

Western
Association of
Legal
Assistants

The L.A. Times

Spring 1995 Edition
Lee Ann Windall - Editor

Newsletter Report by *Dianne Bond*

It is with regret that I find that I can not meet the demands associated with continuing as a director of WALA and editor of the newsletter. It is with great pleasure that I introduce to you my worthy replacement, Lee Ann Windall.

Lee Ann completed the full-time Capilano College Program in April, 1992. She did her practicum in securities and litigation and now works full-time in litigation.

Lee Ann, Karen, Linda, and I all went to school together, so it has been a pleasure for me to see them again. My time served on the board has also been very interesting and quite stimulating. Although I can not continue as a director, I hope I can still contribute to the newsletter on a lesser level.

Please join me in welcoming Lee Ann and give her your support by calling her with your stories or sending her written contributions for the newsletter.

It is important that we get suggestions and contributions from our members in order that

our Newsletter is a success. Please keep this in mind and help your Association help you.

Legal Assistant Today By *Dianne Bond*

We have not been receiving contributions of articles from members so I phoned the magazine Legal Assistant Today and asked about using some of their material for our newsletter. They said we were welcome to do so unless something is copyrighted.

Although Legal Assistant Today is an American publication, it is a resource that Canadian legal assistants can benefit from. There are only about 60 Canadian subscriptions to the magazine, therefore, I hope that by sharing a little sample here, more of us will discover it. Address subscription correspondence to 3520 Cadillac Avenue, Suite E, Costa Mesa, CA 92626 (714)755-5450.

Please note that the following articles from Legal Assistant Today are condensed versions from selected articles in the Jan/Feb 1994 issue. While the content is mostly quoted

without comment, it may be affected by being condensed.

Motivating Paralegals By *Patsy R. Pressley* (as condensed by *Dianne Bond*)

Throughout the '80s, law firms and corporations experienced rapid growth and record profits. The rapidity of this growth coupled with large monetary gain led to insufficient management practices as these organizations became engrossed with becoming even larger and in making more money. These endeavours did not leave time or energy for managing personnel and organizing systems effectively.

A lack of community, a lack of appreciation, and a lack of mutual respect and common courtesies have been the areas of concern focused on by a work force not looking for salary increases as a significant motivator.

Frequently, legal departments and law firms sponsor separate outings for lawyers, paralegals, and support staff. These separate outings drive a wedge between lawyers, paralegals, and

support staff. An organization-wide outing is one means of promoting better employee relations and boosting overall morale.

Activities like softball, basketball, volleyball, and biking provide a neutral ground on which everyone can compete equally on combined teams. The confidence gained on the sports field can then be transferred to the workplace, where a confident employee is more focused and productive.

Potluck meals sponsored by the organization are a concept that have been tried successfully by firms and corporations. Besides tapping into people's common need to eat, potluck meals provide an avenue for employees to display their diverse cultures and personalities.

The only formal method corporations presently recognize employee contributions is the annual performance appraisal and merit increases. Additional recognition awards and merit bonuses acknowledge performance (a way to say "thank you") sending a clear message that the organization expects and recognizes good

work.

Certain office amenities such as window offices, speaker phones (or other equipment), and guest chairs are desired by many paralegals, and can provide instant gratification. However, keep in mind that although these amenities may be motivational at the outset, they will soon lose their appeal if they are not coupled with programs that demonstrate an organization-wide respect for paralegals.

Motivated paralegals perform more effectively and efficiently and enrich the working environment. These rewards make the small cost of any motivational program well worth the time or money.

New Ombudsperson to mediate discrimination complaints

Gail H. Forsythe

G. H. Forsythe welcomes the challenge of becoming the first Law Society discrimination ombudsperson. Her goal? To resolve harassment and discrimination complaints when lawyers, articulated students or support staff ask for help.

As she takes up the position on January 1, Ms. Forsythe brings with her several years of mediation experience, first as a mediator in Texas and, most recently as a mediator and conflict prevention consultant in Vancouver. She has mediated both sexual harassment and cross-cultural disputes, as well as commercial, personal injury, product liability, workers' compensation, residential tenancy and family cases. As Assistant Dean of Law at the University of Alberta from 1989 to 1991, she also initiated programs in the Faculty of Law to promote equality regardless of gender, religion, race, disability or family status.

Ms. Forsythe holds an education degree and a law degree from the University of Alberta and a Master of Laws from Duke University in North Carolina. She was called to the Alberta bar in 1987 and to the B.C. bar in 1993.

While working as a mediator in Texas from 1991 to 1992, Ms. Forsythe pursued doctoral research in comparative mediation. Her community commitments include work on court mediation projects in both the United States and Canada.

In selecting an ombudsperson, the Law Society received over 50 applications and conducted an extensive interview process.

What Services will the Ombudsperson offer Law Firms?

Beginning January 1, Ombudsperson Gail H. Forsythe will offer confidential assistance to lawyers, articled students and support staff in dealing with complaints of harassment or discrimination in law firms. The service -- sponsored by the Law Society -- is voluntary, confidential and free to participants.

As Ombudsperson, Ms. Forsythe will be available part time to:

- receive complaints of discrimination or harassment from lawyers, articled students and support staff working for legal employers, provide information to those persons and discuss alternative solutions for these complaints;
- mediate a negotiated resolution of a complaint informally with the consent of both the complainant and

the respondent in an informal private setting;

- disseminate information and provide training to law firms on issues of harassment in the workplace;
- at the request of a law firm, assist to develop and institute a workplace sexual harassment policy; and
- collect statistics in the legal community on discrimination or harassment and make a general statistical report to the profession on a yearly basis.

The ombudsperson is independent of the Law Society discipline process. If a complaint is not resolved through the ombudsperson, a complainant can later make a complaint to the Law Society -- but that process is separate. A complainant can also bypass the ombudsperson entirely and make a complaint to the Society instead.

If you would like information or assistance from Ms. Forsythe, please leave a confidential voice-mail message for her at 687-2344 at any time. Ms. Forsythe will be the only person

with access to her messages and will return calls promptly.

Confidentiality & the Discrimination Ombudsperson

The Discrimination Ombudsperson offers *confidential* assistance to lawyers, articled students and support staff dealing with *harassment* or *discrimination* in law firms. Allegations of racial discrimination and cultural insensitivity are important parts of the Ombudsperson's mandate along with other forms of harassment and discrimination.

The Ombudsperson's services include mediation. Mediation provides an opportunity for individuals to privately and voluntarily explore mutually acceptable solutions to their concerns. The Ombudsperson does not impose solutions on the individuals or report the outcome to the Law Society. Confidentiality is critical to ensure an effective mediation process.

The law does not create an "ironclad" guarantee of confidentiality for discussions that occur in mediation or with the Discrimination Ombudsperson. The Law

Society and the Ombudsperson recognize that immediate measure must be taken to protect confidentiality. These measures are intended to balance the preservation of legal rights while allowing individuals to explore the resolution of highly sensitive and personal matters in a private, confidential forum. The measures being implemented are:

1. Proposed Law Society Rule 488 that provides;

- (a) communication with the Ombudsperson is confidential and must remain so;
- (b) the Ombudsperson must maintain the confidentiality in all matters;
- (c) the Ombudsperson cannot be compelled to give evidence in a Law Society proceeding under Rule 485;
- (d) in a proceeding under Rule 485, no records produced by, under the direction or in the possession of the Ombudsperson can be

admitted in evidence or disclosed under Rule 474 or 476.

2. A written Mediation Agreement must be signed by *anyone* who attends the mediation. The Agreement addresses the non-compellability of the Ombudsperson, the "without prejudice" nature of mediation discussions, and limits on the use of evidence arising out of mediation.

3. The Ombudsperson's report



West Coast Title Search Ltd.

Registry Services • Process Serving • Seminars • Personnel Agency

Vancouver

Registry Services • Process Serving • Seminars

Suite 100 - 840 Howe St.
Vancouver, BC V6Z 2L2
682-7526 Fax 682-5793

Victoria

Registry Services • Process Serving

Suite 300 - 895 Fort Street
Victoria, BC V8W 1H7
383-3323 Fax 383-1614
Lower Mainland 526-7534

1-800-667-7767 other areas

New Westminster

Registry Services • Administration

93 Sixth Street
New Westminster, BC V3L 2Z8
525-9255 Fax 525-2593

Personnel Agency

West Coast Personnel

Suite 750 - 777 Hornby Street
Vancouver, BC V6Z 1S4
669-6367 Fax 669-4676

to the Benchers is restricted to anonymous statistical data. The report will provide general information about the nature and incidence of harassment or discrimination in the profession.

4. The Ombudsperson is required to have a location and files apart from the Law Society offices. The Ombudsperson is the only person with access to the 687-2344 line, message system and files.

5. Mediations are conducted at various undisclosed locations throughout the Province.

6. The current Ombudsperson is a sole practitioner. She relocated her commercial mediation and law practises apart from other lawyers. She mediates and handles a wide variety of civil matters; it is incorrect to assume that contact with her relates to harassment or discrimination.

Membership Chairman's Report

Jeanne Kennon
Membership Chairman

A great deal of work has been done with respect to updating the membership records of

WALA. Another list has been created which contains a list of those members whose memberships have lapsed. Our current By-Laws indicate that membership will cease if a member has not been in good standing for 12 consecutive months (ie. paid current membership fees).

So, please ensure that you membership fees are paid - any member who has not renewed by the time of the Fall Newsletter will be removed from our current membership list. However, a renewal notice will be sent out regarding reinstatement of membership for 1995-1996 year.

Remember membership fees for 1995-1996 will be due in the next few months.

Again, if you are not receiving the newsletter and/or notices on a timely basis OR YOUR MAILING ADDRESS HAS CHANGED please let me know at 688-0401 or 434-2476.

Our membership currently stands at 46 Legal Assistant and 23 Student members with 2 Honourary Members.

We take pleasure in welcoming

the following new members:

Lukhbir S. Beryar (Larry) (Student), Jana Abramson (Student), Jennifer Becket (Student and 2nd year representative), Carolyn Christianson (Student and 2nd year representative), Kerr Fletcher (Legal Assistant), Tamra Hall (Student), and Michelle A. Robertson (Student and 1st year representative).

A belated welcome to other new members from earlier in 1994:

Janice Abeokuta (Student), Nicole A. Langlands (Student), Elaine Darquin (Student), Yun Tsung Leong (Student), Constance Iverson (Student), Beverly Peterson (Student), and Kathleen Kennedy (Student)

If you need any information please do not hesitate to contact me at 434-2476 (evenings) or 688-0401 (days).

WordPerfect 6 *by Dianne Bond*

The latest WordPerfect (WP) version 6.0 for DOS is much easier to learn than version 5.1. However it also needs three

times more hard disk space to install. It is especially easy to learn if you have at least a 386 processor, 8 MB of RAM and a good mouse. Without the right hardware it can be slow and frustrating. If you bought the original WP 6.0, as I did, the latest interim release is well worth getting.

WP 5.1 files convert automatically, but your macros may not. Most of mine didn't. I would therefore, imagine that trying to upgrade with any kind of conveyancing or other procedural package based on 5.1 macros could pose real problems.

To make up for losing your old macros, the new version introduces a very useful, fairly fast, grammar checker. It flags long sentences and the passive voice as well as making suggestions for corrections of grammar and spelling. Since I tend to get involved in the story and neglect the English, I feel a little embarrassed that I hardly ever utilize such worthwhile features. Changing a habit is a challenge.

WP 6 tables, formatting, symbols, borders, envelopes and labels are all much easier. You

can have up to nine windows open at once when drafting combined documents, to arrange on the screen together or switch between individually. Even my husband likes it.

My husband Larry, had never used WordPerfect before. He decided to prepare lists of IRS tax forms and publications. With version 6 he immediately proceeded to master every feature he needed with very few snags. (The fact that he is a printer by trade, with excellent math, a good memory and a logical, patient approach probably contributed in addition to version 6). In a month he mastered search and replace, macros, fonts, borders, tables, page numbers, headers and footers. I was truly amazed at the way he took off; leaving me and my hard won 5.1 skills behind in a cloud of dust. Bear in mind this was at home on a 386 DX with 8 MB of RAM and a 420 MB hard disk.

As an overall conclusion I would say stick with 5.1 unless you have the hardware WP 6 requires to preserve speed and efficiency. Although I have not used WP 6 much since switching to Windows at work, it has always been my

experience that staying abreast of the hardware upgrades needed to run both the latest software (and keep myself) at peak performance is the ideal. I would be very interested in reading about the comparable experiences of others.

Employment Update *By Arlene Pebrine*

Arlyn Personnel Agencies Ltd.
1160 - 625 Howe Street
Vancouver, B.C., V6C 2T6

Tel: 681-4432 Fax: 681-4418

While our St. Valentine's Day snowfall might seem to deny the fact, Spring is "just around the corner", marking the end of the low employment season (November through February every year).

In spite of the market, we have placed Legal Assistants in positions including Wills & Estates, Securities, Corporate Records, and ICBC Defence. It might interest WALA members to know that the successful applicants offered from two to six years experience in their chosen specialty area and that salaries ranged accordingly from \$33,600 to \$40,800. All

positions were in mid-sized, downtown firms.

As we understand that L.A. salary levels are of interest to all members, and as a result of ongoing interviews we conduct, we are able to average and generalize as follows:

- post practicum salaries - \$27,600 - \$30,000 (first 1 - 2 years)

- 2 - 5 year salaries - \$32,400 - \$39,600

- 6 years to senior salaries - \$40,800 - \$54,000

We further note that approximately 90% of those who have registered with us have and use their keyboarding skills daily. While clerical and/or word processing staff is available for lengthy document production, most legal assistants produce their own work.

If we can be of service to you, please contact me or my Partner, Mary McGillis

Membership Dues

Please don't forget that membership dues must be paid

in June, 1995. Current memberships expire June 1, 1995. The fees for the year are \$50.00 for Legal Assistants and \$15.00 for students and those Legal Assistants who are on their practicums.

Please note that no newsletters will be sent to those who are not up to date with their dues.

Computer Corner - Automated Litigation Support By Linda Donaldson

Litigation support databases used to be only common in large document intensive cases, to find the "smoking gun" within the stacks.

Today the use of databases in litigation is becoming commonplace. Partly, this is due to the enormous amount of multi-party litigation in which each party may have under 100 documents but on the whole, the combined document collection may be 500 or more. Partly it is due merely to the computer age. People are beginning to think beyond "document management" towards "evidence management", and both documentary and testimonial.

The software that is available today is becoming more and more flexible in the types of information you can store and what you can do with it once it's in there.

While there are many different packages available (and as many different prices to go along), some of the best packages are the least expensive. If you are trying to convince your firm to purchase a litigation support package, price will be the most obvious consideration. Other considerations will be ability to expand (network), amount of storage space required, and flexibility of the program.

Some of the most useful programs are not dedicated to litigation practice. Symantec's Q&A, Microsoft's FoxPro and Borland's Paradox are just a few of the "generic" databases that perform quite nicely when dealing with abstracted document information. Their down-side is the inability to hand full-text retrieval used for transcript searching and annotating. It is important to remember the key to successful document (record) retrieval is in how something works - not how it looks.

Another important consideration is whether to get a Windows product. Windows will be the standard of the future so one would be well advised to go for to a Windows product. It is very useful to have many "windows" open simultaneously, especially during an examination for discovery or trial, when taking notes or searching for information that may be stored in more than one place. All of the packages mentioned so far come in both DOS and Windows versions.

I have recently started using a Windows litigation package called "Gravity Verdict". This is an inexpensive program that combines both database and full-text retrieval functions. It also has some other nice functions such as building "chains of evidence" which is an argument outline builder with which you can link various pieces of evidence, witnesses, etc. This program currently sells for under \$300. It uses the "back end" of Microsoft FoxPro for the database (which was very useful for me since I was using FoxPro already, and my files were usable without any conversion). The company has added its own "front end" which

is tailored to litigation needs and terminology. The full-text component uses ZY Index, a text retrieval program. Gravity has added its own user interface to this as well, allowing you to make notes and flag testimony, linking it to a specific issue.

There are many, many excellent packages out there - I have only mentioned the ones that I have used.

RRSP Reminder

March 1, 1995 is the deadline for putting money into RRSP's towards this years income tax, now is the perfect time to start working on 1995's contributions. If you start paying into an RRSP now you won't have to put so much in at the end of the year.

Start your 1995 RRSP today by joining the Association's Group RRSP Savings Plan.

A minimum of \$50.00 invested per month gets you started in an investment plan of your choice.

To start your Retirement Savings Plan contact Jim Doyle at Investors Group 682-5431.

Missing Heirs: Put Yourself in Their Shoes

By C. Tim Rodenbush of International Genealogical Search Inc.

Have you ever wondered what would happen if your name turned up on a "missing heir" list in some trust officer's or attorney's office? Would they be able to find you? How would they do that? Would it cost you money to become a beneficiary? Maybe they would never find you. What then?

These are the types of questions often asked because people hear of others who may have received an unexpected inheritance from a distant relative. Wouldn't we all like to be in that position someday? Yes, the extra money would come in handy, wouldn't it?

Some of the excitement, however, could be dampened when it is learned that the costs associated with the search for missing heirs, in most cases, are deducted from the hissing heir's inheritance. These costs can run into thousands of dollars. Therefore, legal and trust professionals must exercise their fiduciary responsibility in carrying out such searches,

always protecting the integrity of the estates in question and considering the interests of the missing heirs in terms of funds expended on the search. If search efforts conducted by you, the trust officer or attorney, prove unsuccessful, you may call upon the services of an outside tracing firm for assistance. Here is where you have to consider the missing heir—here is where you step into the missing heir's shoes.

This article deals mainly with the process of choosing an independent third-party agent to assist in locating the missing heir(s) on behalf of the estate. Identifying and selecting a firm, evaluating its search proposal, and justifying the cost and the payment systems are all part and parcel of your responsibility as a trust officer or estate attorney. Each year thousands of people die without having made the provision of executing their formal Last Will and Testament.

Consequently, court proceedings will necessarily include a determination of heirship. Trusts may lapse with funds reverting to persons under the general rules of inheritance. Funds may escheat needlessly,

leaving rightful heirs without benefit. Though it is not a common occurrence, every trust officer and probate attorney will, from time to time, come across the problem of lost or unknown heirs.

When it comes to locating missing heirs, nothing can be more challenging or more rewarding. Most everyone likes a good mystery, and searching for missing heirs certainly provides all the elements one could imagine to stimulate a person and drive them on to success. Time and resources permitting, missing heirs can virtually always be found.

Heir Tracing Is International in Scope

Though it is not commonly known, a world-wide heir tracing business exists, consisting of individual heir tracers and genealogical search firms that provide professional search services in various forms and with different fee structures. Their purpose is to meet the needs of probate attorneys and trust officers in locating missing heirs and beneficiaries.

As the population increases, it

becomes more and more common for family members to move from region to region, to take up employment or for many other reasons. In addition, divorce is more prevalent today than in the past, and society generally holds more liberal attitudes toward childbirth occurring out of wedlock. The result is more estrangement among family members. For these reasons, locating heirs often requires specialized skills to obtain access to the public and private records necessary for research. Consequently, many trust officers and attorneys must turn to professionals for assistance when their own efforts fail.

Two Types of Search Firms

Outside professional sources fall into two main types of services: percentage-based search firms, whose fees are negotiated with the heirs after they are found, and non-percentage-based firms, whose fees are quoted in advance and authorized by the estate.

Often the expense of your own time spent unsuccessfully attempting to locate a person may exceed the cost of an outside firm's successful search.

This is particularly true if you have contracted with a firm that guarantees a successful result or no charge. Any time spent unsuccessfully is the firm's own risk, not chargeable under the terms of your agreement, should the search fail.

Percentage-Based Search Firms Charge up to 50 Percent as a Finder's Fee

Numerous individuals and firms exist who will agree to involve themselves in your search, with their compensation being arranged between themselves and the missing heirs after they have completed their search. This method of compensation is sometimes referred to in their advertising as "no fee to the estate". The percentage approach to locating missing heirs is the most common you will encounter when dealing with outside sources.

In some circumstances, as public record information is filed relating to an intestate estate or escheatment of funds, a percentage-based heir search firm may begin its search to "get there first" without the prior knowledge of the trust institution or estate attorney. Once the heirs are located,

negotiated fees vary, usually ranging between 20 and 50 percent of the person's inheritance.

This method of compensation and involvement is not without controversy. Many attorneys and trust officers are of the opinion that the withholding of information concerning inheritance from the heir until a contract with the heir is consummated puts the heir at a distinct disadvantage in terms of what amount he or she agrees to pay the heir searcher. It can be argued that the missing heir would not otherwise know of the inheritance except for the efforts of the search firm. However, it can also be argued that a percentage fee on a large estate could be excessive, especially if the search firm had the expertise to locate the heir easily and with minimal expense. For example, a 33 percent share (\$50,000) of a \$150,000 estate may be an excessive fee.

Some states regulate the maximum percentage allowed to be charged and, in certain circumstances, can alter agreements signed by uninformed heirs. You should exercise your own judgment

when deciding whether this type of contractual arrangement meets your needs.

Because the fees available for the percentage-based heir tracing firms are potentially substantial, the stakes are high and there tends to be considerable competition among firms wanting to "get there first" to negotiate fees with the heirs. Obviously, the greater the size of the estate, the more aggressive and competitive the firms may be to "get there first" and negotiate an agreement with the missing heirs.

By the same token, when dealing with smaller estate matters, the interest of percentage-based search firms may wane because the stakes are not as high. In other words, the smaller estates do not generally get the same attention that the large estates receive.

A Word of Caution

When initially speaking with an heir search firm, whether percentage-based or non-percentage-based, you may choose to withhold all identifying information concerning the estate name and persons sought. Such a

precaution will eliminate the possibility of an unethical individual starting a search without your knowledge or approval.

How Non-Percentage-Based Firms Operate

Not all search firms determine their fees on a percentage basis through negotiations with the missing heirs. Though they are in a minority, some firms base their fees on a schedule of charges predicated upon the nature of the search required and the information available, not the size of the trust or estate. Often this type of firm may be engaged without a retainer, and some may guarantee a successful result or there is no charge.

The non-percentage type firms do not initiate their search without your knowledge and written authorization. Usually, they will recommend you seek court approval of their search proposal, and their fees are paid by the estate from the share due to the persons sought after the search is completed. A non-percentage-based firm's fee is not affected by the size of the estate, and so its charges are increasingly more

favourable as the value of the trust or estate increases. For example, if the firm's fee is \$1,500 to locate a person whose inheritance was only \$3,000 its fee would be equal to 50 percent. On the other hand, if the person's inheritance was \$150,000, the \$1,500 fee would only be 1 percent of that amount. Because the fees are quoted in advance, you can judge for yourself the cost/benefit ratio of the proposal and compare it to other proposals you may also have requested.

The relevance of an outside search firm's fees is best considered from the missing heir's standpoint. Simply stated: the more reasonable the costs of the search, the greater the inheritance that remains for the heir. When faced with the fiduciary responsibility of engaging an outside source to locate missing heirs, you must think in terms of justifying the search firm's fees to the missing heir. In other words, put yourself in the shoes of the missing heir. Choosing a firm involves understanding the heir tracing marketplace and making an informed decision as to the fee methodology that best meets your needs on a case-by-

case basis.

What Outside Firms Should Provide

Regardless of which type of outside firm or individual you select from the standpoint of fee methodology, the result of their efforts should be the same. You should expect to receive a detailed written report that provides clear and convincing evidence of the identities and location of all concerned parties. All relevant documentation, including records of birth, death, marriage, divorce, census, and the like should also be provided in the report. The report should also be presented in an easily understood manner should you need to enter it as an exhibit in court proceedings.

In addition to furnishing a clear well-organized report, the firm should be qualified and willing to provide expert witness testimony.

Typically you should expect complex searches in the United States to take from 3 to 6 months to complete, although more straightforward searches will take less time. Searches elsewhere in the world may take

longer due to language barriers and communication delays.

Court Authorizations

You may require the authority of the court to hire a search firm. Generally speaking, the courts look more favourably on an agreement with an heir search firm if the cost of the search is known in advance. The court order should reflect the exact nature of the search to be undertaken and explicitly describe the fees and payment provisions. Most court orders allow for the costs of the search to be levied against the shares of missing heirs who are located.

Conclusion

This article has identified some of the main factors to consider when locating missing heirs. A variety of methods are available to the attorney or trust institution, and they should each be evaluated before initiating a search that could turn out to be complex and quite costly to the estate or the missing heirs directly. Your best approach is to temporarily put yourself in the heir's shoes and make the kind of decision a missing heir would make if

given the opportunity.

Time, expertise, and the associated costs must all be weighed as part of the fiduciary responsibility you assume as probate attorney or trust officer. You will make the right decisions if you attempt to find a missing heir in the manner in which you would want to be located if you were one.

Guidelines for Selecting an Outside Search Firm

1. Before selecting the services of an outside agency, be certain that the search cannot be performed by your own staff.
2. Before hiring anyone, obtain a written proposal and quotation of fees.
3. Determine how the search firm bases its fees and then decide which method would be most preferred by the missing heir. Remember, you are spending the heir's money.
4. Insist on being provided with several letters of reference, and then check the references diligently.
5. When discussing the case

with the prospective search firm, be perfectly clear that they should not proceed with the search unless and until authorized by you in writing. Be aware that information you disclose when speaking with a search firm could result in a search being initiated without your knowledge or authority.

6. Enter into an agreement for a specific period of time only. Don't leave the contract open-ended. Expect results in a reasonable period of time.
7. If applicable, seek court approval of the search firm's proposal and its fee quotation before proceeding.
8. Be sure that the company you select has adequate errors and omissions insurance coverage to protect all parties.
9. Be certain the search firm is qualified and willing to provide expert witness testimony relating to the report.

Time Saving Tips

After reading the Legal Assistant Today magazine I was impressed with their column "Tips and Timesavers" and think

that we should add this to our Newsletter as a regular column. Everyone has their own procedures that they follow in order to save time and it would be beneficial to all if we shared the knowledge.

If anyone has any tips they would like to share with other Legal Assistants please contact Lee Ann Windall at 276-2765 with your ideas.

Convincing Attorneys to Use Legal Assistants at Trial

By Lana J. Clark, CLA & Raquel M. Warner (as condensed by Dianne Bond)

Knowledge of the Facts:

The first point to make is that you have a great wealth of knowledge about the facts of the case. By the close of trial preparation, you should have as much, if not more, knowledge of the facts as any other person who has worked on the case.

Witness Impeachment:

Unless the attorney is armed at trial with a laptop computer to perform full-text searches, many will rely on the human element to recall certain portions of the

transcript for impeachment. Since there are still a majority of attorneys who are not laptop wizards, you can be the next best thing. Better yet, if you become the laptop wizard and do the searches during trial, this will leave the attorney free to concentrate on reasoning and advocacy skills during cross-examination, knowing that you can locate all the facts and documents on the issue in a matter of seconds.

Client and Witness Contact:

Often you develop a close working relationship with the client and witnesses throughout the months of trial preparation. During trial, you can be available to answer client and witness questions regarding procedures. This will keep the attorney focused on the trial without constant interruptions.

Jury Evaluations:

No individual can observe everything that occurs in the courtroom. You can be indispensable at trial when it comes to evaluating the reactions of the judge and jury. The trial attorney may present the evidence, examine and cross-examine the witnesses,

and make the appropriate objections, but the legal assistant sees the entire picture and can observe everyone when the attorney is focused on something else.

Coordinating Witnesses:

Another key argument for utilizing legal assistants at trial is the coordination of witnesses. No witness wants to spend long periods of time waiting for his or her turn to testify. Most experts charge hourly fees that approach or even exceed the attorney's hourly fees, and making them sit in the courthouse halls or in a witness waiting room is an extreme waste of client money.

Other Tasks:

At trial, you can perform various other tasks that are sometimes impossible for the trial attorney to complete. You can use the court's law library to research any last minute or emergency issues that arise during the trial. Being available to do unexpected factual research, obtain certified copies of documents for impeachment, make arrangements for audio or video equipment needs, and keep tabs on exhibits and

demonstrative aids are all tasks easily performed by the legal assistant.

Office Liaison:

You can keep in contact with the office by phone and relay any urgent questions to the attorney. By filtering information, you can help the attorney concentrate on the trial with minimal distractions yet still deal with the needs of other cases at the office.

Cost-Effectiveness:

The hourly rate of legal assistants is usually substantially less than that of associates. At trial, that alone may save your client thousands of dollars in fees. As people are becoming more consumer-oriented about legal fees, any amount of saving may make for a satisfied client.

These are some of the points to persuade an attorney that he or she cannot do justice to the client's case without your attendance at trial. Knowledge of the entire case, a working relationship with the client and witnesses, familiarity with the documents, and cost-effectiveness.

Education - How Much is Enough

by Linda Donaldson

With the birth of the lower mainland's newest Legal Assistant program a few years behind us, I thought it was time to ponder that rhetorical question "how much legal assistant education is enough?". This article will give a brief overview of the array of legal assistant programs available in Canada and the United States. This article will not, however, attempt to answer the question.

While the legal assistant profession may not have started in the United States, it is certainly more prevalent there than here in Canada. There is a least one college in almost every state offering legal assistant education. While the majority of the programs offered by colleges or universities include substantive law courses in their syllabus, legal assistant courses in the U.S. run the gamut from "intensive" six week courses to four year degree programs.

The American Bar Association, recognizing the need for formal legal assistant education, has established guidelines and

procedures for obtaining ABA approval. The majority of programs have not established ABA approval which, among other things requires: at least 60 semester credit hours which must include general education courses and legal specialty courses. The universal "semester" is approximately 13 weeks of instruction. This is the equivalent of a minimum of 780 instructional hours.

The Canadian institutions have the same lack of uniformity in educational standards. Many of the programs concentrate on the procedural aspects and leave out the substantive law. Many legal assistants and lawyers believe that specialization for example as a corporate or litigation legal assistant only requires on to know the area of specialization. The problem is that a litigation legal assistant may become involved in cases dealing with land, contract, tort or wills and estate issues. It is essential to have a basic background in all of these areas of law in addition to the procedural portions.

There has been a lot of discussion regarding a standard for legal assistant education since the new legal assistant

program at Vancouver Community College began in 1991. This became evident at the "Certification - What Will it Mean to You" dinner hosted by WALA in August of 1993. There was a lot of animosity between the Capilano College graduates and the VCC graduates. However, with certification on the horizon, it is a topic that will be addressed, likely by the Law Society of British Columbia.

In the meantime, all we can go on are the mere facts, which are unbiased. This article does not intend to advocate one program or another, students taking a program come from a diverse background of experience, and what is appropriate training for one may not be necessarily so for another.

Here is a comparison of the number of instructional hours

and mandatory curriculum at VCC and Capilano College (both the diploma and certificate) programs.

** Sources include syllabi and materials published by various American and Canadian Colleges, including Vancouver Community College Continuing Education Winter 1995 Calendar, Capilano College brochures, and several issues of Legal Assistant Today from 1994-95.

**How Green is My Security
(A Lender's Perspective on Contaminated Site Legislation)**

You have lent money on the security of a land mortgage and have just learned that the land is "contaminated". What does that mean to you?

Contaminated sites have been regulated in British Columbia under the Waste Management Act, which has been amended by Bill 26, referred to as the Contaminated Sites Legislation. Bill 26 will not be proclaimed into law until the

regulations have been finalized. The Ministry of Environment estimates that this will occur early in 1995. Bill 26 provides that in certain specific instances mortgage lenders may become responsible for "remediation", or clean-up, at a contaminated site if they act in ways that make them a "responsible person" under the legislation. The key for lenders is to follow carefully the exemption from liability which is set out in the legislation.

Under Section 20.31(3) of Bill 26 a "secured creditor", which is defined as a "person who holds a mortgage in property at a contaminated site", is responsible for remediation at a contaminates site if they "exercise control over or imposed requirements on any person regarding the manner of treatment, disposal or handling of a substance and the control or requirements, in whole or in

part, caused the site to become a contaminated site". However, a secured creditor would not be responsible for remediation "where it acts primarily to

	Capilano College - Diploma	Capilano College - Certificate	Vancouver Community College Certificate
Number of instructional hours * Based on 13 week semester	916.5 instructional hours* - 70.5 credits - 64.5 are in legal assistant courses	507 instructional hours* - 39 credits - 33 are in legal assistant courses	200 instructional hours - all legal assistant courses
Mandatory Courses	All courses in 2 year program comprising 11 substantive law courses in torts, evidence, family, contracts, company, insurance and real property, legal writing, interviewing, communications and several procedural law courses in various areas	Substantive law courses in study of law, evidence, legal research, and contracts	Canadian legal process, legal research, communications, torts, contracts, agency, partnership and incorporation Each student goes into a specialization in corporate/commercial, conveyancing or litigation after the core courses.
Practicum Requirements	6 months	none	500 hours (approx. 3.5 months)

protect its security interest". Bill 26 gives the following examples of actions which would be exempt from liability:

- participating in "purely financial matters related to the site"
- having "capacity or ability" to cause or increase contamination, but does not exercise it
- imposing requirements that do not have a "reasonable probability of causing or increasing contamination at the site"
- appointing a person to inspect or investigate a contaminated site to determine future steps a secured creditor might take.

Section 20.31(3) also states that a secured creditor is responsible for remediation at a contaminated site if it "becomes the registered owner of fee simple for the real property at the contaminated site". Again, a secured creditor is not liable under this section if the secured creditor "acts primarily to protect its security interest". However, the new regulations provide that a secured creditor who becomes the registered owner of a contaminated site is

responsible for remediation when it is the subject of a remediation order. This means that a secured creditor, after becoming the registered owner, could be ordered to undertake remediation, to contribute towards another person who has incurred costs of remediation to give security in an amount that a waste manager specifies.

Under the new legislation, a secured creditor also has responsibilities when realizing on its security. There are obligations of a secured creditor commencing foreclosure proceedings to provide a "site profile" upon taking possession or control of real property which has been used for industrial or commercial purpose. A "site profile" is a specific statutory form which provides information about a particular site. Until the secured creditor has received notice from a waste manager that the manager does not intend to issue a remediation order, a secured creditor receives a remediation order, it cannot "knowingly do anything that diminishes or reduces assets that could be used to satisfy the terms of the remediation order". If a person does so, the waste manager may

commence a civil action against the person and the person may also commit an offence under section 34(17)(d) and be liable to a penalty up to \$200,000.00

The legislation will also allow the Minister of Environment to register a lien at the Land Title Office against title to the contaminated site for costs incurred by the government at a contaminated site which has been remediated. This lien will rank in priority ahead of all liens, charges or mortgages of every person except those arising under the Worker's Compensation Act.

So, what does all this mean to a mortgage lender? The act and regulations set out wish list of activities that a lender must carefully follow: to ensure it meets the prerequisites for exemptions from liability as a responsible person, to limit exposure to liability as the owner in fee simple, and to ensure assets that could be used for remediation are not diminished. Certainly the lender's role has expanded beyond being the holder of security and the lender's risk extended beyond losing that security. If, as a lender, you adhere carefully to the

provisions in the legislation, you can limit and perhaps eliminate, any liability that might accrue to you.

[This article is a summary of a paper presented to the Mortgage Investment Association of British Columbia on Tuesday, September 27, 1994 by Tracy Turner of Richards Buell Sutton.

Property Insurance Issues and Some Commonly Used Terms
by Michael D. Sawyer of Richards Buell Sutton

Property insurance is a promise by the insurer to reimburse the insured for damage to or loss of the insured's property caused by the risk which has been insured against. The most common risk insured is fire, hence the common use of the term **fire insurance**. If and when a loss occurs, the insured likes to recover the full value of his loss, subject to the monetary limits of his policy. To recover the full value of his loss the insured must make sure that his policy properly covers his potential loss. The insured must give to the insurer accurate information about the property to be insured and

discuss in some detail with the insurer's agent the risks for which he wants to be covered.

It is important that the insured have an **insurable interest** in the property. Many real estate developments today are registered in the name of a bare trustee and the true or **beneficial owner** is a group of investors. In such cases, it is necessary that the insurer be told who the true owners are and that each of them be named as an insured on the insurance policy. In such a case, the bare trustee does not have an insurable interest, only the beneficiaries of the trust have insurable interests. It is prudent, however, to have the bare trustee named as an insured as well.

Many of the terms used in insurance policies do not always mean what they say. For example, **All-Risk Insurance** always excludes earthquake, flood, sewer back up, electrical or mechanical break down, nuclear war and boiler (pressure equipment, air conditioning, etc.), unless they have been included by a specific endorsement. Any risk not specifically listed in the policy as an exclusion by the insurer is

covered. The insured needs to be aware of these exclusions and to advise his agent of any exclusion which he wishes to have **specifically covered**. In most cases, more inclusions will add to the cost of the premium. **Named Peril Insurance** on the other hand only covers those risks for which the insured has advised his agent he wishes to be covered. If theft for example is not a named peril, the insurance company would not reimburse the agent for loss due to theft.

Builder's Risk Insurance is a type of commercial liability policy which covers only property damage and not third party liability. The owner, contractor, lender, subcontractor, architect and engineers should be added as additional named insureds. The **Builder's Risk Insurance** starts out as **course of construction coverage** and can be converted to **permanent coverage** at any time during construction to allow for both occupancy and for construction to continue. In the case of strata corporations, it is important that the strata corporation be named as an insured on the date that the strata plan is filed. If this is not done and sales occur, any

purchaser of a strata lot will not be a named insured either. As a result, should a loss occur, there will be no coverage for the purchaser's strata lot. Once the strata plan is filed, it is the strata corporation which has the insurable interest in the common property and in each strata lot. When title in a strata lot is transferred to a purchaser, it is the purchaser who has the insurable interest in the strata lot and he must be shown on the policy as a named insured. All registered lenders are also typically noted on the policy as their interest may appear.

When losses occur, there are two ways the insured can be compensated. The first is for the insured to be paid the actual cash value of his loss. Actual cash value is the fair market value of the property lost less an allowance for depreciation. The second requires that the policy contain a **Replacement Cost Endorsement**, in which case the insured can elect to rebuild what was lost, and the insurer will reimburse the insured for the cost of rebuilding, subject always to the monetary limit on the policy. The wording of the typical policy does not require

the insurer to pay until the rebuilding is complete and the cost is known. If the insured might need to rebuild on a different site he may ask, at the time the insurance is placed, for a waiver of the requirement to rebuild on the same site. The insurer will usually grant such a waiver.

Insureds are sometimes tempted to insure property for less than its full replacement value because most insurance claims involve only partial damage. To remove such temptation, the insurer will often include a **co-insurance** clause in the policy. Such a clause requires the insured to maintain the monetary limit of his coverage at a percentage of the full replacement value of the property as at the time of loss. If the insured fails to do so, in the event of a partial loss, if both the monetary limit of the insurance and the amount of the loss are less than the percentage named in the co-insurance clause, then the insurer will reimburse the insured for less than the full amount of his partial loss. For example, if the full replacement value of the property insured is \$10,000.00 and the co-insurance clause is for 80%, but the

monetary limit on the insured's policy is only \$6,000.00 (60% of full replacement value), then if the partial loss is \$4,000.00, the insurer will only pay only 6/8 of \$4,000.00, that is \$3,000.00. The insured will have to reach into his own pocket for the difference of \$1,000.00 to repair his building. If the building has been insured to a monetary limit of \$8,000.00 (80% of full replacement value), this partial loss would have been fully covered, notwithstanding the co-insurance clause; but in the event of a total loss, the insurer would have paid out only the monetary limit of \$8,000.00 and the insured would have had to pay the \$2,000.00 shortfall from other resources. The premium for a policy with a co-insurance clause is cheaper than one without and for both an owner and a lender, so long as the monetary limit is always for the full replacement value, there is no downside in the event of partial loss. For the insurer, it is a way of avoiding having to pay in full for partial losses for buildings which are insured against a total loss. **Stated amount co-insurance** is an agreement between the insurer and the insured which provides for 100% co-insurance. The stated amount must be

supported by an appraisal and parking garages cannot be excluded from the amount. Some policies allow the exclusion of foundations, but if earthquake is an insured risk, the foundations must be included.

By-Law Coverage will cover the costs of construction to rebuild to the current (at the time of loss) building code and municipal requirements, the cost to demolish the undamaged part and the cost to remove the debris arising from the demolition and the original damage. The insured must keep abreast of any zoning or by-law changes since the date the insurance coverage was placed and notify the insurer because such change will affect the premium and amount of coverage which is required to properly insure the risk. This coverage is subject to a limit which is added to the total amount the insured is covered for. It also compensates the insured for something which cannot be replaced. For example, there may be an existing ten storey building which can only be replaced by a three storey building. In this case, the insured would also need a waiver of the usual

requirement to rebuild on the same site. Another example is a wood frame building which can only be replaced by a sprinklered concrete building.

Rental income coverage is usually placed for a period of one, two or three years following the loss. It compensates the insured for the loss of rental income in the manner set out in the policy.

As a general rule, where there are two or more insured named in an insurance policy, one insured cannot recover under the policy for any damage to its property caused by other insureds. With a **cross-liability clause**, the insurance afforded to one named insured is afforded to each and every named insured under the policy. Such a clause enables one insured to be reimbursed for damage to its property, notwithstanding that the damage in question was caused by one of the other insured parties.

In a landlord and tenant situation, if the landlord does not wish to add the tenant as a named insured with a cross liability clause, then the insurer should be asked for a waiver of

subrogation. This clause gives benefits to third parties such as tenants. If a party is not a named insured, and there is no waiver of subrogation and such party causes damage, the insured party's insurer can claim over against the party causing the damage.

In conclusion, the placing of proper insurance coverage involves more than just calling your insurance agent and saying I need insurance for a certain amount. Some lenders now have the insurance coverages reviewed by an insurance consultant prior to the loan being advanced. The above discussion alerts you to some of the issues which arise and which need to be carefully reviewed with your insurance agent and legal counsel to ensure that proper coverages are in place.

Legal Assistant Community Awaits Results of ABA Nonlawyer Hearings
By Steven Cohn (as condensed by Dianne Bond)

Almost a year of hearings has demonstrated that legal services must be made more widely available, even if that means some should be provided by

nonlawyers, according to written impressions of members of the American Bar Association's Commission on Nonlawyer Practice.

The commission was formed to determine the implications that practice by nonlawyers might have for society, clients, and the legal professions. (The hearings were held from Dec 92 to Oct 93. The recommendations are to be considered by the ABA House of Delegates during the ABA meeting in February 1995.)

"While it was anticipated that concerns about the quality and cost of legal services would be presented at the hearings, other issues that have received extended attention before the commission include alleged gaps in both lawyer and paralegal education, a desire for recognition and regulation of specialty practice, the unavailability of legal services to a significant segment of the population (especially lower and middle income individuals and families) and the special needs of women and children who become involved with the legal system due to harmful circumstances in their lives, (and) many other professional

and societal issues that may be impacted by the eventual authorization or continued prohibition of the rendering of nonlawyer legal services," the preliminary impressions said.

The impressions presented include the need:

- For more low-cost legal services;
- To be clear on what constitutes appropriate activities for nonlawyers and on the dire consequences possible when well-intentioned but incompetent nonlawyers tackle something beyond their expertise; and
- To determine the difference between direct supervision and ultimate supervision of paralegals.

The National Association of Legal Assistants (NALA) generally opposes regulation and opposes allowing expanded practice by nonlawyers. Much of the need for legal services now going unmet could be satisfied by expanding the role of traditional paralegals working under the supervision of attorneys. NALA expressed concern that the authorization of legal services provided by

nonlawyers would create a "two-tiered" system of service - attorneys for the rich and nonattorneys for the poor.

The NALA statement goes on to describe ethics opinions that say legal assistants should be allowed to perform such tasks as represent litigants before administrative boards (as is currently allowed in BC). "With Supreme Court sanction, bar support, and efforts of legal assistants, our system today could allow lawyers to delegate entire areas of responsibility to qualified legal assistants, so long as the lawyers remain available to assist when needed."

In contrast, the position of the National Federation of Paralegal Associations (NFPA), supports regulation and the offering of some legal services by nonattorneys. "NFPA supports the licensing of traditional paralegals as long as the paralegals are able to perform in an expanded capacity from that which the paralegals were performing prior to implementation of regulation," the statement says. "In order for qualified paralegals to deliver legal services in an expanded role, they must be licensed in order

to effectively deal with the issue of unauthorized practice of law as current statutes exist."

"These services are relatively general in nature and can be applied across many practice areas....," the NFPA statement says, "A qualified paralegal licensed to make certain court appearances would result in far more cost effective delivery of services because the cost of preparing the attorney for the court appearance would be eliminated. The other benefit is diminished harm to the public because a traditional paralegal has readily available legal counsel and thus the potential harm to the public is greatly diminished."

Courthouse Machines Fill In, Print Legal Documents
By Karen Kendzor (as condensed by Dianne Bond)

Courthouse computers, known as QuickCourt, have sparked some controversy in Arizona.

The new kiosks, which resemble bank automated teller machines, print out simple, completed legal documents for free as a community service for people who cannot afford

attorneys.

The Arizona project developed from a move by the state court administrative office to find ways to meet demands for easier, cheaper access to the courts. In operation since May 93, QuickCourt processes information input by the user through a touch-screen monitor and laser prints completed legal forms. In addition, some forms are coupled with financial calculations and coded instructions indicating which paperwork needs to be notarized, kept, served, and filed.

According to Mariposa County Superior Court law librarian, Bruce Naegeli, the people using the computer system and the people seeking counsel fall into two different economic categories. He said at least half of QuickCourt users fit the description of a "20 and-a-half-year-old woman with a small child in her arms."

While QuickCourt helps combat the problem of poorly drafted documents, an Arizona lawyer, Mary Jo Salone, said she entered data on community property and children from one of her cases into a kiosk

computer, but not all of the necessary information printed out on the form. "It has some flaws," said Salone. "A lot of things you require don't happen."

Meanwhile, moves are under way in Utah and Florida to bring QuickCourt to those states. According to Florida circuit court analyst Eric Silverberg, a modified information-producing QuickCourt could help people help their attorneys. "It's an adjunct to what they (attorneys) do," Silverberg said.

West Coast Title Search

West Coast Title Search Ltd. was founded in 1969 by its President, Wayne Crookes, when he saw an opportunity to provide an accurate, friendly and professional service for the legal community. Since 1969 West Coast has set the standard in innovative and reliable, professional service and has grown from a one-man operation to a company of approximately 100 in offices in Vancouver, New Westminster and Victoria.

West Coast is in its 26th year of

providing a wide range of services to the legal professional and related industries. As one of the largest search firms in Canada, West Coast provides services in both Provincial and Federal registries through a well-established network of affiliated firms. This network also includes contacts throughout Canada and the United States which enables us to provide search services nationally and internationally.

Over the years West Coast expanded its services beyond the registry. These include a Process Serving division which can handle any service locally to internationally, a seminar division which provides educational opportunities on legal matters and a personnel agency specializing in both permanent and temporary employee recruitment.

The cornerstone of West Coast's growth has been its commitment to providing fast, reliable services at competitive prices. For more information on West Coast's services, please call (604)525-9255 or toll free across Canada at 1-800-667-7767.

Networking Lunch *By Lee Ann Windall*

Although I was unable to attend the February 22, 1995 networking lunch I have been told that it was a success. Attendance was very good with 35 people meeting at Keg Caesars for lunch and conversation.

Many of the people who attended are not presently members of WALA. It is hoped that we might be able to gain some new members from this lunch as many of the attendees expressed interest in joining our membership.

We are hoping to have more informal meetings of this sort in the future. We will keep you informed.

Task Force Update *By Jerena Laursen*

Last November, the Members of the Association were invited to attend an open Directors' meeting to discuss the establishment of a Task Force. The end result of the meeting and other ongoing discussions was the establishment of such a Task Force consisting of 10

members and 3 non-members of the Association; all participants having a vested interest in the future of the legal assistant profession and a determination to work together constructively.

The purpose of the Task Force is not only to examine the current status of the certification process, but other aspects of paraprofessionalism and what can be done to enhance and establish the legal assistant profession.

To date, we have held four constructive and informative meetings, and are well on our way to concrete results. Stay tuned for further news.

For your information, the following letter was approved at the November, 1994 Directors Meeting and was sent to the Law Society on behalf of all the members of WALA.

In late February, 1995 we received a letter from the Law Society touching on some of the issues brought up in our November 14, 1994 letter.

Both letters are produced in this newsletter.

November 14, 1994

The Law Society of
British Columbia
845 Cambie Street
Vancouver, B.C.
V6B 4Z9

Attention: Mr. Donald A. Silversides, Q.C.

Dear Sir:

Re: Certification of Legal Assistants Committee

We write on behalf of the members of the Western Association of Legal Assistants to express our concern and frustration regarding the suspension of the above Committee.

This Committee was struck several years ago with the intent to establish criteria for certifying Legal Assistants and a means to implement such criteria.

During those several years, we have observed the slow progress of that Committee, and have, on occasion, provided insight and suggestions concerning the mandate. To enlighten Legal Assistants as to the progress of the Committee and to provide the Law Society with some insight to the thoughts and feelings of practising Legal Assistants, our Association hosted a Panel Discussion in June of 1993. During that Panel Discussion, we were led to believe that the Committee's work would be concluded within another year or so.

We now understand that earlier this year the Benchers suspended all committee work, including the work of the Certification Committee. We also understand that, while some of the committees have been re-instated or redesignated, the Certification Committee has been given a low priority. This issue of certification has been delayed too long. A low priority designation is not acceptable to this Association.

The 1992 Survey conducted by the Law Society concluded that there are over 2,000 practising Legal Assistants in the Province of British Columbia, all with varying degrees of experience, education, and authority. Criteria must be implemented for the protection of the general public to ensure that misrepresentation does not occur. Criteria is also important with respect to the continued enhancement of the Legal Assistant profession.

In the past, our Association has volunteered to assist and support the Law Society with the determination of criteria and with the implementation of such criteria. Our commitment to work with the Committee to achieve certification stands.

In our opinion, time is of the essence. We formally request that the Law Society re-instate this Committee with a directive to conclude its objective in an expeditious manner and request that you confirm your plans to rectify this situation.

By letter of September 26, 1994 addressed to the attention of Don Thompson and Maureen Fitzgerald, a copy of which we understand was provided to you, we requested that the Law Society consider replacing Terry Buetner with a member of our Association. We confirm that request. We also confirm our commitment to work with the Law Society to see a conclusion to the certification issue. Please do not hesitate to contact us.

We look forward to hearing from you shortly.

(signed by Jerren Laurson, Director - on behalf of The Western Association of Legal Assistants)

OFFICE OF THE SECRETARY



THE LAW SOCIETY OF BRITISH COLUMBIA
845 CAMBIE STREET
VANCOUVER, B.C.
V6B 4T9

REPLY TO:

TELEPHONE: (604) 669-2533

FAX: (604) 669-5232

Maureen F. Fitzgerald
Direct Line: 443-5745

February 21, 1995

Jerena Laursen
Baumgartel Gould
370 - 550 Sixth Street
New Westminster, B.C.
V3L 3B7

Dear Ms. Laursen:

Re: *Certification of Legal Assistants Committee*

This letter is to advise you about the status of the work of the *Certification of Legal Assistants Committee*. As you know the work of the Committee has been held in abeyance while the Benchers considered the primary goals and objectives of the Law Society.

On February 3, 1995 the Benchers discussed the role which legal assistants play in the provision of legal services and reached a general consensus on the following:

- Legal assistants play a fundamental role in the provision of legal services.
- It is in the interests of clients and the public to have lawyers and legal assistants working together to provide legal services.
- It is preferable to have legal assistants working within law firms under the supervision of lawyers rather than working independently. This ensures proper supervision, regulation and insurance coverage.
- Encouraging the role and development of legal assistants in a manner complementary to the profession will result in the provision of more affordable legal services.

Armed with these statements the Benchers considered whether certification of legal assistants was the best way to achieve the goals of the Law Society.

The Benchers recognized the important role of legal assistants in the provision of legal services and suggested instead that there may be more effective and efficient ways to meet the goals of the Law Society and the interests of legal assistants. Ultimately the Benchers decided not to continue with the work of the *Certification of Legal Assistants Committee*. Instead, the Benchers asked Law Society staff to consider ways in which the role of legal assistants could be better recognized.

In the next month we will be exploring ways in which the Law Society could promote the use of legal assistants. We will be contacting you for your suggestions.

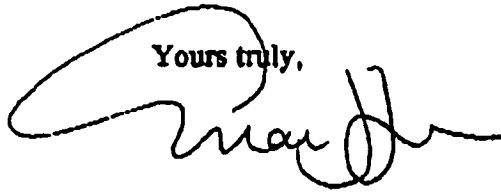
We realize that a large number of legal assistants have supported the work of the *Certification of Legal Assistants Committee* and we recognize the effort put into this project. We are hoping that all of the work to date can be used in some way. We thank you again for all your valuable assistance to date and look forward to continuing working with you.

Yours truly,



Donald F. Thompson
Director
Competency & Education

Yours truly,



Maureen F. Fitzgerald
Policy and Research Lawyer
Competency & Education
Department

MFF/sla
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NOTE

I received the preceding letter from the Law Society of British Columbia concerning the discontinuance of the *Certification of Legal Assistants Committee*. It has been reproduced to provide you with an opportunity to read it, digest it, and comment on it. While I always enjoy talking to members when they call, I think your written thoughts will be appreciated this time.

As mentioned earlier in this newsletter, the Task Force is addressing numerous matters concerning the legal assistant profession. I would like to invite any and all of you to provide me with your thoughts concerning the discontinuance of the *Committee* and also concerning alternate ways in which our profession can be recognized and promoted.

If you would like a return phone call, kindly indicate in your correspondence.

Once I have had an opportunity to digest the entire situation, and your comments, I will suggest that a general meeting be called to address the matter in an open forum.

I look forward to hearing from you. Your thoughts are very important.

By Jerena Laursen

Quiz Time!!

Questions by Carolyn Christianson

For many of us it has been quite some time since we attended school. Most of us have branched off into one area of law or another and may not remember as much about other areas of law as we might like to.

Let's see how you do with the questions provided to us for this newsletter by one of Capilano College's second year students.

The answers follow the question so try to cover the answers before you answer and then look to see how much you remember.

Real Property

Q: What are the 3 unities that are needed to create a joint tenancy?

A: Unity of time, unity of title and unity of interest.

Company Law

Q: What is the doctrine of paramountcy as it applies to company law?

A: Where there is overlapping federal and provincial jurisdiction and the laws conflict, the federal legislation will supercede the provincial legislation.

Corporate

Q: What percentage of shareholders' votes is required in order to pass a Special Resolution?

A: 75% + 1 of the shareholders in attendance at the meeting must vote to pass the resolution.

Contracts

Q: What is the parol evidence rule in contract law?

A: A written contract that is intended on its face to be the whole contract cannot be modified by oral evidence of other terms.

**Update on Open Learning Degree Possibility
By Marion Cragg**

Capilano College is presently working with the Open Learning Agency on a degree proposal.

What does this proposal mean to a Legal Assistant?

If a student has graduated from the 2 year Legal Assistant Program at Capilano College and has also completed 2 years general education at the university level, the student would receive an Applied Degree from Open University. The graduates of the Certificate Program at Capilano College are also being considered and would possibly have to complete more university transfer credits or be given some form of exemption.

This proposal is still in the draft stage and we will keep you informed as to its progress.

Keeping the preceding article in mind we have reproduced a letter sent to Capilano College on behalf of WALA with respect to the possibility of a Legal Assistant University Degree. This letter was drafted by the Directors of WALA and signed by our President, Patricia Hunt.

We will keep you informed of any updates.

Western
Association of
Legal
Assistants

November 9, 1994

Capilano College
2055 Purcell Way
North Vancouver, BC V7J 3H5

Attention: Ms. Marion Cragg
Coordinator, Legal Assistant Programs

Dear Ms. Cragg:

RE: University Degree - Legal Assistants

The Western Association of Legal Assistants (WALA) is pleased to learn that you will be proposing to the Open Learning Agency, a process by which a Legal Assistant Degree may be obtained from a university. It is our understanding that, essentially, this degree would be earned through a combination of two years of undergraduate studies from a university and the credits earned in either the Capilano College Legal Assistant diploma or certificate program.


During recent years, the profile of the Legal Assistant profession has increased considerably. We expect this trend to continue. The successful conclusion of certification will open a new realm of professional opportunities.

It is obvious to us that the continued enhancement of the status and credibility of our profession will mandate more structured educational recognition. An important stage in this process will be the establishment of a related university degree.

Thank you for recognizing and supporting our efforts.

Sincerely,

THE WESTERN ASSOCIATION OF LEGAL ASSISTANTS

Per: 

Patricia Hunt
President

CALENDAR OF EVENTS

DATE	TIME	LOCATION	COURSE OR EVENT
March 8, 1995	5:30 p.m.	Richards Buell Sutton	Next Director's Meeting
March 10 & 11, 1995	8:00 - 5:00 & 8:00 - 12:00	Vancouver Renaissance Hotel CLE \$365, Student \$185	Effective Speaking and Presentation Skills
March 15, 1995	8:00 - 10:00	Call 893-2162 CLE \$55, Student \$30	Chambers Applications
March 24 & 25, 1995	N/A	Vancouver Renaissance Hotel CLE \$325, Student \$165	Clear Legal Writing
March 29, 1995	8:00 - 10:00	Call 893-2162 CLE \$55, Student \$30	Administrative Law & Judicial Review Procedure Act
March 30, 1995	9:00 - 12:00	Vancouver Renaissance Hotel CLE \$275, Student \$140	Wrongful Dismissal
April 24, 1995	N/A	N/A	Deadline for Articles and Contributions for next Newsletter
April 26, 1995	9:00 - 4:30	Pan Pacific Hotel CLE \$275, Student \$140	Legal Support Staff Day
April 26 or 27, 1995	(see enclosed advertisement in envelope)	N/A (see enclosed advertisement in envelope)	Corporate Reporting Basics for Public Companies
May 11, 1995	9:00 - 12:00	Waterfront Centre Hotel CLE \$175, Student \$90	Mergers & Amalgamations
May 16, 1995	9:00 - 12:00	Waterfront Centre Hotel CLE \$175, Student \$90	Continuations & Extra Provincial Registrations
May 25, 1995	9:00 - 12:00	Waterfront Centre Hotel CLE \$175, Student \$90	Registry Update
June 15, 1995	9:00 - 12:00	Waterfront Centre Hotel CLE \$175, Student \$90	Dissolutions, Wind-Ups & Restorations

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Cap. College 1st Yr.	VACANT	We need a volunteer	Please contact Patricia Hunt	
Cap. College 2nd Yr.	Carolyn Christianson	Home No.: 739-3330		
Cap. College Eve.	Michelle Robertson	Home No.: 987-8880	c/o The Law Society 845 Cambie St., Van., BC V6B 4Z9	Tel: 443-5753 Fax: 669-5232
Douglas College Eve.	Clarice Walaska	Home No.: 525-0364	c/o Box 1139, Suite 108-4800 Kingsway, Bby., BC V5H 2C0	Tel: 438-2302 Fax: 438-0737

MEMBERSHIPS EXPIRE JUNE 1 - PLEASE RENEW WHEN DUE
 Voting Legal Assistant \$50 Non-Voting Student \$15
 NEWSLETTER ADVERTISEMENTS
 Full Page: \$80 Half Page \$60 Quarter Page or less \$35 Member Ads Free

NOTICE

Opinions expressed in the L.A. Times are those of the writers and not necessarily those of the Association. The Association cannot assume liability for errors or omissions. Articles in this newsletter may be reprinted so long as you give credit where credit is due.

It's spring. Time to recharge.

Here's 7 opportunities to learn how to put more into your job - and get more out of it

Legal Support Staff Day

Learn techniques and skills that will make both your work life and personal life more enjoyable and productive

April 26

BC OnLine Update

New services are now at your fingertips - find out how to get the most out of the BC OnLine system

May 26

Business Law Series

Four practical half day "how to" courses designed especially for support staff who work on corporate/commercial transactions

Mergers and Amalgamations, May 11

Continuations and Extraprovincial Registrations, May 16

Corporate Registry Update, May 25

Dissolutions, Wind-ups and Restorations, June 15

The ABCs of Family Practice

Cover all the important steps from opening to closing a file

June 21 & 22



THE CONTINUING LEGAL EDUCATION SOCIETY OF BRITISH COLUMBIA

300 - 845 Cambie Street, Vancouver, BC V6B 5T2

CLE Legal Support Staff, Spring Calendar

- Please register me for the course(s) marked
- Please send me a brochure on the course(s) marked
- Legal Support Staff Day (95722)
April 26, Pan Pacific Hotel, \$275 + GST
- The ABCs of Family Practice (95671)
June 21 & 22, Vancouver Renaissance Hotel, \$345 + GST
- BC OnLine Update (95739)
May 26, Waterfront Centre Hotel, \$275 + GST
- Business Law Series
- Mergers and Amalgamations (95731)
May 11, Waterfront Centre Hotel, \$175 + GST
- Continuations & Extra-Provincial Registrations (95734)
May 16, Waterfront Centre Hotel, \$175 + GST
- Corporate Registry Update (95738)
May 25, Waterfront Centre Hotel, \$175 + GST
- Dissolutions, Wind-ups and Restorations (95740)
June 15, Waterfront Centre Hotel, \$175 + GST
- Full Business Law Series (95733) \$395 + GST

Fax to 669-9260 or call us at 893-2162
or, toll-free in Canada 1-800-663-0437

- Please add me to your Support Staff mailing list.



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