

Western
Association of
Legal
Assistants

The L.A. Times

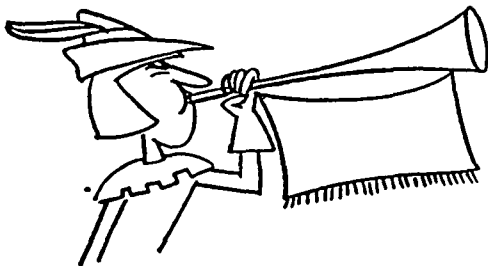
July 1991 Edition

P.O. BOX 4127, MAIN POST OFFICE, VANCOUVER B.C. V6B 3Z6



CONTEST RESULTS!

As you can see, your newsletter has a new look. Thank you all for your many creative and interesting ideas for the new name of the newsletter. The directors had quite a difficult time deciding between the many entries received. The name "The L.A. Times" was submitted by Michelle Suchow of Ferguson Gifford. Her prize, a basket of goodies suitable for a summer picnic will be on the way to her shortly. Congratulations to Michelle and thank you to all of you for taking the time to send in your suggestions.



PRESIDENT'S CORNER



DEBRA ROWBOTHAM

With the Annual General Meeting and the election of directors upcoming, we felt it would be a good idea to present an overview of WALA and what we stand for.

The Western Association of Legal Assistants (WALA) was incorporated under the Society Act of British Columbia on February 5, 1979. The by-laws require that we must have six directors - all of whom must be and have been full voting members for six months. Presently, the directors are: myself as President; Terry Wilson, Vice President; Maddie Maretic, Secretary; Viviane Dufrane,

Treasurer; Sarah Hanna and Sylvia Kern.

In addition to their duties as members of the Board of Directors, there are four committees, each of which is headed by a Director. These committees are:

Newsletter: published quarterly. The Newsletter is WALA's major voice to the members and is used to keep the membership apprised of current events and changes in the Legal Assistant profession. At present, we are looking into adding advertising to the newsletter in an effort to make the newsletter more cost effective and to increase its circulation and frequency of publication.

Membership: The members of this committee are responsible for ensuring that the membership mailing list is up to date. They deal with the annual dues of the members and they are also responsible for the "soon to be published" Legal Assistant Directory.

Education: This committee keeps up to date with Legal Assistant Programs both in the United States and Canada. It is also working on a program of educational seminars for next year.

Program: These members plan social and other functions for the Association.

The Annual General Meeting will be held in September, and a new board of Directors will be elected. Many of the current directors will not be standing for re-election and although the exact date for the AGM has not yet been set, part of the purpose of this article is to give you as much notice of the AGM as possible and to start you thinking about nominees for directors.

The prime purposes of WALA are to:

- (a) Promote the Legal Assistant profession;
- (b) Support, develop and maintain high standards for the service provided, and the ethics adhered to, by Legal Assistants;
- (c) Establish criteria for the qualifications necessary for those who use the title "Legal Assistant";
- (d) Provide the opportunity for the exchange of experience, opinions and information through discussion, study and publications;
- (e) Carry on a program for education of members in the advancement and improvement of the profession; and
- (f) Establish and maintain a liaison with the British Columbia Bar Association, the Law Society and other legally oriented groups.

In the last three or four years WALA has increased its membership significantly. We currently have 81 full members (voting) and 57 student members (non-voting). The by-laws require that a minimum of 50% of the total membership must always consist of voting members.

We are presently associated with the Legal Assistant Network (TLAN). TLAN is a placement service, which recruits Legal Assistants for part-time and full-time positions. TLAN is the only private placement agency recognized by WALA and places only WALA members in good standing. TLAN has access to our membership and mailing lists, therefore it is important to keep us advised of your location so that we may keep both our records and those of TLAN up to date.

That's where WALA is today. Developments in the future include working with the Law Society for the certification of Legal Assistants (see Terry Wilson's article regarding this); plans and discussions for expanding our membership to include Legal Assistants outside the Vancouver area with satellite groups - possibly in the interior and on the island; expanding the education program by offering seminars for members; improving our profile in the legal community by expanding and increasing newsletter publications, including special editions targeted at special interest groups in the legal community.

The Association has come a long way since its incorporation in 1979 and it has an exciting future. I have found my involvement with the Board of Directors to be stimulating and rewarding. If this has piqued your interest, I hope you will consider standing as one of the directors for WALA at the upcoming AGM.



ANNUAL SUMMER EVENING GET TOGETHER

PLACE:

*Westin Bayshore
1601 West Georgia Street
Vancouver, B.C.*

DATE:

*Tuesday July 23, 1991
5:30pm*

PRICE: \$10.00

Come and join us for a relaxing evening in the Executive Suite at the Bayshore. Food and Drink provided.

**RSVP: Viviane Dufrane
685-4321**



CERTIFICATION OF LEGAL ASSISTANTS COMMITTEE

a report by Terry Wilson

As most of you are aware, I am a member of the new Subcommittee formed by the Law Society for the purpose of implementing the former Subcommittee's recommendations of October 1989. At that time, it was recommended that the Law Society institute a program to certify Legal Assistants, that there be a base level of knowledge greater than the minimum required to perform legal Assistant duties, and that certification be tied to qualifications, supervision and ethical guidelines.

In order to meet these objectives, the follow-up subcommittee has retained Western Management Consultants to administer a survey in order to secure some fundamental information.

The survey will be in two parts. The initial survey will be directed to all law firms and sole practitioners in B.C. Its purpose is to determine:

*how many individuals are practising as Legal Assistants;

*how common and entrenched Legal Assistants are in the practice of law;

*in which areas of law Legal Assistants are working and the background of those Legal Assistants.

The survey is phrased such that firms apply the title subjectively. The questions are then asked again having the respondent apply an objective definition of the Legal Assistant designation. This will allow data to be secured on how firms are applying the Legal Assistant title. Even further, it may reveal a pattern between a Legal Assistant's background and the areas of law in which he or she practices.

The second phase of the survey will be directed at Legal Assistants, Paralegals, Law Clerks, Conveyancers etc. Again the survey will be directed at all who use the title or who consider their work to be of Paralegal / Legal Assistant status. Names of interested individuals will be sought through an insert attached to the initial survey. This list is to be circulated to all Paralegals / Legal Assistants employed by the firms being surveyed.

WALA will be supplying its mailing list of member's names and addresses to Western Management Consultants for the purpose of the second phase survey. This means that all members will automatically be included in the survey. If you do not want to be included please inform the Association and your name will not be submitted. For those student members who are now working, you should advise WALA of your change of status, as only the names of Legal Assistant members will go to the Law Society.

The first phase of the survey will be sent to B.C. law firms early this fall. The second phase survey will probably commence in the spring of '92.

If you have any concerns or queries regarding this process, I would be happy to reply and if appropriate, direct them on to the Subcommittee.

For your information, the Committee is comprised of nine members:

- * Don Silversides, Bencher of the Law Society;
- * Tony DuMoulin, Solicitor and partner at DuMoulin & Boskovich & Instructor at Capilano College;
- * Ron Tucker, Lawyer with the office of the Attorney General
- * Terry Warren, Family practitioner & partner at Warren, Aaron, MacGregor;
- * David Cruickshank, Barrister and Solicitor;
- * Don Thompson, Barrister and Solicitor with the Law Society;
- * Audrey Leiberman, graduate of Capilano College Legal Assistant Program;
- * Susan Supples, Legal Assistant since 1969 primarily in solicitor's practice;
- * Terry Wilson, graduate of Capilano College Legal Assistant Program;



Firm Spotlight.....

FERGUSON GIFFORD

Ferguson Gifford, one of Vancouver's mid-sized firms is located at 500 Park Place, 666 Burrard Street. The firm consists of 42 lawyers and approximately 140 support staff. Ferguson Gifford is a full service law firm with practice groups in the areas of Corporate/Commercial, Insolvency, Real Estate, Securities and Litigation.

Of the 140 staff members, the firm employs 3 Legal Assistants from the Capilano College program as well as 3 Paralegals who have on the job training. About 4 years ago the firm hired their first Capilano College Legal Assistant in the Litigation department to work with Personal Injury Defence and Commercial Litigation files. Since that time they have created a Legal Assistant position in Family Law. A Legal Assistant position was also created in the Real Estate department when a secretary working within that department completed the Capilano College evening program.

At present, the firm is funding two secretaries who are attending evening classes at Capilano College. During a period when the Litigation Legal Assistant was on vacation for one month, the firm appointed one of the secretaries enrolled in the evening program to provide

coverage in the Litigation department. This helped the secretary in gaining practical experience and lightened the load for the Litigation Legal Assistant when she returned from her vacation.

Although the Legal Assistant concept is still relatively new to Ferguson Gifford, the firm actively encourages their secretaries to attend the evening program. The firm is also moving towards the trend of hiring Legal Assistants who have graduated from the Capilano College program.

By Sherri Fostvelt



NETWORK NEWS

Hello and welcome again to Network News. I know everyone is probably gearing down for the summer, as I am, so I will be somewhat brief this issue. However, I did want to follow up on my comments from last issue regarding the confidential registration forms. But first, I want to let everyone know that we have moved our offices effective May 1, 1991. If you are in the neighbourhood, please call or come and see us at our new location:

The Legal Assistant Network
1400 Commerce Place
400 Burrard Street
Vancouver, B.C. V6C 3G2

Telephone: 643-1755
Facsimile: 643-1760 or 574-3686
Cellular : 240-8210

Regarding the registration forms, as I explained last issue, the majority of WALA members had not yet registered with us and consequently we had little or no source information concerning potential recruits or even contacts. It was for this reason we asked that all legal assistants complete the registration form enclosed with the last issue and file their resume with our service, regardless of whether they were interested in job opportunities. By completing the form and returning it to WALA, you are not only providing valuable statistical data, you are registering with TLAN and providing us with the resource information necessary to make the service function.

We have now had the opportunity to compile and conduct a preliminary review of the forms that have been returned. While I am pleased with the effort made and the information provided by those who have returned the forms, the numbers are still quite low and the majority of members have not yet registered. Accordingly, we have enclosed another copy of the form with this issue. If you have not yet registered, please take the time to complete the form now. If you prefer, you can send your confidential registration form, together with your resume, directly to the TLAN address noted above.

To those members who have registered, please bear with me and I will be in contact with you by phone or letter in the very near future.

I know I have been dwelling on these forms and other administrative matters, however, I cannot overstate their importance to establishing and marketing our service. In any event, I will now leave it with you and say no more. For future issues, I will shift my focus instead to more topical matters concerning legal assistants and recruiting; career development, professional trends, etc. Of course, if there are any particular areas of interest or any specific issues that a member would like me to cover, please do not hesitate to write or call and let me know. I am always pleased to respond to member concerns and requests. In the meantime, here's to a great summer!

Stephen Nash



THE NEW SMALL CLAIMS ACT: ...A COMMENTARY

by Wendy Mulligan

On February 25, 1991, the new Small Claims Act came into force in British Columbia. Section 2(1) of the Small Claims Act states that the purpose of the Act and Rules is to "Allow people who bring claims to the Provincial Court to have them resolved and to have enforcement

proceedings concluded in a just, speedy, inexpensive and simple manner." The Act is accompanied by a set of Rules which govern the procedures to be followed in Small Claims Court. The Supreme Court Rules have no application in this Court, pursuant to Rule 17(17), with a few exceptions, including Rules 6, 42(4), 42(7), 46 and 48.

The Provincial Court has jurisdiction to hear the following claims, pursuant to Section 3(1) of the Act:

- "(a) debt or damages,
- (b) recovery of personal property,
- (c) specific performance of an agreement relating to personal property or services, or
- (d) relief from opposing claims to personal property

if the amount claimed or the value of the personal property or services is \$10,000 or less, excluding interest and costs."

This Court cannot, however, hear claims for libel, slander, or malicious prosecution.

The Ministry of the Attorney General has created a Small Claims Manual, which is a policy and procedures manual designed as a guidance tool for Small Claims Court personnel. This is an extremely helpful manual, and those involved in handling Small Claims Court litigation in a law firm would be wise to obtain a copy. The

Manual, written in plain English, contains twelve chapters, and covers various topics, which include: making a claim, service of documents, court applications, settlement conferences, trials and appeals. The Manual also contains sections for dealing with infant claims, reciprocal enforcement of judgments, a copy of the Act itself, and the Rules. The Manual is available for \$20 through Crown Publications at 546 Yates Street, Victoria.

The use of standard carbon forms for Small Claims actions has been implemented, and in most instances, the Registry will not allow the computer-generated pleadings which are standard to most law firms. The principle behind the carbon forms is simple: directions are imprinted directly on the forms, so a lay litigant can understand what is required of them.

One of the most significant developments in the Act is the implementation of the mandatory Settlement Conference, pursuant to Rule 7. The mandatory Settlement Conference has been created in the hope of settling most cases at an early stage, without the delay and expense of proceeding to trial. In addition, the Conference acts as a "discovery" procedure if the matter does eventually proceed to trial, as there is no provision for discoveries or interrogatories in Small Claims Court.



LOOKING BACK....

Every industry or profession develops its own language or terminology which outsiders often find confusing and sometimes plain unintelligible. To say that the legal profession is no exception to this rule is at the very least an understatement! The strange language used by the legal profession may in fact be the rule from which other baffling professional terminologies take their justification.

Those of you who graduated from Capilano College will no doubt remember Donna Phillips bi-monthly vocabulary quizzes (a.k.a. Black's Law Dictionary from A to Z!). What we didn't have to memorize for those quizzes was the common lingo of the profession - at some point we just absorbed who and what they meant when they were referred to "benchers", "barristers", "solicitors", "articling" students who attended "moot courts" and who are "called to the bar" (what bar?) - but who thought up these strange names?

Here then is a brief history: The Common Law is rooted in English history and tradition. Prior to the Norman conquest in 1066 A.D., a

community's justice was by dispensed through "Moots" or meetings of the people of the community. After the Norman conquest, ownership of the land was vested in the King who in turn could appoint individuals to control different areas. Thus control of the land, and the attendant power to dispense justice was transferred from the Saxon "Moots" to the Norman King and various favoured individuals (such as the nobility or the King's courtiers).

Following the conquest it became the King's habit to travel about the countryside on tours of inspection, taking his court with him. Since the King and his court dealt with legal matters on these tours, the word "Court" took on the meaning it has today as a place where one can apply for justice.

Although lawyers have been around since Roman times, it was not until 1402 that legislation was passed to regulate which persons might practice as a lawyer (ie: present a case before the King's courts). Persons wishing to practice had to be examined by the Justices of the King's Court and if the Justices found the applicant to be fit, his name was entered on a Roll of lawyers. If a lawyer failed to perform his duties properly, his name would be struck from the Roll and he would be forever barred from appearing before the King's court.

About this time, lawyers began banding together in societies for the purposes of purchasing law books and law manuscripts and establishing premises where they could live and have their libraries (is that where the tradition of lawyers spending most of their time in their offices originated?) These early firms were called "Inns" and were governed by the senior members of the society. It was the habit of the senior members dine at a high table which was located on a bench and consequently these senior members were given the title "Benchers". The title continues today to be given to senior members of the Law Society.

Much of the tradition for training lawyers comes from the practices of these early Inns. Prospective lawyers were trained (as was everyone in that period) through the apprenticeship method which included attending lectures and practice moots (some saxon traditions continuing). A "barra" or bar, similar to what is found in Court today, was set up in the hall of the Inn. When the Benchers considered that the apprentice had gained sufficient experience, he was permitted to plead his case from the bar. The "calling to the bar" of apprentices (or articling students in current terminology) remains today what it was then - recognition by the profession that the apprentice has gained the skill necessary to be a lawyer, or to use the term created

by those early practices, a "Barrister".

The term "Solicitors" arose for the group of lawyers who became familiar with the special proceedings in the Chancellor's court because such proceedings were commenced by a petition "soliciting" some form of equitable relief from the Court.

Over the next three hundred years, things became pretty slack with regard to who could be a lawyer and who couldn't. In 1729, new legislation was passed which required prospective lawyers to serve a five year apprenticeship with a practising lawyer (or solicitor) before taking a formal examination (bar exam?) which would allow the lawyer to practice independently.

It's interesting to reflect on the traditions that enrich the language of the legal profession. Some things have changed - apprentices are now law students, summer students and finally articling students (which is a fairly long apprenticeship in anyone's book), Inns are now Law Firms and the lawyers supposedly don't live on the premises any more. However, the flavour of those early traditions and richness of the language continues today to enhance this profession in which we have chosen to make our career.

by Sarah Hanna

News In Brief.....

Ontario...Late last year, a report by the Ontario Task Force on Paralegals stated that independent paralegals may offer an "economically competitive, alternate legal service".

There are approximately 750 independent paralegals practising in the province of Ontario. The wording of the Ontario Legal Professions Act and cases such as R. v. Laurie and POINTTS Ltd. (1987), 32 C.C.C. (3d) 549 (Ont. C.A.) make it easier to for Legal Assistants to practice independently in Ontario. The task force found that the paralegal's reputation for no frills service, low prices and their willingness to handle smaller matters filled a gap in the legal services available and made the legal system generally more accessible.

Despite the (surprisingly) positive findings for independent paralegals, the task force also recommended setting up formal regulation of independent paralegals in the form of a Registrar of Independent Paralegals; a mandated education and training program which would be a prerequisite for registration as an independent paralegal; specific permitted areas of practice; and disciplinary procedures.

Ontario...In the July 4th edition of the Province, it was reported that an Ottawa paralegal "who almost botched a woman's divorce case was fined \$1,000 for acting as a lawyer" She had apparently filled out the forms incorrectly. Unfortunately, the report does not tell us whether the person involved was an independent paralegal or a legal assistant in a law firm.

WELCOME!!!

Since the last Newsletter, the Association has acquired 3 new members. The Association now has 140 members of whom 59 are student members. We take this opportunity to introduce our new members who have joined the Association since our March 1991 Newsletter:

Crystal Ratzlaff (s)
Elizabeth Olkovich (s)
Laura McLean (la)

As a gentle reminder, by now you will have received Notices for 1991-92 membership dues. In case you didn't know, membership fees for WALA can be claimed as a tax deduction under "professional memberships" on your income tax form. Some law firms will also pick up this expense as a benefit to you (and a tax deduction for them).

NOTICE

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EDITORIAL TEAM: Sarah Hanna (ed.), Debbie Rowbotham, Sherri Fostvelt, Terry Wilson, Wendy Mulligan, Cheryl Stevens