

October 2017

## INSIDE THIS ISSUE:

|   |    |
|---|----|
| <a href="#">Bencher Highlights</a>                          | 1  |
| <a href="#">Meeting Notice</a>                              | 2  |
| <a href="#">Recent Code Amendments</a>                      | 3  |
| <a href="#">Some Moments in Time</a>                        | 4  |
| <a href="#">Retainer Letters</a>                            | 6  |
| <a href="#">Lawyers and Addictions</a>                      | 7  |
| <a href="#">Insurance Coverage</a>                          | 8  |
| <a href="#">eRegistration:<br/>Rules &amp; Requirements</a> | 10 |
| <a href="#">Notices</a>                                     | 11 |
| <a href="#">Acting as a Personal Rep</a>                    | 12 |
| <a href="#">Nomination for<br/>Human Rights Award</a>       | 13 |
| <a href="#">Bits&amp;Bytes</a>                              | 14 |
| <a href="#">CPD Position Available</a>                      | 16 |
| <a href="#">Great Lexexpectations</a>                       | 17 |
| <a href="#">2017 Important Dates</a>                        | 18 |
| <a href="#">In Memoriam</a>                                 | 18 |
| <a href="#">Gala Dinner</a>                                 | 19 |
| <a href="#">CPLED News</a>                                  | 20 |
| <a href="#">Membership Changes</a>                          | 21 |
| <a href="#">Trip to Nunavut</a>                             | 22 |
| <a href="#">Discipline Case Digests</a>                     | 25 |
| <a href="#">CPD Calendar</a>                                | 27 |
| <a href="#">Pitblado Lectures</a>                           | 28 |

## Communiqué 2.0

is published by  
 The Law Society of Manitoba

219 Kennedy Street  
 Winnipeg, Manitoba  
 R3C 1S8

Telephone: 204-942-5571  
 Fax: 204-956-0624  
[www.lawsociety.mb.ca](http://www.lawsociety.mb.ca)

## Bencher Highlights

KRIS DANGERFIELD, CHIEF EXECUTIVE OFFICER



True to form, the benchers met once again in Clear Lake on September 8, 2017 for their annual fall meeting held in conjunction with the annual meeting of the Western Bar. The business portion of the bencher meeting was kept relatively short as we had visitors from Washington in town to conduct a workshop with the benchers (more on that later). We also had **Stacy Nagle** and **Brad Regehr** attend and bring greetings from the MBA.

The benchers approved the translated version of some new *Law Society Rules* that had previously been approved in English only:

1. There are new rules which will allow lawyers who are acting solely in a representative capacity (for example, as a trustee or committee) to hold funds in their trust accounts or outside of trust. There is a new provision that will require lawyers who hold such funds outside of trust to maintain records and to produce them for inspection upon a request from Law Society audit staff. At the time of retirement, lawyers who either are serving in a representative capacity or who have been designated to serve in that capacity in the future will have an obligation to provide notice of that change in status to affected persons. You can read more about this elsewhere in this Communiqué.
2. Rules were approved that put a process in place to deal with academic dishonesty in the CPLED course. A student who breaches the CPLED professional integrity policy may now be subject to suspension or expulsion from the CPLED program and a termination of articles. An appeal from such a finding lies to the Admissions and Education Committee. We hope to not have to make use of these provisions.
3. Rules were approved that will permit lawyers to electronically transfer funds from a restricted trust account to facilitate the eRegistration process that will be implemented by Teranet Manitoba effective December 17, 2017 and which will become mandatory as of April 3, 2018. There will be lots of opportunities for the profession to receive training on the new e-registration process, including three sold out sessions in September and October.

continued on page 2

## Bencher Highlights

continued from page 1

4. There are new provisions in the *Code of Professional Conduct* that deal with competence, dishonesty/fraud by client or others, withdrawal from representation (leaving a law firm) and incriminating physical evidence. You can read about the details of these new *Code* provisions elsewhere in this Communiqué.

Every October Council for the Federation of Law Societies approves a new slate of Council members for the following year. In June 2017, the benchers approved a policy outlining the criteria for the appointment of the FLSC Council member for Manitoba. After considering the policy, the benchers approved the re-appointment of **David Swayze** to be the LSM's representative to the Federation Council for a three-year term.

The benchers received a report on the work that is being done together with our partners from the Law Societies of Saskatchewan and Alberta on the redevelopment of CPLED, the Law Society's bar admission program. A search is currently underway to hire a CEO for CPLED who will be tasked with developing a high quality, pre-call education and assessment program.

The benchers spent the balance of the afternoon hearing from **Paula Littlewood**, Executive Director of the Washington State Bar Association and **Steve Crossland**, the Chair of the Limited License Legal Technician Board in Washington. They talked to the benchers about the process in Washington State that led to the regulation of limited license legal technicians who provide a narrow scope of legal services to the public in the area of family law. A LLLT is essentially a person licensed to provide legal services in a narrow area of practice, and in this instance primarily to assist clients in completing documentation. This leaves the high level legal advice and complex analytical work to the lawyers who are trained to provide those services. This workshop marked the beginning of discussions by our benchers and the President's Special Committee on Alternate Legal Service Providers about how to remove barriers to accessing legal services at a reasonable cost.

## NOTICE OF BENCHERS' MEETING

The next regular meeting of the Benchers of the Law Society of Manitoba will be held on **Thursday, October 26, 2017 at 12:30 p.m.**, in the Society's classroom, 219 Kennedy Street, Winnipeg, Manitoba

Members of the Society are encouraged to attend and participate in the deliberations of the governing body.

The dates of future Benchers' meetings scheduled for 2017 and 2018 are as follows:

- Thursday, December 14, 2017
- Thursday, February 15, 2018
- Thursday, April 19, 2018
- Thursday, May 24, 2018
- Thursday, June 28, 2018

## Recent Code Amendments. Stay Current!

Darcia Senft - General Counsel, Director of Policy and Ethics

At the May 25, 2017 benchers' meeting, the benchers approved amendments to the *Code of Professional Conduct* that related to the following:

- competence;
- dishonesty/fraud by client or others;
- withdrawal from representation – leaving a law firm;
- incriminating physical evidence; and,
- miscellaneous typographical errors in the *Code*.

At their meeting held on September 8, 2017, the benchers approved the amendments as translated in their final form. A summary of the amendments is set out below.

### Competence: Rule 3.1-2

The Canadian Bar Association's Futures Report emphasized the importance of lawyer independence and raised concerns about the possibility of undue influence being exercised by powerful clients over lawyers' legal opinions.

Following from those discussions was commentary 8 of rule 3.1-2 of the Model Code was amended to ensure that an opinion is genuinely held and provided to the standard of a competent lawyer. Commentary 9 now provides greater guidance on the issue of a lawyer making unreasonable assurances to a client.

### Dishonesty, Fraud by Client or Others: Rule 3.2-7

Rule 3.2-7 bars lawyers from knowingly assisting in or encouraging any dishonesty, fraud, crime or illegal conduct or instructing the client on how to violate the law and avoid punishment. Amendments to the rule and commentaries 2 and 3 clarify that a lawyer has an ethical duty not to assist, participate or engage in conduct that he or she knows, or ought to know, would lead to dishonest, fraudulent, criminal, or illegal acts by clients or others. The Rule also now captures willful blindness and recklessness on the part of the lawyer.

### Withdrawal from Representation – Leaving a Law Firm: Rule 3.7

New rules have been added to outline the responsibilities of lawyers who leave a law firm. New commentary reinforces the principle that clients' interests must be protected when a lawyer leaves a firm and makes it clear that lawyers have a duty to work cooperatively and professionally with their law firms to ensure that clients are not affected negatively by the departure. Amendments encourage lawyers and firms to provide joint notification to clients and clearly set out that the principles apply to the dissolution of firms. A new rule exempts lawyers leaving government or corporate service from the application of the rule.

### Incriminating Physical Evidence: Rule 5.1-2A

The commentary in Rule 5.1-2A was amended to clarify that if a lawyer advises a client of the right to refuse to divulge the location of physical evidence, the lawyer is not hindering an investigation. The amendment is intended to reflect the constitutionally protected right against self-incrimination and emphasize that the lawyer's advice to this effect does not place the lawyer outside of the rule (i.e. obstructing justice).

### Miscellaneous Typographical Errors

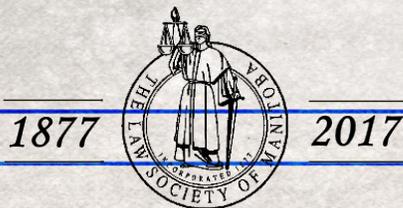
Finally, in reviewing our *Code*, we noted some typographical errors and the benchers approved certain amendments to address those errors.

### Stay Current

In order to ensure that you are looking at the most current version of the *Code of Professional Conduct*, always access the online version on the Law Society's [website](#) (under the "Lawyer Regulation" tab).



# Some Moments in Time



1877 2017

## *Celebrating 140 Years of Protecting the Public*

Who can forget the 90s? The Soviet Union fell. We saw the advent of the World Wide Web. We danced the Macarena. We also had our first (and only) female Prime Minister in Canada, the Honourable Kim Campbell. And of course the Allan Fineblit era began at the Law Society of Manitoba.

- 1992** Discipline hearings become public for the first time.
- 1995** The Law Society adopts rules in the *Code of Professional Conduct* on harassment and non-discrimination.
- 1995** Marilyn Billinkoff is hired as the Deputy Chief Executive Officer.
- 1996** The benchers adopt the John Carver model of board governance.
- 1996** Life Benchers no longer have the right to vote at bencher meetings.
- 1997** Chief Executive Officer Deborah McCawley, Q.C. is appointed to the Court of Queen's Bench.
- 1998** Allan Fineblit is appointed Chief Executive Officer of the Law Society.
- 1998** The *Law Society Act* is amended to reduce the number of benchers by one half (from 43 to 22).
- 1999** The Law Society takes over operations of the Great Library and provincial libraries from the Province of Manitoba.

# A Snapshot in Time

## 1990's



**Upper:** Deborah McCawley (Chief Executive Officer) and Marilyn Billinkoff (Deputy Chief Executive Officer) share a laugh.

**Lower:** A birthday celebration with Allan Fineblit (Chief Executive Officer), Marilyn Billinkoff (Deputy Chief Executive Officer), Ryan Sasaki (Comptroller) and Barney Christianson (President). Who can forget those suspenders!

## Retainer Letters

Tana Christianson, Director of Insurance

It's rare for the insurance department to see a retainer letter on a claims file. I don't know whether that is because Manitoba lawyers don't generally use retainer letters or whether that is because lawyers who do use retainer letters don't become the subject of professional liability claims.

When the Professional Liability Claims Fund retains counsel to act on an insurance claim, staff at the Claims Fund do send out a retainer letter (even though we are the client!). The main purpose of that retainer letter is to let our newly retained counsel know what our expectations are as a client – not just hourly rates and acceptable charges for disbursements, but also critical information about the nature of our relationship and our expectations for reporting and confirmation of instructions.

---

***A good retainer letter  
manages clients' and  
lawyers' expectations of the  
solicitor/client relationship  
from the onset***

---

A good retainer letter manages clients' and lawyers' expectations of the solicitor/client relationship from the outset. You don't need to start from scratch each time. It may take some time to draft a retainer letter the first time, but it can become a precedent that you can use, with minor modifications, on every file. A retainer letter is more than just a contingency fee agreement, which some lawyers think is the same as a retainer letter. Both help in having your fees upheld but a good retainer letter goes further to clarify your relationship with your client.

First, you should clearly identify your client. Get the proper legal name for all of the individuals and the corporations, partnerships, trusts, etc. that you are representing. If you have more than one client, you should explain that the joint retainer is an automatic waiver of solicitor/client privilege and that what one party says will automatically be communicated to the others. If there is any conflict between the parties that is being waived, you should set this out clearly and have it acknowledged by the parties.

The next important thing to do is to set out the scope of the retainer. What exactly is it you are being retained to do? "To act on domestic matters" is not specific enough. Set out what you are going to do. Then set out what you are not going to do. This is extremely critical if you are accepting a limited scope retainer. If it's hard to foresee the steps in the file then set out the first stage – for instance "we are going to do some preliminary investigation. Then we will have further consultations with you before issuing a Statement of Claim." If you have a certain strategy that you are ready to propose you might want to set that out. Do you know your client's objectives? You should and you should set those out in the retainer letter.

A retainer letter manages client expectations. Tell the client how you intend to communicate. They may expect you to email them at every step but if that's not how you practise tell them how often you will send updates (monthly? quarterly?). If you only return phone calls after 4 o'clock, put that in your letter. If you only return emails after 24 hours, spell that out. If a support person/paralegal is where calls should be directed, tell your clients and include the relevant staff person's contact information.

Then set out in detail your hourly rate, your firm's disbursement and retainer policies, and all the financial details of the contract you are entering into with your client. If you can, provide your estimate of how long it's going to take to do your work and what you expect it will cost.

Finally, the retainer letter should then be acknowledged and accepted by your client.

*continued on page 7*

## Retainer Letters

*continued from page 6*

Does this sound like too much bother? Think again. It might actually be quite useful to you. Your retainer letter is a road map for your file. You can go back to it and review it and the information that you have collected and identify whether you are still on track. The information in the retainer sets out your guide posts and may also be of assistance if you are ever sued by your client or face a Law Society complaint.

And by the way, clients like retainer agreements too.

An excellent checklist for a retainer engagement letter is set out in a downloadable LawPro Practice Pro publication called [Managing the Lawyer/Client Relationship](#). The Law Society of BC also offers [sample retainer agreements](#).

## Retainer Agreement

- Responsibilities of Lawyer
- Obligations of Client
- Scope of Representation
- Lay Out Stages of Case
- Payment of Costs
- Retainer Policy
- Billing and Payment Policies

29

---

## Lawyers and Addictions

Tana Christianson, Director of Insurance

American Bar Association studies show lawyers suffer disproportionately from addictions to drugs and alcohol. This summer, the New York Times published an excellent article called "*The Lawyer, The Addict*", written by the ex-wife of an American lawyer who ultimately died of the drug addiction he had managed to keep secret from his family, friends, clients and co-workers. It is a sobering exploration of an individual lawyer's decline and death from addictions. Follow these links to read this excellent article:

<https://www.nytimes.com/2017/07/15/business/lawyers-addiction-mental-health.html>

If you or a lawyer you know needs help, the Lawyers Health and Wellness Program is a free and confidential assistance program available to members and articling students of the Law Society of Manitoba through Manitoba Blue Cross. While the program is funded by the Law Society, the services are totally confidential. Information about contact will not be provided to the Law Society of Manitoba. Services are available anywhere in Manitoba. You can call 24 hours a day seven days a week, Winnipeg 204-786-8880 toll free 1-800-590-5553.



## Insurance Coverage

Tana Christianson, Director of Insurance



If you are a lawyer practising in Manitoba you should know about the five policies of insurance arranged for you by the Law Society of Manitoba.

### Reimbursement Fund Insurance

All lawyers in the province are covered by a Trust Protection Indemnification Policy. This is a policy the Law Society purchases from the Canadian Lawyers Insurance Association (CLIA) to cover the Reimbursement Claims Fund. The Reimbursement Claims Fund has been in place since 1943. Established under what is now *The Legal Profession Act*, it exists to compensate the public on those rare occasions when lawyers misappropriate trust funds or property. The fund reimburses the client who suffers the loss. The fund will attempt to recover the loss from a lawyer who misappropriated the funds, but the Trust Protection Indemnification Policy protects the innocent partners of the thief by specifically providing that there will be no recourse against innocent partners.

### Directors and Officers Insurance

The Law Society of Manitoba has entered into a policy of insurance to provide “last resort” outside director liability insurance to all lawyers practising in the province of Manitoba.

This coverage applies to all lawyers with valid Manitoba practising certificates who act as directors, officers or trustees of a Canadian corporation, organization, charity, trust or entity in Canada. Lawyers who sit on boards facing claims for “an outside director’s wrongful act” are covered under this policy.

### Professional Liability Insurance Policy

All lawyers in the Province of Manitoba, except for those exclusively in the employ of Provincial, Federal or Municipal governments, have \$1,000,000 mandatory insurance under our Professional Liability Insurance Policy.

The Professional Liability Insurance Policy is what is commonly referred to as malpractice insurance or error or omissions insurance, or “the negligence policy”. It covers lawyers who are faced with allegations that they made an error in rendering professional services for others whether they were acting as lawyers, as arbitrators or mediators, or if the services are connected with or incidental to the practice of law, as executors, trustees, personal representatives, committees, and guardians, or patent or trademark agents. If lawyers were insured at the date the error was made, they continue to be covered, even if they have left practice after the error comes to light.

*continued on page 9*

## Insurance Coverage

continued from page 8

The Professional Liability Insurance Policy does contain some important exclusions. It does not cover you for what are called ancillary activities, which means activities of a quasi-legal or non-legal nature, including financial investment and accounting services, brokerage services and real estate development and appraisals that are ancillary to or independent of the practice of law.

It also excludes claims for fines or penalties, punitive or exemplary damages or for return of fees, including fees which have been paid but the insured is asked to return, even if those fees are claimed as general damages.

The policy only covers you for your Canadian practice and excludes claims for services provided from an office outside of Canada and for the practice of laws of a non-Canadian jurisdiction or the rendering of expert advice on those laws.

Lawyers acting in the capacity of a director or officer are not covered, although they have recourse to our Directors & Officers Policy. The policy also excludes damages for the loss of tangible or intangible property, loss of data, disclosure of confidential information or any other loss which is directly or indirectly connected with the receipt or transmission of a computer virus or any other damaging program by the internet or in any other electronic manner or through unauthorized interference with an internet connection, network computer or telecommunications device. (Coverage for some of these computer related issues are offered under the Cyber Liability Coverage).

The policy also excludes dishonest, fraudulent or criminal acts and claims for theft or misappropriation of trust funds or property or in any way related to such theft or misappropriation but these claims are directed to the Reimbursement Fund Policy's Trust Protection Indemnification Policy.

The Professional Liability Insurance Policy also does not cover claims for malicious acts or omissions, which would include defamation or malicious prosecution or for penalties imposed under s.163.2 of the *Income Tax Act* or fines or penalties under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, and certain provisions under the *Personal Information Protection and Electronic Documents Act (PIPEDA)*, except that the insurer will reimburse the insured all reasonable defence costs incurred by independent counsel retained by the insured in the successful defence of these categories.

### Voluntary Excess Coverage

For coverage in excess of the mandatory \$1,000,000 (\$2,000,000 aggregate) policy, firms can purchase Voluntary Excess Coverage from CLIA. This coverage can only be purchased by firms and must be purchased for every lawyer in the firm.

### Cyber Liability Insurance

Effective July 1, 2017, all lawyers in private practice were required to purchase CLIA Cyber Liability Insurance to provide protection from cyber crime to lawyers and their clients.

This policy provides first response coverage in the event of a cyber-attack on a lawyer or law firm, and covers lawyers and clients for damage from disclosure of client information as a result of a cyber-attack. It also provides coverage and assistance to lawyers faced with privacy breach notifications, system and data rectification costs, cyber threats and ransomware extortion costs.

For more information and copies of all five policies, go to the Insurance tab on the [Members' Portal](#) of the Law Society website or contact staff of the Professional Liability Claims Fund who would be pleased to talk insurance with you.

## eRegistration: Law Society Rules and Requirements

A Message from the Audit Department



Does your firm make payments to Teranet Manitoba LP or, as they are more commonly known currently, The Property Registry? If so, you've probably been hearing about the upcoming ability to register documents online – 'eRegistration'. You may have also heard that eRegistration can be combined with the electronic transfer of funds to Teranet Manitoba LP ("Teranet"). Knowing that Law Society rules require that, except in limited circumstances, all withdrawals from the pooled trust account must be by cheque, you may be wondering if you will be able to transfer trust funds electronically to Teranet to complete eRegistration.

The Financial Accountability Rules of the Law Society have recently been amended to accommodate electronic transfer of trust funds to Teranet. However, there are a number of specific requirements that must be met in order to do so.

You should also know that the new rules do not change anything about pooled trust accounts – any online access for the pooled trust account must still be on a "read only" basis, and as noted above, except in limited circumstances, all withdrawals must be by cheque signed by a lawyer.

The Law Society has been working together with Teranet to provide educational opportunities for lawyers and support staff to understand how the movement of money can be made to Teranet after eRegistration is launched.

In addition to the CPDs recently presented jointly by the Society and Teranet, the Law Society has a DVD Replay scheduled for November 22nd. To register for the Replay, use this [registration form](#). The Law Society will also soon be making this presentation available on DVDs and cpdonline.

You should also be watching the Audit Department section of the Society's website for upcoming posting of detailed information to assist you in understanding the new rules and requirements.

## NOTICE OF DISBARMENT

**TAKE NOTICE** that by resolution of a Panel of the Discipline Committee of The Law Society of Manitoba, **JAMES GRAEME EARLE YOUNG** was found guilty of professional misconduct and it was ordered that he be disbarred and his name struck from the Rolls of Barristers and Solicitors of the Society.

**DATED** at the City of Winnipeg, in the Province of Manitoba, this 21st day of September, 2017.

**Kristin Dangerfield**  
Chief Executive Officer

## NOTICE OF SUSPENSION

**TAKE NOTICE** that **NATHAN GOLAS** was administratively suspended from the practice of law effective September 25, 2017.

**DATED** at the City of Winnipeg, in the Province of Manitoba, this 25th day of September, 2017.

**Kristin Dangerfield**  
Chief Executive Officer

## NOTICE OF SUSPENSION

**TAKE NOTICE** that **JOHN LORING PATRICK SINCLAIR** was convicted of professional misconduct and suspended from the practice of law for a period of three months, commencing August 23, 2017 through to and including November 22, 2017.

**DATED** at the City of Winnipeg, in the Province of Manitoba, this 9th day of August, 2017.

**Kristin Dangerfield**  
Chief Executive Officer

## Acting as a Personal Representative? New Rules Apply to You

Leah Kosokowsky, Director of Regulation

In September 2017, the benchers passed new rules that govern the conduct of lawyers who are appointed to act in a representative capacity. These rules apply to all lawyers who are appointed to act as an executor, administrator, attorney under a power of attorney or a trustee, even if the appointment is made by a family member.

Under the new regime, if you are acting solely in the capacity of a personal representative (i.e. not as a lawyer) you may, but are not required to, hold the funds in your trust account. This will allow for some flexibility in your investment options if you are required to hold the fiduciary property for an extended period of time.

If you choose to hold the funds in your trust account, the usual trust accounting record keeping requirements must be met. If you hold the funds outside of trust, you now are required to maintain books and records and to produce those records for inspection at the request of The Law Society.

If you hold the funds outside of trust, how will the Law Society know that you have been appointed to act in a representative capacity? In those instances, the new rules require that you provide notice of your appointment to the Society within 30 days of beginning to act on the appointment.

Some representative appointments arise out of a solicitor and client relationship. Others arise because of a personal relationship (for example where your sister has asked that you be the guardian and trustee of her children in the event of her death). Where the appointment is of a personal nature and no legal services are being provided, you now must provide written notice to the interested parties (for example, donor, beneficiaries) that your conduct is not covered by your professional liability insurance or by the Law Society's reimbursement fund.

Similarly, when you retire or withdraw from practice and you have been appointed previously to act as a personal representative, you will need to notify the interested parties that you are leaving practice and will no longer have professional liability insurance or reimbursement coverage.

The new rules can be found in [Part 5, Division 4 – Financial Accountability](#).



## Send us Your Nomination for the 2017 Human Rights Awards



Since 2000, the Manitoba Human Rights Commission, the Canadian Human Rights Commission and the Manitoba Association for Rights and Liberties have hosted the Manitoba Human Rights Awards in honour of December 10, International Human Rights Day. This year the awards reception will be held on December 7, 2017.



The inaugural **Aaron Berg Award** will be given to an individual involved in the legal profession who has made a significant contribution to the advancement of human rights in this province. Lawyers, legal assistants, paralegals and law students are eligible.

For more information about the awards see:

[www.manitobahumanrights.ca/v1/news-events/human-rights-awards.html](http://www.manitobahumanrights.ca/v1/news-events/human-rights-awards.html).

Use our new online nomination process at [www.manitobahumanrights.ca](http://www.manitobahumanrights.ca)

**Deadline: November 1, 2017 at midnight.**



THE MANITOBA  
HUMAN RIGHTS  
COMMISSION



LA COMMISSION DES  
DROITS DE LA PERSONNE  
DU MANITOBA



## Bits&Bytes

Kris Dangerfield, Chief Executive Officer



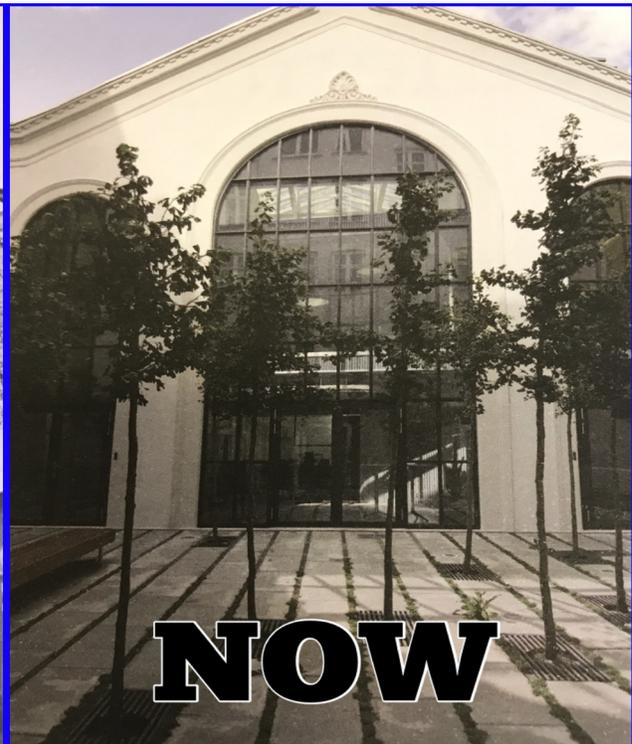
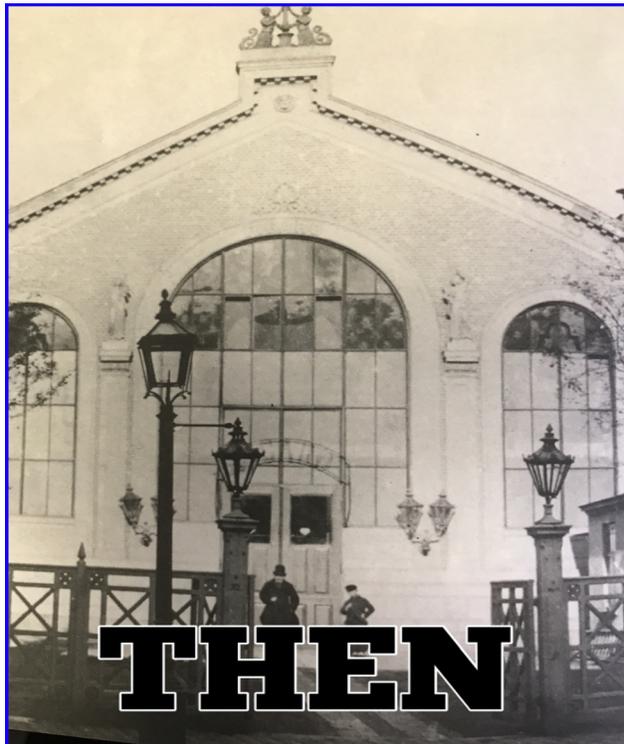
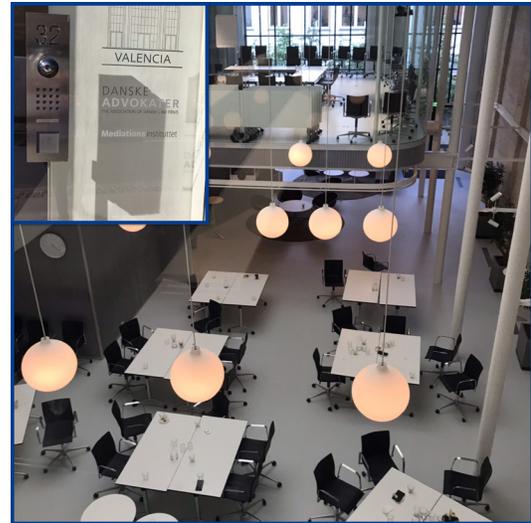
1. Congratulations to my former classmate, **Roger R. Lafrenière**, who was sworn in as a trial judge of the Federal Court of Canada on September 15, 2017 in Ottawa. Roger served as a Prothonotary with the Federal Court for more than 18 years prior to his appointment but more importantly hails from the infamous Class of '82. And just in case there was not enough excitement that day, Roger and his partner Michael sprung a surprise wedding on friends and family who thought they were gathering to attend a dinner celebrating Roger's appointment. Félicitations Roger et Michael.
2. **Byron Williams**, the Director of the Public Interest Law Centre within Legal Aid Manitoba, was awarded an Honourary Doctor of Laws this spring by The University of Winnipeg for his tireless pursuit of social justice. Byron has spent decades championing the rights of Manitoba's most vulnerable citizens and was a most worthy recipient of the honour.
3. Our Director of Information Technology at the Law Society, **Simon Young**, was thinking a lot about sleep this summer – or perhaps more accurately, the lack of it. On July 19, 2017 he and his wife Jennifer welcomed 8.4 lb Chloe Eva Young to the family. She is a sister to big brother Aiden.
4. We have our own new additions here at the Law Society. **Jennifer Houser** has returned from an extended maternity leave to a permanent part-time position as Complaints Counsel. Also taking up permanent residence is **Vivian Hilder**, our new Program Counsel in the Education and Competence Department. Vivian has been doing some contract work for us and very ably has taken charge of the 2017 Pitblado Lectures. We are delighted to have them both with us.
5. You may have seen elsewhere in this Communiqué that **Karen Sawatzky**, the Director of Legal Resources at the Great Library, has created a website for the library, on which you will find topical posts that include information for practitioners, and links to common Manitoba legal sources all in one place. Check it out at [www.lawlibrary.ca](http://www.lawlibrary.ca). I think you will be impressed.
6. Speaking of the Great Library, **Ron Rennie** has decided to retire from his position as library assistant after 17 years of shelving books and providing assistance to lawyers and the public. We wish him well in his retirement.
7. Plans are well under way for the Law Society of Manitoba's 140th Gala Anniversary Dinner that will be held on Thursday, November 2, 2017. In addition to honouring 140 years of regulating the legal profession we will be honouring nine lawyers who have been practising law for 50 years. That is quite a milestone and we hope that you will join us to honour these folks who have contributed so much to the legal profession in Manitoba. Please click [here](#) to check out the names of our nine honorees. An order form for tickets can be accessed [here](#).

*continued on page 15*

**Bits&Bites**

*continued from page 14*

- 8. The 2018 Canadian Law Games will be hosted for the first time by the University of Manitoba from January 1 to 5, 2018. This will mark the thirty-fourth anniversary of Law Games, a four-day athletic, academic, and social gathering of law students from across the country. In true Manitoba style, the 700 participants who will descend on the City of Winnipeg will be attending a Manitoba Social. One of the beneficiaries of that event is the Manitoba Law Students' Association Community Outreach program which has raised funds for a variety of organizations, including the Special Olympics Canada Foundation, Winnipeg Harvest, Big Brothers and Big Sisters of Winnipeg, West End 24/7 and many others. You may be asked to support this and other events and I would encourage you to do so.
  
- 9. This summer, while on vacation in Copenhagen, Denmark, I had an opportunity to connect with **Paul Mollerup**, the Executive Director of the Association of Danish Law Firms (Danske Advokater). He took us on a tour of their newly renovated offices, part of which had formerly been a dance hall built in 1861. The space was redesigned and built with funding from a Danish Foundation established by a husband and wife team that supports the work of both architects and lawyers. Why would they do that you might ask? It turns out that one was an architect and the other a lawyer. Talk about giving back to your professions.





## **Continuing Professional Development (CPD) Position Available: *Programs and Digital Learning***

The Law Society of Manitoba's Education and Competence Department is seeking a qualified individual to plan and deliver a wide variety of CPD programs.

This position will support the Law Society's goal of providing education resources to maintain and enhance the competence of Manitoba lawyers.

This is considered a Junior Position with Responsibilities to include:

- Leading the entire planning process – from idea generation to full implementation of the education program;
- Developing programs with a broad range of subject matters utilizing multiple formats including digital platforms;
- Recruiting and working with volunteer faculty;
- Reviewing course content and materials;
- And much more!

Candidates with the following education, skills and abilities will be of particular interest:

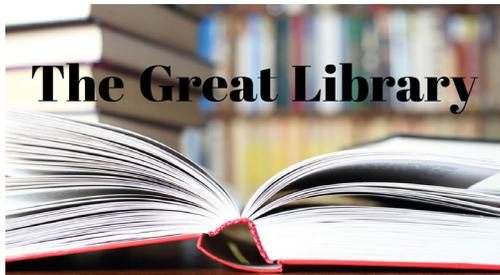
- Law or Education (with focus on Adult Education) degree;
- Experience working with digital learning formats;
- Strong organization and project management skills;
- Excellent communication skills;
- Ability to work both independently and collaboratively as part of a team.

We are looking for candidates who are professional, positive, energetic, and work well with a wide variety of people.

Please submit your application in confidence, to: [careers@lawsociety.mb.ca](mailto:careers@lawsociety.mb.ca)

Closing date for applications is: **Wednesday, November 15**

*The Law Society of Manitoba thanks all applicants for their interest. Please note that only those applicants to be interviewed will be contacted.*



## **GREAT LEXPECTATIONS**

Karen Sawatzky, Director of Legal Resources

Changes in legal information happen quickly. The latest decision from the Supreme Court of Canada can change the argument you use to defend a client. The internet has created a demand for easy access to up-to-date information and immediate response. Here at the Great Library we want to be your Manitoba legal information response team. Our website, [www.lawlibrary.ca](http://www.lawlibrary.ca), has topical posts on information vital to your practice, and links to common Manitoba legal sources all in one place. Subscribe today so the latest information can arrive in your email inbox.

There are a lot of great resources here in the Great Library and on the Law Society's website, and accessible from the Member's Portal. Make sure you're getting all of them.



Karen Sawatzky

[ksawatzky@lawsociety.mb.ca](mailto:ksawatzky@lawsociety.mb.ca)

<http://www.lawsociety.mb.ca/manitoba-law-libraries>

204-945-1958

# 2017 Important Dates to Note



## October 31

Annual Trust Account Report  
with Accountant's Review (Form D)  
for members with June 2017 year end  
**FILING DEADLINE**

## November 2

140th Anniversary Gala Dinner

## November 3

2017 Pitblado Lectures

## November 27 to December 1

CPLED classes

## December 1

2017/18 Prof. Liability Claims Fund Contribution  
(2nd Instalment)  
**PAYMENT DUE**

## December 1

2017/18 Practising Fee and Contributions  
(3rd Instalment)  
for members called to the Bar on June 15, 2017  
**PAYMENT DUE**

## In Memoriam

**Robert Henry William Hook**, who passed away on March 22, 2017 at the age of 65. Mr. Hook received his call to the Bar on June 27, 1985. He practised with Fillmore Riley LLP for 21 years, retiring in 2006.

**Hershel Edward Wolch, Q.C.**, who passed away on July 17, 2017 at the age of 77. Mr. Wolch received his call to the Bar in Manitoba on November 10, 1965. He served as Crown Counsel and as Director of Education for the Law Society before embarking on a career as a criminal defence lawyer in 1967. In 1999 Mr. Wolch relocated to Alberta but continued to maintain an active practice in Manitoba until 2003. At the time of his death, he was a partner in the Alberta firm Wolch Watts Wilson & Jugnauth. Mr. Wolch was appointed Queen's Counsel on December 8, 1982.

**David Charles Golub**, who passed away on August 4, 2017 at the age of 67. Mr. Golub received his call to the Bar on June 24, 1975. During a career which spanned 42 years, he practised with Wolchock & Co. for 15 years and then moved to the firm known today as Levene Tadman Golub Law Corporation, where he practised for 25 years.



*Celebrating 140 Years  
of Protecting the Public*

**We are pleased to invite  
members and guests to attend a**

# *Gala Dinner*

**to celebrate the  
140<sup>th</sup> Anniversary  
of the Law Society of Manitoba**

The Dinner will also honour nine Manitoba lawyers whose distinguished careers have recently passed the half century mark

|                    |                                  |
|--------------------|----------------------------------|
| Derek Booth        | G. David Greenberg               |
| Neil Cutler        | Jack London, Q.C.                |
| John Deacon, Q.C.  | Morton (Mickey) Rosenberg        |
| G. Michael Dennehy | W. Richard (Dick) Van Wallegghem |
|                    | Hymie Weinstein, Q.C.            |

**Thursday, November 2, 2017  
The Fort Garry Hotel ∞ Grand Ballroom**

**Reception 6:00 pm | Dinner 7:00 pm  
Attire Business Formal**

|                |            |         |
|----------------|------------|---------|
| <b>Tickets</b> | Individual | \$ 140  |
|                | Table of 8 | \$1,120 |

To order tickets visit <https://goo.gl/CbrDaP>

For more information contact Nichole Forbes at [nforbes@lawsociety.mb.ca](mailto:nforbes@lawsociety.mb.ca) or 204.942.5571



## **CPLED 2017-2018** **Five Students Still in Need of Articles**

Joan Holmstrom, Director of Education



This year's CPLED class got underway on Monday, September 11. The class has 106 students, 8 of whom are articling outside the city of Winnipeg. These students will participate in 10 CPLED modules in addition to serving 52 weeks of articling to be eligible to be called to the Bar. Five of these students, however, are still in search of articles. To complete CPLED, they will need to have an articling position by December. If you are able to provide an articling position for at least one of these 5 students, please contact Joan Holmstrom at [jholmstrom@lawsociety.mb.ca](mailto:jholmstrom@lawsociety.mb.ca). Maybe you can provide a position for something less than 52 weeks? Don't worry if you are not a 'full-service' firm. An articling placement need not provide exposure to all the various areas of law so long as it gives the student the opportunity to acquire skills in areas such as legal analysis, office systems and practice management, ethics and professionalism, and oral and written communication.

## **CPLED 2018-2019**

Joan Holmstrom, Director of Education

Although the dates for the opening of the next CPLED year have yet to be set, there are students presently in third year law or completing the requirements of the National Committee on Accreditation (if their degree is not a Canadian common law LLB/JD) searching for articles. If you might be able to take on an articling student starting in the spring or summer of 2018, please contact [jholmstrom@lawsociety.mb.ca](mailto:jholmstrom@lawsociety.mb.ca) or the Robson Hall careers office at [Lisa.Griffin@umanitoba.ca](mailto:Lisa.Griffin@umanitoba.ca).



# Membership Changes



The following members have changed their membership status effective on the date shown:

## Practising to Non-Practising:

|                    |                           |
|--------------------|---------------------------|
| July 4, 2017       | Randall J. Janis          |
| July 10, 2017      | Larissa L.L. Benham       |
| August 1, 2017     | Heather M. Fast           |
| September 9, 2017  | Valerie A. Hebert         |
| September 11, 2017 | Allister L. Gunson        |
| September 25, 2017 | Martin H. Freedman        |
| September 25, 2017 | Elizabeth R.M. McCandless |
| September 29, 2017 | Brian L. Shortt           |

## Inactive to Practising:

|                    |                             |
|--------------------|-----------------------------|
| April 6, 2017      | Rebecca S.W. Bae            |
| July 13, 2017      | Jason B. Malloy             |
| August 8, 2017     | Wendy A. Stewart            |
| August 21, 2017    | Lauren N. Fourmeaux Clemens |
| August 30, 2017    | Jennefer J. Nepinak         |
| September 26, 2017 | Jason L.S. Rosenberg        |

## New Admissions:

|                    |                       |
|--------------------|-----------------------|
| August 9, 2017     | Eric S. Freedman      |
| August 9, 2017     | Ryan H.K. Gorlick     |
| August 9, 2017     | Christina D. Phillips |
| August 14, 2017    | Melania D. Cannon     |
| August 14, 2017    | Jennifer J. Janssens  |
| September 14, 2017 | Matthew R. Bolt       |
| September 14, 2017 | Ashton P. Freund      |
| September 14, 2017 | Sanjay Malik          |
| September 14, 2017 | Carly D. Slosower     |
| September 14, 2017 | Rodney A.N. Smith     |
| September 14, 2017 | Mark D.J. Schulz      |

## Non-Practising to Practising:

|                   |                   |
|-------------------|-------------------|
| July 25, 2017     | Kristal A. Bayes  |
| September 7, 2017 | Beverly J. Froese |

## Practising to Inactive:

|                    |                       |
|--------------------|-----------------------|
| July 10, 2017      | Melissa N. Burkett    |
| July 12, 2017      | Radbert H. Pe         |
| July 26, 2017      | Kathleen S. Brownell  |
| July 31, 2017      | Robert J. Graham      |
| August 1, 2017     | John A. Barr          |
| August 1, 2017     | Keeley A. Phillips    |
| August 8, 2017     | Amritpal S. Grewal    |
| August 9, 2017     | Rachael T. Minuk      |
| August 26, 2017    | Melissa L.M. Schrader |
| August 31, 2017    | Liam G. Black         |
| September 5, 2017  | Marjorie A. Webb      |
| September 15, 2017 | Janelle R. Hammond    |
| September 13, 2017 | Thea L. O'Connor      |
| September 15, 2017 | Joshua R. Mason       |
| September 18, 2017 | Shannon D. Benevides  |
| September 27, 2017 | Manjeet K. Warval     |
| September 28, 2017 | Keith D. Lenton       |
| September 29, 2017 | Aaron A.H. Kurts      |
| September 29, 2017 | Loretta A. Ross       |

**Update your membership information by using the Member Forms located in the “Forms” section on the Society’s website:**

**<http://www.lawsociety.mb.ca/forms/members-forms>**

# Trip to Nunavut

DAVID SWAYZE, FEDERATION COUNCIL MEMBER

For the last hour we've been flying over the tundra of Baffin Island, marvelling at the monochrome mottled land of ice, water and rock. As we fly over Cambridge Bay the ice sheet is breaking up and the never setting sun is glinting off the pools of melt water on the surface. Suddenly, we enter the fjord that is Cambridge Bay and rock surrounds us on both sides. Our wheels bounce on the hard packed gravel airstrip which literally bi-sects the town. We've landed in Pangnirtung, Nunavut. A community of 1700 people whose only access to the outside world is via aircraft, except during the brief summer months where a sea lift brings much needed supplies.



It is the day before the summer solstice and I am here with Sheila McPherson, Vice-President and President-elect of the Federation of Law Societies of Canada, formerly Council member for the Northwest Territories, along with Herman Van Omen, President of the Law Society of British Columbia and Council rep for British Columbia. In addition, Ross Earnshaw, Council Representative from Ontario, and his partner Suzanne and my wife Jayne are on the flight. Admittedly, this is a trip which is part pleasure, part work, but for the most part a learning experience. We came to Pangnirtung to see the beauty of the land, as well as learn about the Inuit culture and the justice and economic challenges they face in this northern community.

Pangnirtung ("Pang") is, like most communities in the arctic, the result of the Canadian Government attempting to eradicate the nomadic lifestyle of the indigenous people of North America. Our guide, Martine Dupont, who is originally from Montreal, informs us that the Inuit were forcibly relocated to communities like Pang by the government. In fact, in the 1950s the RCMP were ordered to shoot sled dogs on sight to prevent the Inuit from migrating across the tundra as was their traditional practice, following the herds of caribou and hunting the seal, narwhal, and bowhead whales.



In Pang we are met by two local Inuit, Madeline and Stephen, both Pang residents who are here to teach us about their history and traditions. Our first stop is the museum where they show us the baleen from a Bowhead whale, and the tools used by the Inuit to survive in the arctic. Madeline's sister brings her Qulliq, an elongated bowl carved from soapstone which is the source of life for the Inuit. The bowl is filled with seal or whale oil (or now, canola oil) and a wick is made from soil and cotton from the local tundra plants. The traditional role of women was to light and maintain the qulliq. It was the source of light and heat. It was used to cook food, heat the home, and dry clothes.

After lunch we met with members of the local justice committee including an elder. We learn that one of the biggest causes of crime in the north is boredom. When school lets out, there are few activities to occupy the youth. This combined with the endless sunlight results in youth being involved in petty crime. Break and enter is extremely common. Pangnirtung is a dry community but alcohol and drugs exist. Smuggling is rampant and hard drugs are readily available in a community where the only access to the outside world is by plane. Attempts are being made to align our Euro-centric justice system with Inuit values. The local Justice Committee and their representatives are often invited by the sentencing judge to address offenders in court, and support is provided to offenders through culturally appropriate counselling.

*continued on page 23*

**Trip to Nunavut**

*continued from page 22*

The only prison is in Iqaluit which means that people are removed from their remote communities to serve sentences. A common practice is for the prison guards to take low risk offenders out on hunting trips on the tundra during the winter time for a week at a time, the purpose being to allow them to experience their traditional cultural practices. It sounds shocking to hear that an inmate would be handed a firearm, but this practice is meeting with success.



After leaving Pang, we spent the remainder of our time in Nunavut in Iqaluit. We met with local lawyers, including local crown attorneys and legal aid lawyers. Nunavut is the only Canadian jurisdiction where legal aid is provided to everyone, not just people with low incomes, and provides legal advice on all matters.

The Federation Council held its quarterly meeting in Iqaluit and we made progress on a number of issues. Our strategic plan has now been finalized so we know our priorities for the next five years. We were advised that the Federation's Truth and Reconciliation Call to Action Committee has held its first meeting and has begun the process of determining how Canada's law societies can implement the recommendations coming out of the TRC report. We have finalized the list of international organizations and events the Federation will engage with through travel and reciprocal sharing.

We also began the process of bidding farewell to a very long serving volunteer with both the Law Society and the Federation, Jeff Hirsch. After being a benchler, president of the Law Society of Manitoba, Federation Council rep for Manitoba, and finally president of the Federation of Law Societies, it was time to put Jeff out on the ice flow, and what better place to do it than Nunavut on the shores of Frobisher Bay. Jeff's service has been above and beyond and he will be missed around the Federation Council table.



Travelling to Canada's north is like going to a different country. The geography of Baffin Island, which is above the treeline, is stark but also incredibly beautiful. However, it is the people who make the North so appealing. Landing in Iqaluit, you are undeniably in the land of Canada's first peoples and their traditions have been preserved, despite the many obstacles thrown up by European settlers. In Iqaluit, small shacks dot the edge of Frobisher Bay, these being the launching point for the ski-doods and sleds which hunters take across the ice in winter. In Pang, an artist told us of the polar bear she encountered while camping on the tundra only a few months before. Inuktitut is spoken everywhere and young women carry their babies in their beautiful hand sewn parkas, with the infant safely and warmly ensconced in the hood. We were serenaded by two throat singers at Apex Beach near Iqaluit, which has a beauty all its own. And the art, well, it is out of this world. From the prints, to the carvings, and finally the gorgeous tapestries in Pang, the Inuit are keeping their culture alive and generously shared it with us. Everyone should put a visit to the Canadian Arctic on their bucket list. It will be an experience you will never forget.



## Discipline Case Digest

You will find these new postings under the [Lawyer Regulation/Discipline Case Digests](#) section of the Law Society Website:

17-03 Adeline Lorraine Degner  
17-04 John David Laurence Soper

When attending the Law Society offices:

### Please be Fragrance Free!

This will help us to accommodate those who are chemically sensitive to fragrances and other scented products.



**Thank You!**



*Celebrating 140 Years  
of Protecting the Public*

## The Law Society of Manitoba

PRESIDENT  
JIM MCLANDRESS

VICE-PRESIDENT  
KATHY BUETI

CHIEF EXECUTIVE OFFICER  
KRISTIN DANGERFIELD

DIRECTOR OF REGULATION  
LEAH KOSOKOWSKY

219 Kennedy Street  
Winnipeg, Manitoba  
R3C 1S8

Telephone: 204-942-5571  
Fax: 204-956-0624

[www.lawsociety.mb.ca](http://www.lawsociety.mb.ca)



# CPD Calendar of Events 2017

## Upcoming Programs

October 31 12 noon to 1:30 pm

**For the Sake of the Children....for Lawyers**

November 3 8:30 am to 4:50 pm

~ NEW Pitblado One Day Only Format ~

**2017 Isaac Pitblado Lectures**

**#140Down – Now What?**

The Future of Lawyering is Here

November 8 12 noon to 1:30 pm

**Utmost Good Faith: Yesterday and Today**

November 15 12 noon to 1:30 pm

**Costs In Estate Litigation:  
Changes And Trends**

November 24 9:00 am to 4:15 pm

**The 3rd Annual Child Protection CPD**  
~ Early Bird Pricing Available until Friday Oct 20 ~

December 7 9:00 am to 12 noon

**Hot Topics in Wills and Estates**

## Winter Replays

**November 2017 - January 2018**

***Catch up on your CPD hours with 4 weeks  
of winter replays beginning November 22***

*Programs includes Popular Past Sold Out Programs  
from a variety of Practice Areas:*

**Ethics, Professional Responsibility &  
Practice Management**

*Files Gone Wild: Top Ten Pitfalls to Avoid  
Sound Cybersecurity Practices For Your Law Firm  
Getting and Growing Grit: The Secret to Success*

**Family Law**

*Anatomy of a Child Protection Matter  
Grace Under Pressure: Taking the "I" out of Family Law*

**Real Property**

*Land Titles eRegistration & Electronic Funds Transfer  
10th Annual Hot Topics In Real Estate*

**Wills & Estates**

*Hot Topics in Wills and Estates  
Changes to Probate QBR  
Costs In Estate Litigation: Changes And Trends  
Estate Litigation and Administration  
And Much More!*

***Click here for the replay registration form***

***Save the Date!***

**March 9 - 2018 Annual Joint Family Law Program**

# 2017 PITBLADO LECTURES

140th Anniversary of the Law Society of Manitoba

## #140Down – Now What? The Future of Lawyering is Here

Friday, November 3 ~ Grand Ballroom, Fort Garry Place Conference

### Featured Out Of Province Speakers

**Keynote Speaker** - Jordan Furlong, *Law21*

Justice Leonard S. Mandamin,  
*The Federal Court of Canada*

Shannon Salter, *Civil Resolution Tribunal*

Dr. Larry Richard, *LawyerBrain LLC*

Monica Goyal, *MyLegalBriefcase & Aluvion Law*

Darrel I. Pink, *Nova Scotia Barristers' Society*

### Speakers From Manitoba

Justice Colleen Suche, *Manitoba Court of Queen's Bench*

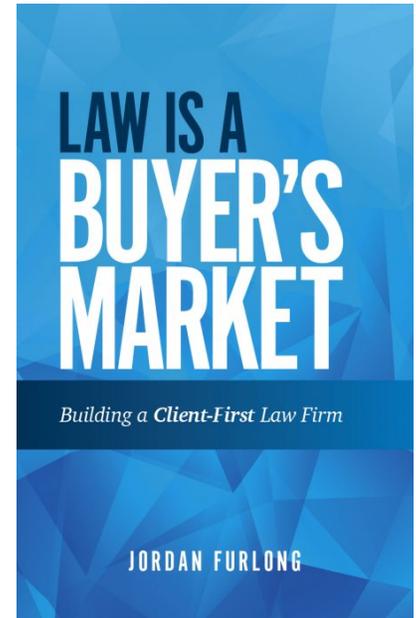
Dean Jonathan Black-Branch, *Robson Hall, Faculty of Law*

Kathy Bueti, *Bueti Wasyliw Wiebe*

William Gange, *Gange Collins Holloway*

Paul Grower, *Fillmore Riley LLP*

Shauna McCarthy, *Brown & Associates Law Office*



A copy of **Keynote Speaker Jordan Furlong's** latest book is included with every [registration](#)!

### Program Highlight

### **LawyerBrain Live Webcast Presentation**

For more than 20 years, **Dr. Larry Richard** has provided consulting services exclusively to the legal profession based on his psychological expertise on the lawyer personality. He joins us by webcast from Philadelphia to talk about how **Practicing Law at the Speed of Light** can affect you, and what you can do about it!

Visit the **Pitblado Website** for a complete detailed [agenda](#) of the day!

### Eligibility For CPD Hours:

This program may be reported for up to 6.5 hours of eligible CPD activity, including 6.5 hours of EPPM.

[www.pitbladolectures.com](http://www.pitbladolectures.com)