

THE  
MIDDLESEX LAW  
ASSOCIATION

# Snail

# 2021



## February Issue

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February 25, 2021

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# President's Report

By: Erin Rankin Nash / Ferguson Patterson Law

**This is our first newsletter of 2021. This year has gotten off to a rocky start but while there is still so much uncertainty there is at least hope.**

We continue to be fortunate in London that we have a Bar and Bench that work together to get through any obstacles, to continue to keep things moving.

The MLA has assembled a **Small Civil Working Group** to look at some of the issues that we deal with locally. Some of the changes that have been made help how things are done in Toronto, but do not always help in regions outside of Toronto. We need to hear from our members, and the stakeholders involved locally, about what solutions can help issues and challenges we face in London. Many of these issues pre-dated COVID, but COVID has brought on other challenges. This is the time for each of you to have input into working out the solutions.

The elections for the **2021 MLA Board of Trustees** are being held in February. I encourage you strongly to vote to ensure we get in place the Board needed to continue to work through the issues we face. The **Annual AGM** will be held on

Thursday February 25th, 2021 at 5:00 PM.

There have been changes as to how the MLA provides services. We have been fortunate that Paula has been able to pivot and provide our MLA CPD programs on Zoom, and **Cynthia and Shabira** can provide research and answer questions from their homes.

As with any organization the MLA Board has had to re-think how we do things and how we best can serve our members. We have begun strategic sessions to look at what members of the MLA will need 5 years (or even 3 years) from now, and what we need to do now so that we are set up to deliver that. As Trustees, we need to examine which changes that were forced upon us that we will keep, and what further changes need to happen.

One exciting change that will be happening within the next two months is a new website. This was a project that was started pre-COVID, but with COVID and the need to communicate urgently, and often, with our members has enforced the need to get a system that is more flexible and easier to update. Part of the new website is a new member management software called **Wild Apricot**. This program will handle aspects such as membership

renewal notices. There were a few hiccups getting it going in January, but it already looks like it will streamline membership activities tremendously.

The Middlesex Law Association is part of the larger community of the Legal system in London. That community includes people who work in the courthouse. For many lawyers, not being in the courthouse daily or weekly means the loss of interaction with the courthouse staff, Court Service Officers and clerks. As Trustees we need to work on how we can communicate significant joys, and losses, with our members who are not able to be at the courthouse. I recently learned about the passing of **David Chalmers**. It is always difficult to mention one person, when there could be others who I am not aware of that have not been mentioned. My apologies in advance. David Chalmers was a quiet, dedicated, professional Court Services Officer and a true gentleman. He will be missed by all who interacted with him. [See his obituary here.](#)

*Continue to be strong as we continue down this uncharted path.*

Erin Rankin Nash  
PRESIDENT

## Questions & Comments

If you have any issues or concerns regarding the Middlesex court facilities, operations, judiciary, etc., let them be known! Send all concerns to the current MLA Bench & Bar representatives:

**Jennifer Wall** 519.679.9660 [jwall@harrisonpensa.com](mailto:jwall@harrisonpensa.com) **Rasha El-Tawil** 519.660.7712 [rasha.el-tawil@siskinds.com](mailto:rasha.el-tawil@siskinds.com)

# Scott Petrie LLP is pleased to welcome four new partners to the firm

**MARCIA OLIVER**

Marcia exclusively represents clients in all areas of construction law and, in addition, is a go-to Mediator and Arbitrator for parties looking to resolve their construction disputes by way of ADR. She is a Certified Specialist in Construction Law, a Qualified Arbitrator, a Fellow in the Canadian College of Construction Lawyers, and the 2020/21 Vice Chair of the CBA Construction and Infrastructure Law National Section.

[moliver@scottpetrie.com](mailto:moliver@scottpetrie.com)

**DAVID SWIFT**

David's practice focuses on bankruptcy and insolvency matters and commercial litigation. He is typically called upon to collect loans and enforce security for credit unions, banks, and other lenders, to represent receivers and trustees in bankruptcy, and to assist debtors in restructuring their financial affairs. David also practices in all areas of commercial litigation including construction and other contract disputes.

[dswift@scottpetrie.com](mailto:dswift@scottpetrie.com)

**ANGELO C. D'ASCANIO**

Angelo practices law in all areas of commercial and insolvency litigation. He typically handles cases involving partnerships, shareholder relations, joint ventures, construction projects, the sale of goods, contractual matters, departing employees and their misuse of confidential information and improper solicitation of customers, commercial real estate and tenancies, the realization of real and personal property security, and bankruptcy and insolvency matters.

[adascanio@scottpetrie.com](mailto:adascanio@scottpetrie.com)

**JEFF VAN BAKEL**

Jeff's practice focuses on defending professionals against negligence claims and commercial and construction litigation. He is on the preferred counsel list maintained by LawPro and other professional negligence insurers. Jeff also has extensive experience involving all facets of commercial and construction litigation, such as, for example, litigation involving partners and shareholders and disputes between owners, developers, and contractors in the construction pyramid.

[jvanbakel@scottpetrie.com](mailto:jvanbakel@scottpetrie.com)

Scott Petrie is a full-service firm offering direct delivery of competent legal services by lawyers and staff working within specific areas of expertise.

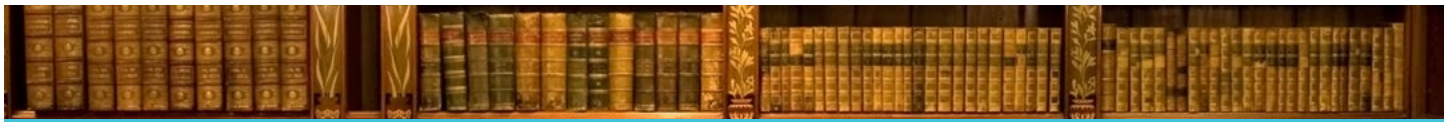
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# Library News



Contributed by:

Cynthia Simpson and Shabira Tamachi  
library@middlaw.on.ca

## New Catalogue

New catalogue alert! In order to comply with AODA requirements, the **Law Society** has had to retire the former **AdvoCAT** library catalogue, which is what you searched when you clicked on the Library Catalogue link on our computers. The Law Society catalogues all the titles within the entire county and district law association system along with what it has in the **Great Library at Osgoode Hall**.

You can now search for books, electronic resources, and articles in the more comprehensive [InfoLocate catalogue](#).

Before, you could search books and e-resources in **AdvoCAT** but had to switch over to **AccessCLE** to search for **LSO CPD** papers on your topic. [InfoLocate](#) allows you to do a one-stop search to find all these items together. Check it out!

## Expanded Thomson Reuters eResources

Regular library users will know that they can access any active loose-leaf **Thomson Reuters** title in our collection electronically through the **ProView** link on the library computers. However, your MLA staff now have access to some additional standalone titles such as **Family Law Arbitration in Canada**, **The Practitioner's Goods & Services Act Annotated**, **Civil Frauds and Good Faith**, plus several annual annotated acts. Let us know if you need something and we'll do our best to get it for you. [Just email us the request](#).



## Thank You for Christmas Goodies

We would like to thank those of you who so generously dropped off items for us both before and during the holiday period. We were treated to cookies, wine, and chocolates from some of our regular generous library users in addition to the cards we received. One of the gifts was a mea culpa for horribly overdue books but still appreciated! We even had a couple of mystery gifts, so our thanks go out to the two people who dropped off the mini tree and the bottle of wine.

## Quicklaw Training Session

Did you take advantage of the free remote access to **Lexis Advance Quicklaw** that has been available to us through the pandemic when people could not get into the library to search on our computers? Well, now you can learn how to search this resource even better to find what you need. We will be hosting another one-hour Lexis Advance Quicklaw

training session on Thursday, February 11th beginning at 1:00pm. Learn how to take advantage of the wealth of resources available through it and get some professionalism CPD credits to boot! [Email us to register for the session](#).

## New Books

We have some books that came in during the lockdown that aren't in our system yet, so this list should be longer next month.

Forcese, Craig. **National security law, 2nd ed.**, Irwin Law Inc.

Houlden, L.W. et al. **2020-2021 annotated Bankruptcy & Insolvency Act**, Thomson Reuters

LSO. **Ethical issues in immigration and refugee law 2020**.

Tweedie, Michael. **Civil frauds and good faith**, Thomson Reuters

## Missing Books

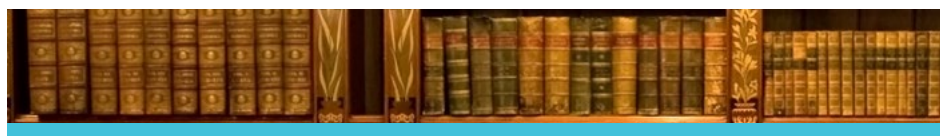
**Wills & Estates lawyers in particular!**  
*Please look for that distinctive red and white Property of Middlesex Law Association sticker on the spine of any books that might be kicking around your office/back seat/family room sofa right now!*

## Wills & Estates missing books:

Hull, Ian. **Challenging the validity of wills -2nd ed.**

Hull, Ian. **Macdonell, Sheard and Hull on probate practice -5th ed.** (2016)

Oosterhoff, Albert H. **Oosterhoff on wills --8th edition** (2016)



Oosterhoff, Albert H. **Oosterhoff on wills** --7th edition (2011)

Rintoul, Margaret. **Practitioner's guide to estate practice in Ontario** -4th ed.

### Other Missing Books:

Bourgeois, Donald J. **Charities and not for-profit administration and governance handbook** --2nd ed.

Goodis, David. **2012 annotated Ontario Freedom of Information & Protection Act**

Lavender, Stephen. **2015 annotated Ontario Human Rights Code**

Johnston, David. **Canadian securities regulation** --3rd ed.

MacDonald, James. **2015 annotated Divorce Act**.

MacFarlane, Q.C., Bruce A. **Cannabis law**.

OBA. **Business agreements: practice and precedents**.

n/a. **The Annotated 2015 Tremear's Criminal Code**.



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# Tech Predictions for 2021



Contributed by:  
David Canton / Harrison Pensa

This week's blog departs from the usual format to bring my annual predictions.

2020 was the year we all want to forget, but never will. Let's hope that we get back to some kind of normal in 2021.

Here are some things to watch for in 2021.

## 1. Privacy Reform

2021 will be a big year for privacy. We have a draft CPPA that will eventually replace PIPEDA, there is talk of an Ontario privacy law that will fill some gaps and perhaps supplant CPPA/PIPEDA, Quebec has a new proposed bill that is controversial for its reach, and the federal government is considering a replacement for the Privacy Act that it abides by.

[How Canada's new privacy law will impact your business \(Harrison Pensa\)](#)

[Does Ontario need its own privacy law? \(Harrison Pensa\)](#)

## 2. Hydrogen Fuel

We will hear more about hydrogen as fuel this year – either with fuel cells instead of batteries or by combustion. Hydrogen is the ultimate fuel that burns clean, leaving just water vapour. The challenge is creating green hydrogen in an economical and clean way. And hydrogen is more corrosive than natural gas, so a direct substitute is not easy. Is a hydrogen powered car or bbq in your future?

[Hydrogen's future remains murky despite home heating projects in Alberta and Ontario \(The Canadian Press\)](#)

[Hydrogen energy may be on the](#)

[cusp. And Texas has potential to lead \(mysanantonio.com\)](#)

## 3. Will AI Fix Cybersecurity?

The constant threats from bad actors will continue to challenge cybersecurity. The thing to watch in 2021 is whether AI based defenses will gain an upper hand.

[Top 20 Predictions Of How AI Is Going To Improve Cybersecurity In 2021 \(Forbes\)](#)

## 4. Video Meetings Here to Stay

This one is rather obvious, but worth stating. Even when COVID -19 gets under control, the new normal for the workplace will be different. Some office workers will go back to the office full time, but many will not. Video conferencing will reduce the number of in person meetings and business travel. The pandemic has demonstrated that while in person meetings, conferences, and arbitrations can be better in some ways than virtual, virtual is good enough for many, and can save time and money. "This is the way" or more accurately, the new way.

## 5. Trademark Distinctiveness Impact

Trademark law underwent a significant change in June 2019. One significant change was the ability of examiners to reject marks if they are not distinctive. One could never register a trademark that was descriptive (eg cold ice cream for ice cream). The distinctiveness test essentially takes that further and means trademarks have to be even more unique and not related to the product or service. The relevance to 2021 is that since it takes about 2 years to get an examiner's report back after a trademark application is made,

we will start to see how the trademarks office deals with this and how many applications get rejected because of it.

[Canadian Trademark Law Changes: Standing Apart \(Harrison Pensa\)](#)

## 6. Up In Smoke

The distinctiveness issue, and the race to trademark marijuana products, will result in a significant number of rejections for marijuana product trademarks this year. Many applications will also be rejected because someone else got there first. Many marijuana product providers may have to rebrand as a result.

## 7. Rural Broad band Improves?

Rural broadband speeds and access will improve. The question is, how much of a dent will expanded government funding and initiatives like Starlink make in the short term. High speed rural internet seems like the project in your garage that is perpetually two years from completion.

[Broadband Fund: Closing the Digital Divide in Canada \(CRTC\)](#)

[SpaceX satellite internet Starlink being tested in remote areas of Canada \(CBC\)](#)

## 8. Food Delivery Spoils

Food delivery – both food boxes for home prep, and delivery from our favourite restaurants – has become more popular during the pandemic. But those services cost the restaurants a lot of money, and don't seem to be profitable. The recipe has to change because the current model isn't sustainable.

[Food delivery is magical thinking \(The New York Times\)](#)



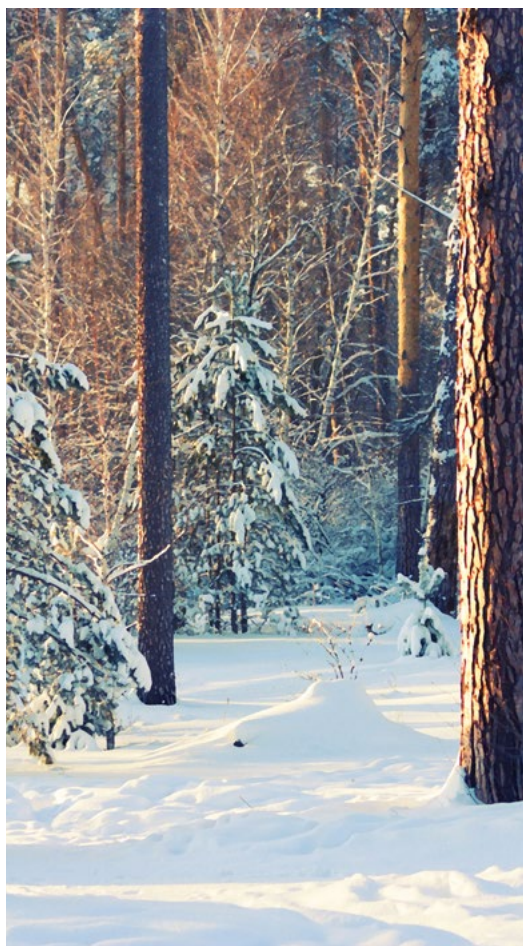
[DoorDash Faces Its Latest Challenge: Wooing Wall Street \(The New York Times\)](#)

## 9. Internet Of Behaviour

We will hear more about loB – or Internet of Behaviour. That means using information about us – such as location, interests, shopping habits – to influence our behaviour. Perhaps that's not a bad thing if it influences us to follow pandemic protocols. But that also brings chills, privacy issues, and debate about where that influence crosses a creepy line that suppresses legitimate behaviour and becomes a digital panopticon.

[What does the panopticon mean in the age of digital surveillance? \(The Guardian\)](#)

This article was originally posted on the [HP Privacy and Tech Law Blog](#).



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**JOHN F. GRAHAM**

John - "I believe that my experience and my approach has provided me with the knowledge and judgment to understand both sides of a case and, most importantly, to realistically evaluate what are the parameters of a reasonable settlement."

### About the Mediator

Strong academic background having obtained a doctorate from the London School of Economics before obtaining law degree from the University of Western Ontario. Practiced for 33 years as a civil litigator and was a senior partner in a firm dealing with all aspects of insurance and personal injury litigation.

In 1994 was certified as a Specialist in Civil Litigation by the Law Society of Upper Canada.

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### IT'S QUICK.

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### IT'S PRIVATE.

Disclosure, concessions, and offers made during a mediation are confidential. If the case doesn't settle neither party can use them against the other at trial. What happens on a mediation stays in the mediation. This encourages parties to move from their rigid litigation positions (which are preventing settlement) to more realistic and achievable goals.

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**John**- 519-474-4806 or [grahammediations@outlook.com](mailto:grahammediations@outlook.com)



# Report on Past CPD Programs



Contributed by:

**Paula Puddy, MLA CPD Director**

## **The Third Annual EDI seminar**

We were delighted to welcome 24 lawyers to our third annual EDI seminar on Friday, November 20, 2020. This year's presentation was entitled, "Creating 2SLGBTQ+ Positive Space".

Participants learned a lot of new terms, the impact of language and tools to be more inclusive. Creating positive space requires commitment from the organization at every stage of employment from recruitment and hiring to appropriate policies and practices.

Thank you to Deirdre Pike of Queer Positive Power for an entertaining and informative session.

This program contains 1 hour and 30 minutes of EDI Professionalism content.

## **The Quick & Dirty Personal Injury Update**

This personal injury program for plaintiff and insurance defence lawyers was held on December 2, 2020 with 55 lawyers, presenters and sponsors in attendance.

Thanks to Alysia Christiaen of Lerner LLP, Kerry Figliomeni of Shillingtons LLP and Lucy Lee of Cohen Highley LLP for co-chairing this program.

Thank you to the following presenters at the conference:

- The Honourable Madam Justice Kelly Tanquilli
- Jonathan de Vries of Shillingtons LLP
- John Makins of Cohen Highley LLP
- Professor Stephen Pitel of Western Law
- Christina Martin and Anna Stoll of Siskinds LLP

We are pleased to donate to London Lawyers Feed the Hungry on behalf of the chairs and all of the speakers.

Thank you to our sponsors for supporting this conference: Davis Martindale LLP, Hoare Dalton, Marcus & Associates, McKellar Structured Settlements, Pursuit Health Management, Rehab First Inc., Spencer Experts Inc., TheJudge and TVA | The Outsourcing Network.

Here is a brief summary of each presentation:

### ***Written Advocacy Panel***

This panel on written advocacy, comprised of the Honourable Madam Justice Kelly Tranquilli, Jonathan de Vries and moderated by Alysia Christiaen, discussed how lawyers can be more effective, concise, and persuasive. The panel reviewed the concept and benefits of point first writing. They also outlined a number of tips pertaining to written documents in virtual hearings including: bookmarking PDF motion records and facts, properly naming electronic documents, and hyperlinking authorities cited in facts. Jonathan recommended writing in plain language, and citing quality cases over quantity in terms of research and case references.

### ***Striking the Jury – Case Updates***

John Makins reviewed the basic principles on a motion to strike the jury. His presentation focused on six 2020 decisions dealing with motions to strike the jury in cases due, in part, to COVID-19.

### ***Tort Law Update***

Professor Stephen Pitel considered three recent appellate cases from Ontario and British Columbia that address the standard of care, factual causation and the assumption of risk defence in the personal injury context. Two of the cases deal with medical procedures performed in hospital and the third deals with injuries sustained while snowboarding.

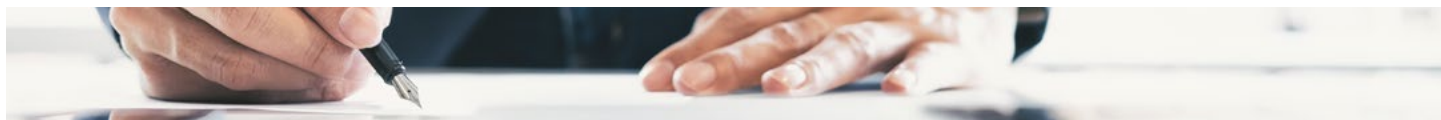
### ***LAT case comments***

Christina Martin provided recent updates from the Licence Appeal Tribunal pertaining to recent application of the Court of Appeal Tomac case in the context of non-earner benefit and income replacement benefit claims. She also discussed recent LAT updates regarding special awards.

Anna Stoll provided recent updates from the Licence Appeal Tribunal pertaining to the Minor Injury Guideline (the "MIG"). More specifically, she outlined recent case law regarding whether the MIG can be considered as a standalone issue or whether a dispute must include denial of a specific benefit. Anna also discussed recent case updates regarding apparent diagnoses of chronic pain and removal from the MIG.

This program has been accredited by the Law Society and contains 30 minutes of Professionalism hours and contains 2.0 Substantive hours.





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As you know, we share most of our CPD programs with [CPDOnline.ca](https://www.cpdonline.ca) who market them to lawyers in Ontario and across the country.

What you may not know, is that they share revenue with us when lawyers view or purchase our MLA programs! In 2020, we received over **\$9,000** in royalties from CPDOnline.ca!

Also, if you registered for one of our MLA programs and missed it, you can often watch it on CPDOnline.ca and receive the accreditation for it (which I can't provide by forwarding the Zoom recording).

While we don't want CPDOnline.ca to replace your entire CPD selection, they are a good source of additional learning, or a few extra hours.

CPDOnline continues to give the MLA \$100 for every MLA association member who signs up for a new individual subscription for \$399.00. (This offer is for each new subscriber).

[Click here to register:](#)  
[Register | CPDOnline.ca](#)

*Make sure you check the box  
"Were you referred by the association?"!*

# Continuing Professional Development

## Programs & Events 2021

### The Court of Appeal Advocacy Program

Thursday, February 25, 2021  
9:00am to 12:30pm

### The Real Estate Update

Friday, April 9, 2021  
1:00pm to 3:00pm

### The Quick & Dirty Personal Injury Update

Wednesday, May 12, 2021  
1:00pm to 3:00pm

# Unfortunately, the obvious needs to be stated (again): pay equity and the practice of law



Contributed by:  
Yola Ventresca and Debbie Boswell / Lerner LLP

**Facts, the saying goes, are stubborn things. And the facts make clear that, for all the seeming advances made in recent decades by women in law, serious pay inequities remain between men and women lawyers.**

Not surprisingly, pay inequities emerge at the very start of practice. According to Ronit Dinovitzer, an Associate Professor Sociology at the University of Toronto, a national study of recent Canadian law graduates found that across all legal settings, women working full-time earn 93% of men's salaries (median earnings of \$75,000 for women compared with \$80,500 for men).

Some of this difference can be explained by the legal settings in which men and women tend to work. Women outnumber men in the public sector, where base salaries tend to be lower. By contrast, there are more men than women in the largest private law firms, where salaries are highest.

But the setting in which new lawyers practice does not, in itself, account for gender-based pay inequities in law. Even in large private law firms, women's earnings are only 91% of their male colleagues. In an interview with *Precedent* magazine, Professor Dinovitzer suggests that this gender disparity at large law firms likely comes from bonuses rather than base salaries. If (predominantly male) partners put their male junior associates on more lucrative files, those male associates may bill more

hours or be making other contributions that are privileged and valorized by prevailing firm culture. This results in higher compensation in the form of higher bonuses, not to mention future, ever-more lucrative opportunities for professional advancement and increased earnings. *"If women are systematically kept off these files,"* Dinovitzer concludes, *"they'll earn smaller bonuses."*

We need a serious, frank conversation about the reasons why male junior associates often enjoy privileged access to the most lucrative opportunities. Some of these reasons are obvious enough, if rarely acknowledged. The assumption, for instance, that female junior associates will be on maternity leave, or could be, potentially for lengthy periods of time; or that women lawyers will prioritize their roles as caregivers over the demands of the most challenging and lucrative files.

It goes without saying – or it should – that such assumptions are sexist and anachronistic, and yet also powerful attitudinal forces that create and sustain pay inequities across the profession.

Indeed, a look at the situation in the wider legal profession reveals that glaring gender gaps remain. Again, these speak to the persistence of stubborn structural and attitudinal barriers to women in law – barriers that account for, and help to sustain, systemic disparities in pay equity.

Women are underrepresented at senior levels in the legal profession – positions that bring with them the most lucrative salaries. According to a recent study by the *Toronto Star*, women make up 30% or less of the partnership at large law firms in Ontario. By contrast, women comprise

nearly 50-60% of associates at the same law firms. Even for those women who do become partners, gender differences remain. A 2002 study found male partners earned \$296,830 on average, compared with \$263,549 for female partners.

Gender wage disparity exists elsewhere in the legal profession. The 2018 In-House Counsel Compensation & Career Survey Report found that for in-house counsel, the average salary for women is 11% lower than men in 2018 (\$173,000 on average for men, compared with \$154,000 for women).

Gender pay disparities are often interconnected with other issues that impact female lawyers, such as opportunities for advancement, attrition from large law firms, and the inequitable division of childcare responsibilities. These are broad, systemic issues that the profession needs to address.

The persistence of pay inequity should be front-of-mind in our own practice and career trajectories. For positions where salaries are negotiable, research salaries, talk with your colleagues, and be prepared to negotiate. Our role as lawyers is to be advocates for our clients, but we also need to ensure we're being advocates for ourselves and what we bring to the table.

What is more, the recognition that pay inequities persist, and a commitment to remedy gender disparities once and for all ought to be a priority for the whole of the profession.



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## Insurance Claims Litigation Personal Injury Valuation

**Jessy Hawley** CPA, CGA, CFF, CIP

**Gary Phelps** CPA, CMA, CFF, CFE

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# Under pressure: the rule of law, constitutional democracy and the courts



Contributed by:  
Yola Ventresca / Lerner LLP

## And so we've reached 2021.

It is difficult to think of time in recent memory when that lofty but ill-defined notion of the rule of law has enjoyed such prominence in our public discourse. Maybe more than ill-defined, the problem is that the concept of the rule of law is scarcely understood even by those who invoke it to respond to events like the violence that rocked the US Capitol the first week of January. These were tumultuous events that disrupted for the first time in a long time the lawful, peaceful transition of power, one of the hallmarks of constitutional democracy. It's not surprising, then, that many of us – especially those who play a central role in preserving and promoting the rule of law – are deeply unsettled by the prospect of a seemingly well-established constitutional order unmoored from its historical, ethical and legal foundations; of norms and practices dangerously overwhelmed by a flood of misinformation, conspiracy theories and lies about rigorous electoral processes and the legal adjudication thereof – the integrity of which are vital to any functioning democratic system.

Yet as unsettling as all of this has been, challenges to the legitimacy of electoral processes and outcomes have proved how vital the rule of law is to a truly free and democratic society, and to preserving and promoting civil and human rights. Consider, for instance, the role that lawyers and judges have played in adjudicating fairly and diligently the many specious legal challenges mounted

against electoral outcomes in several American states; challenges which, had they succeeded, would effectively have disenfranchised millions of voters – largely African Americans. These challenges were a disturbing reminder (as if we needed one) of the persistence of systemic racism and discrimination in politics, law and society.

Yet in the end, the courts, on the whole, adjudicated specious legal claims as we would have wanted them to – by respecting due process, listening to claims and complaints, inviting plaintiffs to present their evidence and rendering judgement. In the end, those fundamental pillars of the rule of law – evidence, proof, reasoned argument – won the day as the vital guardrails of due process and judicial review held. In the end, the rule of law – that vital guardrail of democracy, civility and human dignity – prevailed, delivering a blow to the powerful forces of disinformation and hate.

It would be naïve, however, to think that all is well. The many challenges we confront in these uniquely disturbed times demand a renewed commitment to understanding the historical and foundations of the rule of law, and the vital role that lawyers, jurists and legal scholars can and should play as ethical advocates in the service of individual rights and the common good.



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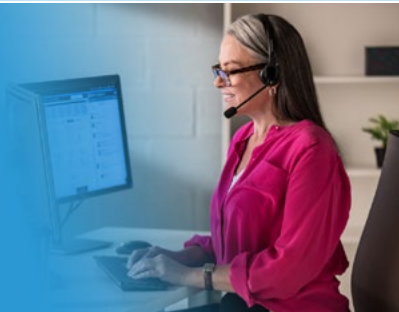
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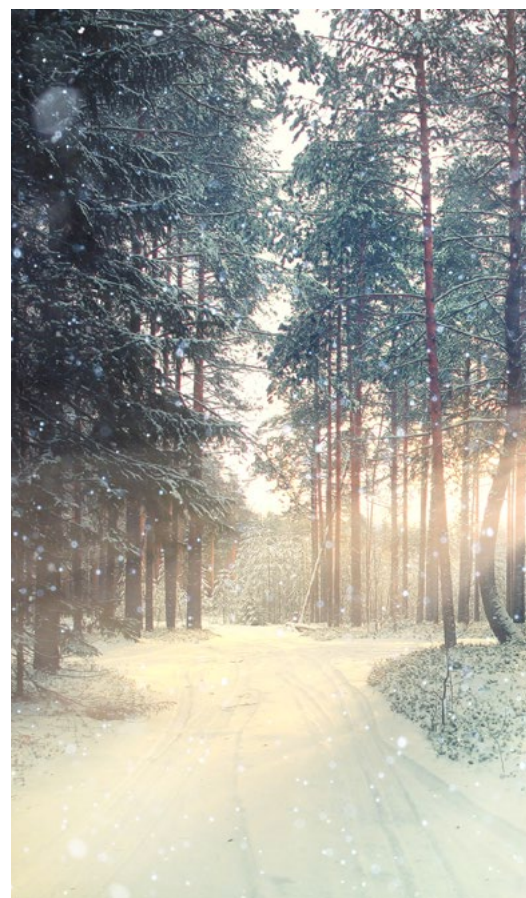
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# Start 2021 off on the right foot!

## Update your bio and promo materials



Contributed by:

Paula Puddy, HBA LLB MBA / Vantage Professional Development Inc.

**The New Year is always a good time to set some new goals in terms of client or business development.**

Although 2020 forced us to change many of our “old” ways, the requirement to promote oneself did not diminish.

Consider updating your bio and promo materials as an easy first step. Here are some suggestions:

### 1. Update or write a short bio

- Make sure your bio is current in terms of volunteer positions and organizations.
- Include your contact information on your bio to ensure your audience can reach you!
- Name your bio as follows:  
“Yournameanddate.docx”, not bio.docx.
- Increase the font size for easy reading.

- Consider your audience. You may have several short bios – one for lawyers and one for clients.

### 2. Update your photo

- If it has been more than 10 years since your last photo, or you are sporting a new haircut, new glasses, or new facial hair, get a new photo!
- Consider putting your photo on your short bio as well as a website.

### 3. Correspond with blank 4” x 6” note cards

- These note cards typically have your firm’s logo and contact information.
- In this world of email and instantaneous communication, it is thoughtful to write a personal note.

### 4. Update your LinkedIn profile

- Many professionals use LinkedIn to connect so double check your profile.

### 5. Use your full name on Zoom

- Don’t sign-in to programs, discoveries or meetings with initials. If you do, rename yourself on Zoom by clicking on the 3 dots top right in your photo square.

### 6. Wear a name badge (once we are in-person again)

- Every lawyer should have a professional name badge to wear at programs, conferences and events.
- Order three name badges at a time (office, home, and vehicle).
- Your own name tag is preferable to the plastic ones provided at events.
- Shorten the string on provided plastic name badges, so people can see your name.

By implementing any of these suggestions, your 2021 promotional efforts will start off on the right foot!







# Sourdough Focaccia



Contributed by:

David Isaac / Lerner's LLP

## Dough

- 1 1/2 cups (340g) ripe (fed) sourdough starter
- 1 1/2 cups (340g) lukewarm water
- 6 cups (723g) King Arthur Unbleached Bread Flour
- 6 tablespoons (74g) olive oil, plus extra for the pan and the top of the focaccia
- 1 tablespoon (18g) salt
- 2 tablespoons (43g) honey
- 1 tablespoon instant yeast

## Toppings

- Yellow and red peppers
- Black olives
- Fresh rosemary sprigs
- Basil
- Green onions



## Instructions

1. Combine the starter and water in a large mixing bowl.
2. Combine the flour with the starter, water, and remaining ingredients. Mix and knead — by hand or stand mixer — until the dough is smooth and elastic. If you're using a stand mixer, this should take 5 to 7 minutes on the lowest speed using the dough hook attachment. If you're kneading by hand, you'll need 12 to 15 minutes.
3. Place the dough in a bowl that's been lightly coated with olive oil, cover, and allow to rise for 60 minutes.
4. Gently fold the dough over three or four times, and let it rise for another 60 minutes.
5. Drizzle a generous 2 tablespoons olive oil into the center of a large rimmed baking sheet (half sheet pan).
6. Transfer the dough to the pan, and turn it over to coat it with the oil.
7. Gently stretch the dough into the edges and corners of the pan. As soon as the dough begins to shrink back, cover it, and let it rest for 10 to 15 minutes. Gently stretch the dough again, repeating the rest once more, if necessary, until the dough fills the pan.
8. Cover the pan and transfer it to the refrigerator to let the dough rise for 14 to 16 hours (overnight).
9. The next day, remove the pan of dough from the refrigerator and preheat the oven to 425°F for 30 minutes (if your kitchen is warm) to 60 minutes (in a cooler kitchen).
10. Cut the toppings and arrange to form flowers and plants.
11. Drizzle 2 tablespoons olive oil, then sprinkle with rosemary and a bit of flaked sea salt.
12. Bake the focaccia for 20 to 25 minutes, until light golden brown.
13. Remove the focaccia from the oven. Allow it to cool enough for you to handle it comfortably, 10 to 15 minutes, then turn it out of the pan onto a rack.

# Pasta Bolognese



Contributed by:

Jeremy Forrest / Brown Beattie O'Donovan

This is an all-day project, but it is absolutely worth the effort.

Prep Time: 1 hour

Cook Time: 4 ½ hours

Servings: 8 servings

Source: [bonappetit.com](http://bonappetit.com)

## Ingredients

2 medium onion, chopped  
2 celery stalk, chopped  
2 small carrot, peeled, chopped  
6 tbsp. extra virgin olive oil  
900g (1 lb.) ground beef chuck (20% fat), patted dry  
kosher salt  
170g (3 oz.) thinly sliced pancetta, finely chopped  
500ml (1 cup) dry white wine  
2/3 cup tomato paste

2 bay leaf  
pinch of finely grated nutmeg  
1.6l (or more) homemade chicken stock or low-sodium chicken broth  
500ml (1 cup) whole milk  
2 tsp. anchovy paste  
900g (1 lb.) fresh tagliatelle or pappardelle, or dry rigatoni  
120g (2 oz.) finely grated Parmesan (about ½ cup), plus more for serving

## Instructions

1. Pulse the onion, celery, and carrot in a food processor until very finely chopped. Transfer to a small bowl.
2. Heat the oil in a large pot over medium. Break the beef into small clumps (about 1½") and add to the pot; season lightly with salt. Cook, stirring occasionally but not breaking the meat apart, until the beef is lightly browned but not crisp, 6–8 minutes. It may be grey in spots (that's okay!) and still a little pink in the centre. Using a slotted spoon, transfer the beef to a medium bowl.
3. Wipe out the pot, add the pancetta and cook over medium heat, stirring occasionally, until the pancetta has released some of its fat and is crisp, 6–8 minutes. Add the onion mixture to pot and cook, stirring occasionally, until the vegetables are very soft and beginning to stick to the surface, about 6–8 minutes.
4. Return the beef to pot and pour in the wine. Reduce the heat to medium-low and cook, smashing down on the beef with a wooden spoon, until the wine is evaporated, the surface of pot is almost dry, and the meat is finely ground, 12–15 minutes. (The meat should be reduced to what looks like little bits. It takes a bit of effort, but you can take breaks.) Add the tomato paste, bay leaf, and nutmeg and cook, stirring occasionally and still pressing down on the meat, until the tomato paste is slightly darkened, about 5 minutes.
5. Pour the stock and milk into pot and add the anchovy paste. Reduce the heat to the lowest setting and cook, uncovered and stirring occasionally, until the meat is very, very tender, about 3 hours. When finished, the sauce should have the texture of and look like a sloppy joe mixture. If the liquid reduces before the meat is completely tender, add an extra ½ cup stock and continue cooking. Discard the bay leaf. Taste the sauce and adjust seasoning with salt; keep warm.
6. Cook the pasta in a large pot of boiling salted water. If using fresh pasta, cook about 3 minutes. If using dry, cook until very al dente, about 2 minutes less than the package directions.
7. Using tongs, transfer the pasta to the pot with sauce. Add 1 cup pasta cooking liquid and ½ cup Parmesan. Increase heat to medium, bring to a simmer, and cook, tossing constantly, until the pasta is al dente and the liquid is slightly thickened, about 2 minutes.
8. Transfer the pasta to a platter and top with more Parmesan.

*Do Ahead: Sauce can be made 4 days ahead. Cover and chill.*

**Wine pairing:** A red wine will go great with this, particularly a Spanish Rioja or Granache, or an Italian Sangiovese or Barolo. A white wine, like a California Chardonnay also works well.

# Creole-Style Red Jambalaya



Contributed by:

Jeremy Forrest / Brown Beattie O'Donovan

**Prep Time:** 1 hour

**Cook Time:** 2 hours

**Servings:** 8 servings

**Source:** [SeriousEats.com](http://SeriousEats.com)

## Ingredients

1 (795g; 28oz) can peeled whole tomatoes, packed in juice (see note)  
720ml (ca. 3 cups) chicken stock, plus more as needed  
565g (1 ¼ lbs.) boneless, skinless chicken thighs  
Kosher salt and freshly ground black pepper  
1 tbsp (15ml) vegetable, canola, or other neutral oil, plus more if needed  
340g (¾ lb.) cooked Cajun or Creole sausage, such as andouille or chaurice (or other similar smoked or spiced pork sausage), sliced into thin rounds  
1 medium yellow onion, diced  
2 medium green bell peppers, stemmed, seeded, and diced

4 celery ribs, diced  
4 medium cloves garlic, minced  
1 tsp (5ml) tomato paste  
1 tbsp (15ml) Louisiana-style hot sauce, plus more for serving  
2 tsp minced fresh thyme leaves or 1 tsp dried  
1 tsp dried oregano  
¼ tsp cayenne pepper, or to taste  
¼ tsp garlic powder  
2 bay leaves  
370g (2 cups) long-grain rice  
340g (¾ lb.) peeled and deveined shrimp  
6 scallions, white and light green parts only, thinly sliced

## Instructions

1. Strain the tomatoes and add the juice to a 4-cup measuring cup. Place the tomatoes in a medium bowl. Using your fingers, carefully tear each tomato open to release the liquid inside its seed compartments. Strain all this liquid into measuring cup. Crush the tomatoes well with your hands. Add enough chicken stock to the tomato juices to total 960ml, or 4 cups. Set aside.
2. Preheat the oven to 325°F. Season the chicken all over with salt and pepper. In a Dutch oven, heat the oil over medium-high heat until shimmering. Add the chicken and cook, turning, until browned on both sides, about 6 minutes per side. Transfer the chicken to a cutting board and let rest for 5 minutes, then cut into ½ -inch chunks and set aside.
3. Meanwhile, add the sausage to the Dutch oven and cook, stirring often, until just starting to darken, about 3 minutes; lower the heat and/or add

oil at any point to prevent burning. Add the onion, bell pepper, celery, and garlic, and cook, stirring and scraping the bottom of the Dutch oven, until the browned bits have come loose and the vegetables just begin to turn lightly golden, about 8 minutes.

4. Stir in the tomato paste and cook, stirring, until lightly browned, about 1 minute. Add the hot sauce, thyme, oregano, cayenne, garlic powder, and a very generous dose of black pepper. Add the crushed tomatoes, tomato/stock mixture, diced chicken, and bay leaves and bring to a simmer. Season with salt, tasting the liquid to ensure it is well seasoned.
5. Stir in the rice and return to a simmer. Cover with a lid and transfer to the oven. Bake until the liquid is fully absorbed and the rice is tender, about 40 minutes.
6. Gently stir in the shrimp and scallions and return to the oven until the shrimp

are just cooked through, about 5 minutes. Cover the pot and let rest 15 minutes. Remove the bay leaves, if desired (see note).

7. Serve, passing hot sauce at the table for diners to add to taste.

**NOTES:** You'll need the juice from the tomatoes to function as a portion of the rice-cooking liquid, so be sure to check the ingredients and get canned peeled whole tomatoes packed in juice, not in purée.

Typically, the bay leaves in this recipe would be removed after the 15-minute rest following cooking. However, since over-stirring the jambalaya can cause the rice to break, I don't recommend digging through the rice to find the leaves. Just remove them if you see them, and otherwise be careful to avoid them while eating.

**Alcohol pairing:** this is very good with a citrus-forward IPA or session



# Triage: A Proposal for Ontario Family Courts

*Contributed by:*

**Svetlana S. MacDonald / MacDonald Evenden**

## Introduction

Just as every individual who has a medical need does not require admission to a hospital operating room, neither does every person who has a legal problem require access to court. Legal solutions which are both desirable and necessary can be achieved in a number of ways without recourse to courts. While people with resources such as education and money have access to a number of options, courts are becoming clogged with the unrepresented who cannot afford lawyers. As well, they are often illiterate and struggling to deal with complicated rules and the required paperwork. This paper proposes one solution which I believe is both workable and cost effective.

Over the past thirty years there have been significant changes in society. These are reflected in the composition of families. The so-called "traditional" family has been transformed and now includes both married and unmarried parents of either the same or opposite sex, as well as families headed by a single parent. The latter are often, and unfortunately, youthful (teenage) parents. Increasingly, all of these types of families find that they require legal services. Coupled with changes in the judicial system, Family Courts are under extreme stress as they strive to meet new and emerging needs of society.

The existing court system was designed to function with the participation of lawyers who understand it and who have been trained to work within its rules. They are accustomed to the requirement that they prepare documentation and understand

the intricacies of the organization. But, with the changes in society, ever more and more members of the public find that they need legal solutions to their family problems, and increasingly larger numbers find themselves before the court, often without benefit of counsel. The legal aid system which was designed to assist individuals with limited financial resources is no longer able to cope with demands.

These competing forces result in numerous court files prepared by lay persons, many of whom are untrained at best and illiterate at worst. Often, the documents are illegible and the complex paperwork that would normally provide the judiciary with information to assist in making decisions is absent. In an effort to slow down the onslaught on the court system, ever more complex rules and requirements have been instituted, and additional requirements continue to be imposed. For those who have no alternative but to go to court and who must retain counsel because of the complexity of their files, these requirements result in increased costs arising out of the demands placed on lawyers to comply with the ever more complex rules. The system is rapidly becoming so costly as to be virtually inaccessible to the vast majority unless they act for themselves. The unrepresented pose their own problems as outlined above. Whatever the shortcomings of courts, they should not be inaccessible as they do provide a public service. It would seem logical to stem the flow of cases before they enter the system rather than creating difficulties with ever more complex rules

Family Courts have their own needs which call for unique solutions appropriate to these needs. My proposal for the Family Court is a model which finds parallels in two different and unrelated systems. The first of these is the medical emergency system, and the second is the criminal justice system.

### Triage and Diversion: Models to Examine

On the battlefield there has long been a system of triage, that is, a means of sorting those requiring immediate help, those who can wait and those who are beyond help. This has been extended to the emergency room, where there are "triage officers," sometimes a triage nurse. Their task is to assess each patient to determine what treatment the individual requires, and to direct the patient accordingly. Each case is dealt with on its own merits, with the triage officer making the decision in order to provide needed service to the largest number of patients possible in as short a time as possible.

In the criminal justice system, a number of diversion programmes have long been available, particularly to youth. Gradually these have been expanded and now include diversion for mental health cases, minor nonviolent offences such as shoplifting and minor drug offences such as possession of marijuana prior to its legalization. Special diversion programmes also exist for First Nations offenders. Such programs achieve goals which benefit the individual, the system and society as a whole. When these cases are effectively removed from the court system, congestion in the courts is alleviated and at the same time, appropriate conditions

are imposed on the parties through the diversion programmes.

My proposal for an alternative system in family matters would reduce the need for and use of a complex court system requiring trained staff and highly trained judges in civil family matters. The education and special qualifications of judges are better used to chart new courses when our judicial system is called upon to deal with new and/or unusual cases. These important decisions then serve as precedents to be followed. Much court intervention can be avoided when the law is well established.

## The Problem

When families break up, those with financial resources and with the necessary intellectual resources will seek counsel to assist them in finding legal solutions to their problems. They may negotiate their own separation agreement, use the collaborative law process or ask their lawyers to help them reach an agreement.

However, problems arise when people do not have the money to retain lawyers, or have limited education and understanding of what is needed. These persons do not know where to start or, even if they do, they are unable to proceed because they lack the funds to get help from counsel or, if they try to go to court, are faced with the complex system which is becoming ever more complicated as more and more rules and requirements are being added in an effort to stem the ever growing demands being placed on it.

As a consequence, they may eventually end up at a Family Law Information Centre but then do not have access to help unless they start proceedings. This catapults them into the court system with its many demands.

## The Present System

Throughout Ontario, Family Law Information Centres commonly referred to as FLICs, disseminate general information and offer mediation services. However,

as no other diversion options are offered much time is expended by individual members of the public trying to deal with paperwork for court proceedings and calling on the help and resources provided by counter staff and advice counsel, often returning on numerous occasions for assistance as they work their way through the system. As mentioned above, the result more often than not is unacceptable documentation. It appears that this paperwork is rarely referred to by the court. One must conclude that all of the time, effort and resources going into it are wasted.

The premise of this paper is that alternatives to this paper driven process can and should be provided. For these to be truly efficient they should precede the preparation and filing of documents. Such successful alternatives would obviate the need for documentation and reduce the voluminous paperwork flooding into our courts, bringing with it all the attendant demands on court house personnel. If issues can be resolved without recourse to such documentation, why not avoid it completely?

There is another benefit of not preparing and serving paperwork. The court system usually produces documents which portray the opposing party in an unfavourable light. When the Responding party reads the contents, s/he is usually upset by the contents of the paperwork and inevitably reacts negatively. Any remaining goodwill between the parties is quickly dissipated. Thus, although the vast majority of cases have the potential to be resolved without court and the attendant paperwork, once documents have been issued and served, irreparable damage may have been done to the relationship. It is then too late for non-adversarial options.

Our courts are firmly rooted in the tradition of battling champions. By their very nature, courts encourage confrontation and opposition. Since the best chances for success occur before having recourse to the court system, a

mechanism is needed to keep the bulk of cases out of the court system. The following is a proposal to help accomplish this.

## Proposal: A Triage Centre

I propose that in association with each family court, a "Triage Centre" be established staffed by specially trained "triage lawyers." Unlike traditional legal training which has grown out of an adversarial model, this approach requires the ability to see possible solutions rather than feeding into conflict. Extended hours would make the service available not only to the unemployed, but also to the working public. The success or failure of resolving cases quickly and with minimum friction often depends on the lawyer who has been retained.

Just as in the medical field one is admitted to hospital only upon meeting the necessary criteria, the use of courts would occur only after the "triage officer" determined that this was the appropriate solution.

In the majority of cases, there is little at issue but as the parties either are not communicating well and sometimes not at all, the first thing that is necessary is to get them "to the table." A mechanism is needed to get the parties to the court house/triage centre. Rather than preparing lengthy documents, I propose a system akin to the summons or subpoena. This document would simply state that "you have or know information pertaining to xyz and your presence is required at 'time' and 'place.'" The document would have to be served by an independent person, just as the summons and/or subpoena are served in existing systems. It would also have to be generated or issued as are existing court procedures. What is being avoided is the extensive paperwork which takes time and money in the form of lawyers, often funded by legal aid, legal aid workers (non-lawyers), duty counsel, law students and the general public. The latter are frustrated by the extensive requirements



and, as mentioned above, the contents of the documentation can easily lead to exacerbating already difficult situations.

Once the parties arrive, they can meet with a court officer/triage lawyer/mediator who could assist in filling out a single Family History form. That form could then be signed by both parties and become a record for the future, forming a factual basis that need not be revisited or argued about in the future. The triage office could then determine whether or not there are issues, what they are, and how best to proceed. Another approach would be for the two parties to meet with two counsel so that each is separately represented. As in the previous scenario, the purpose would be to narrow down issues and determine what, if any, documentation is actually needed.

Non-contentious matters could be dealt with by agreement and others by way of mediation or directly with the court officer. Parties could sign simple agreements prepared by the triage officer/mediator and reviewed by duty counsel. This could be viewed as the poor man's separation agreement/domestic contract. Presently, very limited contracts are being prepared by social services. These are often deficient and the parties are signing them without benefit of counsel to explain the consequences of the documentation.

Under the existing system, the counter staff at the court office is dealing with a myriad of questions and many individuals without lawyers, all seeking assistance. The proposed Triage Centre would allow all of these people to be dealt with by way of triage leaving court staff left to deal only with those cases which have been screened and require a different service, in the same manner as those who visit a hospital emergency room must first be seen by the triage nurse and admission to the hospital occurs only after it has been determined that hospital is the best place to provide the required services.

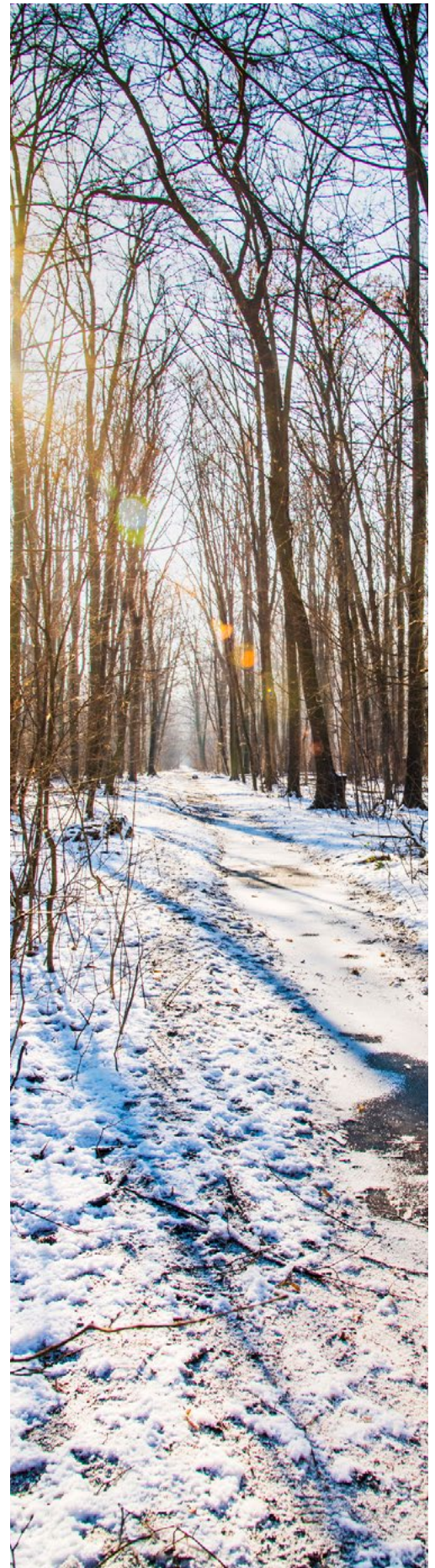
What is needed is a mechanism which requires parties to attend at a given place

and time without the need to prepare lengthy paperwork. This is what happens in the criminal courts. Most cases do not go to trial but people must attend as they are required and this forces the parties to address the concerns of the court. Similarly, in family law, all affected parties must be present and provide input in order to resolve issues. Getting them there should be simplified and can be done by way of summons or subpoenas as mentioned above without the need for extensive paperwork which is rarely if ever referred to in any event.

It is my suggestion that there be a trial of such a system in one of the smaller jurisdictions in which numbers would be more manageable. It would be possible to work out "bugs" and to offer suggestions on pitfalls to avoid and ways to continue to simplify and streamline matters.

## Benefits

1. Reduce the paperwork thus alleviating the demands on counter staff. There would be less filing of papers. Fewer questions to answer.
2. A reduction on demands on counter staff should also result in cost savings.
3. Fewer demands for duty counsel and lawyers, many financed by legal aid.
4. Reduce the demands on judge time leaving them for complicated matters. A reduction on judge time is, by extension also a reduction on court time and resources.
5. Reduce conflict by either reducing the amount of paperwork or doing away with it entirely.
6. By providing alternative legal services within the framework of the court system results such as "domestic contracts" can be achieved as alternatives to court orders. Since these are not "imposed" by an outside decision maker, they should be more palatable than orders made by a third party.





# 2021 Membership Dues

Thanks to all those members who have already submitted payment for their 2021 dues! Our updated website has been delayed but we didn't want to wait to start using our new membership management program, and emails have gone out to individual lawyers with a link to their profile and invoice. [You will be directed to the back end site.](#) Don't worry – that's still us!

**Membership Level:** Please review the membership level rates below to determine the amount you owe. If your current invoice should be for a different rate, just [email us](#) and we'll correct that so you can pay your fees.

**How to Pay:** We are encouraging payments via e-transfer (*please use security code Dues2021*) as the MLA does not incur any administration charges as we do with credit card payments. Payment online via credit card is still available. You may also mail in a cheque if that is your preferred method of payment.

**Join the MLA:** New to the MLA? [We'd love to have you join us.](#)

**Bulk Law Firm Payment:** Are you a firm representative who would like to pay for all your lawyers in one transaction? You can still do that by simply calculating the relevant rates for each firm member and sending payment to us, along with the list of names and membership levels. If you need a list of who we currently have as members from your firm and if they also have a locker, [please email us](#) and we will provide that to you. We can also register any new firm members who are not in our records at that time.

**Locker Rentals:** The rate per individual for a half-locker is \$56.50 including HST. Current locker holders will already have that amount on their invoice. Let us know if you would like to rent a locker.

## Middlesex Law Association 2021 Membership Levels & Descriptions:

Our membership rates for 2021 are outlined below. Please submit the appropriate amount for each lawyer at your firm based upon the categories listed. All rates include 13% HST and memberships are non-refundable and non-transferable.

### Regular MLA Member rate: \$197.75

Applies to all lawyers who were called to the bar prior to 2020.

### New Call (2020-2021) rate: \$101.70

Applies to all lawyers called to the bar in either 2020 or 2021.

### Retired rate: \$101.70

Applies to MLA members who have retired from the practice of law but who would still like to retain their membership benefits.

### Non-Practicing rate: \$101.70

Applies to LSO members who have not practiced law for at least 12 months prior to dues payment.

### Parental Leave rate: (new): \$101.70

Applies to MLA members who will not be practicing law, due to the arrival of a child. This reduced rate will apply for one year only. If you will be off work for most of 2021, you can pay the reduced rate this year. If you go on leave later this year and paid the full rate for 2021, you will be eligible to use the Parental Leave rate for 2022.

### Honourary Member rate: Free

Honourary Member status is automatically bestowed upon lawyers who have belonged to the Middlesex Law Association for 45 years and is based upon our membership records. Honourary members do not pay annual dues and have full membership privileges. However, if the Honourary Member has a locker at the courthouse, rental payment is still due.

[More information here: Membership page](#)



# Litigation During and Post Pandemic



Contributed by:  
Michael Lerner / Lerner LLP

**At the recent Straight from the Bench (SFTB) CPD program offered by the Middlesex Law Association, a great deal of time was dedicated to discussions of the challenges brought about by litigating in the current pandemic era.**

There are many advantages to what has become the new normal. Undoubtedly, there has been and will be an increase in reliance upon technology to conduct all aspects of advancing a case through the judicial process. Virtual hearings, discoveries and other proceedings have generally reduced some costs and, on the whole, made matters more efficient. Lawyers are no longer required to spend time traveling to or physically attending court for purely administrative appearances such as assignment courts and judicial pre-trials. Many trials, and particularly, motions and appeals now lend themselves to being conducted virtually. It is argued that there will be greater access to justice for those unable to afford legal representation. But like most things, there are also disadvantages.

Guy Pratte, President of the Advocates Society spoke at the SFTB conference and expressed a concern with respect to the possibility that courts may continue, after the pandemic to rely more on written rather than oral advocacy especially in appellate proceedings. He emphasized the importance of oral advocacy in ensuring that parties receive a fair hearing. The role of an advocate can never be underestimated. Regional Senior Justice Thomas, and indeed, Chief Justice Morawetz reported at SFTB that courts

in Ontario are gearing up to be able to conduct civil and criminal trials virtually. These initiatives result in some dramatic changes in the way a lawyer presents a case. In my limited experience with virtual hearings, counsel is at a disadvantage if not present in court advancing the case especially when it comes to a testifying witness. Witnesses answer questions orally but the physical dimension of witness' testimony can be lost in a virtual hearing. The physical signals and body language of a witness, for example, cannot be easily observed in a virtual setting. Witness discomfort, conveyed through their body language, may be altogether lost, removing a tool from the litigator's toolbox to challenge witness credibility in some instances. These subtle signs are not often overlooked by the Court, but is virtually impossible (no pun intended!) to notice when the witness is testifying remotely. Similarly, the give and take between counsel, and between counsel and the court, loses something when all parties are not physically present. The Court's subtle reaction to evidence being called is an important signal to counsel that the evidence being called is not helpful or the argument not persuasive. Problems with the technology can distract from the content of evidence or legal argument.

The successful practice of law is dependent on establishing relationships. As difficult as it is for lay people to establish and maintain relationships by way of email, text or virtual processes, it is similarly difficult to establish relationships in the course of conducting a litigation practice virtually. Counsel miss the opportunity of having productive conversations during morning and afternoon recesses or even over lunch. Much is accomplished in these face-to-face engagements which can add to

efficiency in the trial process or advance the case towards a negotiated settlement. Those opportunities are lost when the hearing is conducted virtually.

In my experience, argued pre-trial conferences, motions and some appeals best lend themselves to a virtual hearing by video conference. In those situations, there is a written record upon which submissions are based and little in the way of introducing new records, exhibits or oral testimony into the proceeding.

I do not underestimate the value of a virtual hearing. In current times, they allow matters to proceed that would otherwise be further delayed. Virtual hearings are often a convenience to expert witnesses who are not required to spend time out of the courtroom waiting to be called. Similarly, witnesses in different locations are also not required to personally attend court eliminating the need to travel that often includes overnight accommodation and meals in addition to their own time lost from their personal obligations to work and family.


The virtual hearing has enhanced access to justice for some. It may be one of the few silver linings in what has been a catastrophic pandemic. The community at large and not just the legal community have been able to participate in the judicial system without leaving their home. Unfortunately, for all of its good, there is also the unfortunate circumstance where people are left entirely out of the system by not being able to attend in person and not having access to the necessary technology to attend the virtual courts.

Despite the best efforts of all of those involved in the justice system, the unavoidable result of the reliance upon technology and virtual appearances is the fact that court proceedings are less

personal which previously has been a hallmark of our system. In recent times, before the pandemic, I have often seen a group of four seated at a restaurant together, but each one focussed on the phone in front of them rather than looking and speaking with each other. I often wonder about the impact of this - if that is the only way they can communicate amongst themselves even in such a close setting. Hopefully, the pillar of a just society, our justice system, will never become so impersonal.

However, the greatest loss of all, in my view, is the loss of the air of austerity and solemnity of being in a courtroom - the entrance and exit of the Judge when all in attendance rise, the trappings of a raised bench, respectful courtroom attire by all, the gowning of counsel, and the formal call of a witness to the stand. These features of being in an in person courtroom setting contribute to the respect afforded to the justice system. Unfortunately, it is not quite the same if the proceedings are virtual. I hope that we find a way forward that protects and continues the respect of our judicial system while maintain the new-found efficiency.

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## Want to contribute to the next issue? **Deadline is February 25, 2021**

The Snail welcomes articles from MLA members. in Word format, along with photos, headshot and headline. For clarity and readability, we encourage submissions in the range of 200-500 words, with a maximum limit of 1000 words for news and opinions, and a limit of 2000 words for articles on law and legal issues. At the request of the contributor, any submissions shortened in this way can also be published with a link to the full article to be obtained directly from the author.

### **Potential topics for submissions include:**

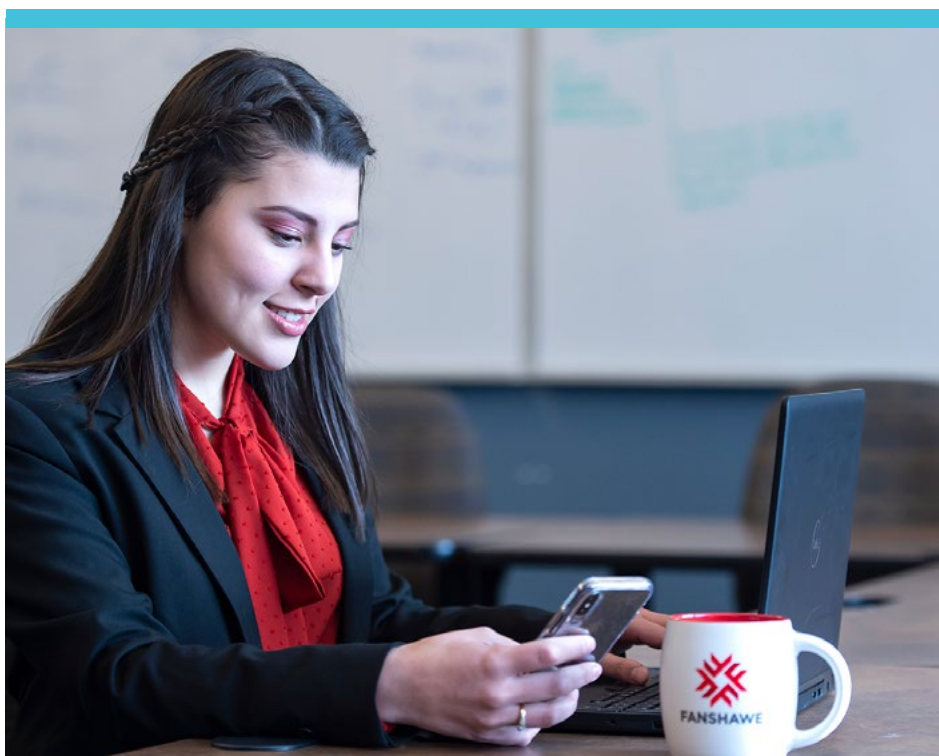
News, the promotion of an upcoming event, a review of a past event  
Recognition of someone in the legal community

Opinion and letters to the editor  
Discussion of a legal issue & case reviews  
Practice tips

**Send your submissions to Karen Hulan:**

[khulan@beckettinjurylawyers.com](mailto:khulan@beckettinjurylawyers.com) or Sue Noorloos [noorloos@mckenzielake.com](mailto:noorloos@mckenzielake.com)





# Fanshawe College launches Court Support Services program to meet emerging need

Within the last year, community stakeholders in our region expressed an emerging need for qualified applicants in various court support service positions within the Ontario court system, particularly in the Western Ontario region. In response, Fanshawe College is proud to announce the development of its new [Court Support Services program](#).

Launching this September, the 34-week program will provide graduates with the specialized knowledge and skills required by their future employers. Students will be introduced to various software applications and real-life job situations through experiential learning with an emphasis on professionalism and decorum. The Ontario College Certificate

program culminates in a placement opportunity to give students professional experience before they graduate.

"This program will benefit the administration of the court system within our community. I look forward to greeting our first students in the fall," says Suzanne Kingshott, coordinator of the Court Support Services program.

The Court Support Services program will join Fanshawe's other well-established law programs, [Law Clerk](#) and [Paralegal](#), to form a suite of law-related programs in the College's [School of Public Safety](#).

For more information on the program, contact **Suzanne Kingshott** at [skingshott@fanshawec.ca](mailto:skingshott@fanshawec.ca).



## February 2021 Middlesex Law Association Newsletter

*Publisher*

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# Will Notices

## Murray Andrew Snelgrove

Anyone having knowledge of a Will for Murray Andrew Snelgrove (D.O.B. July 6, 1957) who died on December 24, 2020, please contact Kathy Barton at 519-668-2381 or [windywoodscoordinator@gmail.com](mailto:windywoodscoordinator@gmail.com).

## Leigh Alexander Morris

Anyone knowing of a Last Will and Testament for Leigh Alexander Morris, born December 16, 1954, died December 19, 2020, last known residence 864 Clearview Avenue, London, Ontario, please contact J. Douglas Skinner at Harrison Pensa LLP at 519-661-6702, email: [dskinner@harrisonpensa.com](mailto:dskinner@harrisonpensa.com).

## Sean William Hagarty

Anyone having knowledge of a Will for Sean William Hagarty, born June 16, 1961, who passed away November 16, 2020 is asked to contact his sister Megan Hagarty Smith at [mhagartysmith@gmail.com](mailto:mhagartysmith@gmail.com).

## Antonia Biales

We are searching for the original signed Will for Antonia Biales, who passed away on November 28, 2020. Her Will was prepared by London lawyer Mervin F.J. Burghard Q.C., and dated April 2, 2008, but only a copy is in the Trustees' possession. Please to contact Gary Merritt, 213 Main St., Glencoe ON NOL 1M0, ph: 519-287-3432, email: [gmerritt@eastlink.ca](mailto:gmerritt@eastlink.ca).

## Brigitte Bernhardine Bartsch

Anyone knowing of a Last Will and Testament for Brigitte Bernhardine Bartsch, born October 12, 1941, died August 23, 2020, last known residence 39 Morris Street, Forest, Ontario, please contact Laura Geddes at Siskinds LLP at 519-660-7714, email: [laura.geddes@siskinds.com](mailto:laura.geddes@siskinds.com).



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# Member Updates

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**Skinner Criminal Law** – has moved to 1502-140 Fullarton St., London, N6A 5P2

**Osama Watad** – new member practicing at Watad Law, 913-383 Richmond St., London N6A 3C4, ph: 519-672-1086, fax: 519-672-5165, [owatad@watadlaw.com](mailto:owatad@watadlaw.com)

**Salim Khot** – his email has changed to [salim@sjklpc.com](mailto:salim@sjklpc.com)

**Vikas Sharma** – is now practicing at Lerner's LLP, direct ph: 519-640-6331, [vsharma@lerner.ca](mailto:vsharma@lerner.ca)

**Vicky Medeiros** – new call practicing at Cram & Associates and her email is [vicky.medeiros@cramassociates.com](mailto:vicky.medeiros@cramassociates.com)

**Katherine Shand** – new member practicing at Economical Insurance, ph: 519-318-8764, fax: 519-963-2013, [katherine.shand@economical.com](mailto:katherine.shand@economical.com).

**Ken McNair** – is now working for Public Prosecution Service of Canada – Crown Counsel, ph: 519-282-2113, [mcnair.k@gmail.com](mailto:mcnair.k@gmail.com)

**Brett Shillington** – has re-joined and opened Shillington Law, 103-600 Hyde Park Rd., London N6H 5W8, ph: 226-377-6395, [bdshillington@gmail.com](mailto:bdshillington@gmail.com)

**Chris Hicks** – his email has changed to [chicks@hicksadams.ca](mailto:chicks@hicksadams.ca)

**Bryan Smits** – is now at Canada Life Assurance, direct ph: 519-630-5792, [bryan.smits@canadalife.com](mailto:bryan.smits@canadalife.com)

**Shillingtons LLP and McCall Dawson LLP** – have merged to become Shillington McCall LLP at the Shillingtons LLP address and contact numbers. All emails are now @shillingtonmccall.ca.



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