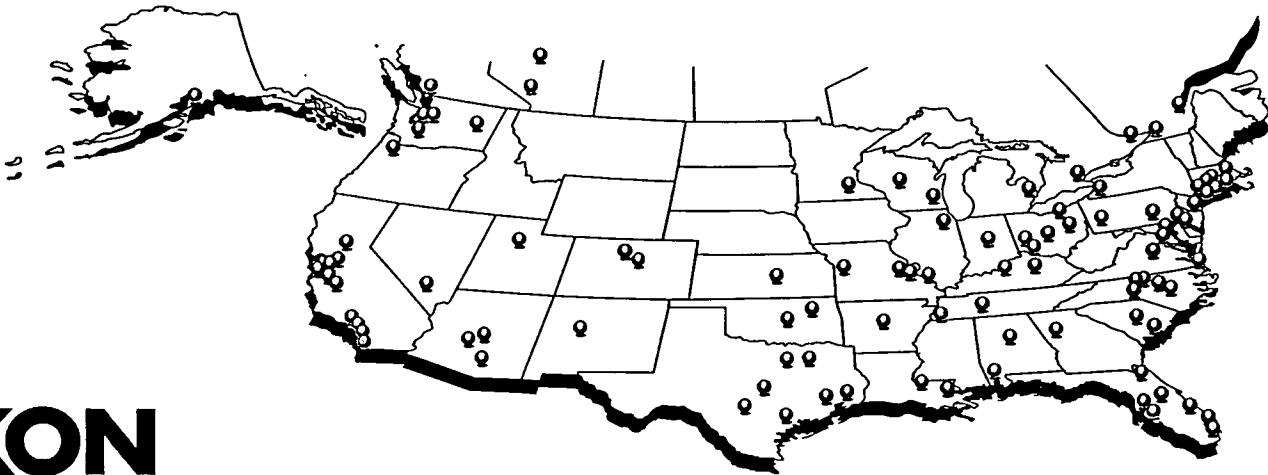
Is there a legal course you would like to take, but no one is teaching it? If so, contact Katherine Wellman, Program Advisor for Vancouver Community College's Legal Assistant Program at 222-0707.

NORTH AMERICA'S MOST TRUSTED LEGAL DOCUMENT PRODUCTION SERVICE

PARTIAL LIST OF LEGAL DOCUMENT SERVICES

Legal professionals now have just one name to remember for a full range of document management needs - IKON Legal Document Services. As the largest network of legal document facilities in North America, IKON has access to the vast resources necessary to provide a new level of service. Call us today to learn how we can give you the competitive edge you need to win and win big.

- Litigation photocopying & binding by experienced staff
- Database coding by highly trained experts
- High-speed image capture of litigation documents
- Digital printing service for high-volume document runs
- Capacity to handle huge document libraries
- National network of facilities for coast-to-coast service
- Single point of contact for production locally or in a distant city
- On-site service available nation wide
- Security & confidentiality guaranteed
- Strict quality control measures enforced
- Exceptional deadline compliance record
- Service available 24-hours-a-day, 7 days-a-week, including holidays



IKON
Office Solutions™
Document Services

For Around-the-Clock Service in Vancouver call 646-6729