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**The Voice for Ontario's Practising Lawyers**

# **Annual Report 2012**

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## **Introduction**

The mission statement of CDLPA is:

1. To promote the interests of its member Associations throughout the Province of Ontario; and
2. To enhance the ability of its member Associations to represent and advocate the interests of their members.

The Mission statement, to a considerable extent, reflects the origins of CDLPA. Our focus is on issues affecting the practising Bar and local Law Associations.

CDLPA members are dedicated volunteers. For this reason, the Association has necessarily taken an issues-oriented approach and relies extensively on an ability to attract strong people to speak on specific issues on behalf of the whole. The ability to consult with the practising lawyers of Ontario and to reach a consensus on these same issues has long been a strength of CDLPA.

With respect to libraries, CDLPA appoints three of eight directors of Library Co. In addition, the CDLPA Standing Committee on Libraries has regional representation across the Province and representatives from the Ontario County Librarians Association.

There are a number of other Standing Committees of the Executive, including: Professional Governance, Courts, Judiciary and Government, Legal Services, Real Estate, Rules and Practice Issues and Legal Aid. All Committees are chaired by a member of the Executive.

The activities of all Standing Committees of the Law Society of Upper Canada ("LSUC") are monitored by the Chair and the Executive, and there have been many instances in which CDLPA has been granted representation on Task Force and Working Groups. Submissions are regularly made to all Committees of LSUC as issues affect the profession. In addition, a CDLPA Executive member has been appointed to the Board of Directors of LawPRO.

CDLPA will continue to fulfill its mission statement by active representation to or on the various Committees of LSUC that affect the practice of law in the Province of Ontario.



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## **MESSAGE FROM THE CHAIR**

In May of 2012, feedback from the presidents had been solicited by way of an electronic survey regarding a prioritization of current issues and CDLPA's role and effectiveness in addressing these issues.

In June 2012, your CDLPA Executive met for a strategic planning session to review the survey results. CDLPA retained the assistance of Malcolm Heins, the former CEO of the Law Society, to act as a facilitator for this session. Mr. Heins was chosen due to his vast organizational experience, his knowledge of the legal landscape in Ontario, and his familiarity with CDLPA as an advocate.



During the session, your CDLPA Executive determined that in addition to developing a clear position reflecting where possible the consensus of the profession on priority issues, we also needed to create a more effective advocacy strategy. Previously, the strategy had been to create and maintain relationships between CDLPA executive members and leaders of governing bodies.

However, in looking at what makes the CDLPA unique, the executive realized that the CDLPA, through all of its member associations and the affiliation with the Toronto Lawyers' Association has access to a broad base of lawyers, in every geographic region in the province. If this broad base could be structured into a consistent and cohesive network, the CDLPA would have the potential to take its message on issues of concern to all members of the legislature and benchers of the Law Society. The executive further recognized that having broader access to the governing bodies can dramatically increase our ability to influence decisions.



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Subsequent to the session, it was decided that the CDLPA would support the establishment of the position of Director of Public Affairs on a one year, renewable contract to develop and implement a government relations strategy incorporating this grassroots network concept, and provide support with communications. The details of the particular strategy and action plan for the development of this grassroots network were presented at our November Plenary and are described more fully later in this annual report. However, the CDLPA executive is very pleased with the efforts made through this investment to date, in assisting the CDLPA to increase its profile and the effectiveness of the advocacy work undertaken on behalf of the practicing bar.

Janet Whitehead  
Chair



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## **Central East Region Report**

There were a number of judicial appointments. Our Justice Lauwers was appointed to the Court of Appeal.

In York Region the Provincial Government has finally decided to expand the Newmarket Court House by adding a one floor addition which will contain courtrooms, a jury lounge and additional administrative and judicial offices. Ground breaking is scheduled for early spring 2013.

The Lunch and Learn series of meetings has been a great success as has the CPD Replays. Mike Johnston attended the AGM. It was finally agreed that paralegals would be permitted library access upon payment of a fee equivalent to the fees paid by lawyers to the Law Society in connection with libraries. A paralegal by the name of Mary Lipka brought an Application in the Superior Court bringing into question the authority of a Justice of the Peace in refusing the right of the paralegal to sit in the front of the Court with lawyers and bringing into question the order in which the Crown Attorney would call the cases. York Region Law Association was granted intervener status and with the help of the CDLPA Executive made submissions to the Court. (The matter has now been argued and the decision reserved).

Our Regional Senior Judge will be retiring in 2013. He will be missed. York Region still has the benefit of two Masters from Toronto on a part-time basis to handle Rule 76 cases. It is uncertain how long this will last.

In Muskoka there were some serious issues as to library and lounge space. With the help of Scott and other members of the Executive the attempts to appropriate this space were thwarted.

There are no significant developments in any of the other counties and districts in Central East.

Alfred Schorr  
Central East Representative



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## **Central South Region Report**

The Associations comprising Central South are, generally speaking, running smoothly. The highlight of the past year was a dinner with the new Regional Senior Justice of the Ontario Superior Court, His Honour Jim Turnbull. This dinner was in Hamilton with most of the Association Presidents in attendance. It was a great opportunity for a “meet and greet” and provided the Association Presidents with an opportunity to discuss any local court concerns with Justice Turnbull.

The Associations in the Central South are also excited about the retention of Scott Lovell and the new CDLPA advocacy initiative. Considering some of the upcoming issues that are likely to affect lawyers throughout the Province, including library funding, CDLPA’s initiative has been well received in Central South.

Relative to libraries, given the size of the various associations in Central South, from a large association such as Hamilton to smaller associations such as Haldimand and Norfolk, there is a real concern over any reduction in library funding and services. Central South Presidents are certainly watching the ongoing discussions with the Law Society and LibraryCo very closely.

The more recent inclusion of the “In the Trenches” e-mails have been well received in Central South. Most associations are making this newsletter available to their individual members, either directly, or through links to their websites. Some concern has been expressed as to whether direct e-mailing to members will violate the upcoming “anti-spam” legislation.

Probably the most important local issue within the Central South is the opening of the state-of-the-art Court House for Waterloo County. This Court House, effective April 15<sup>th</sup>, will completely centralize court services throughout Waterloo Region.

I would like to express my appreciation to the Presidents of the Central South Region for their ongoing participation and support. I would also like to express my appreciation and regards to Michelle Stark of Hamilton and Clarke Melville from Waterloo, both of whom are soon to be replaced as Presidents of their respective Associations. Their dedication and commitment to work on behalf of their members has been most appreciated.

Michael Winward  
Central South Regional Representative



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## **Central West Region Report**

In April of 2012 David Acri resigned as the regional representative for Central West and I was catapulted into the position. In June I had the enormous privilege of participating in my first CDLPA strategic planning session attended not only by the executive but also by several past Chairs of the CDLPA who provided a useful historical perspective to our discussions. Since my appointment I have attended two Plenary sessions as the regional rep and enjoyed the opportunity to meet with the presidents and vice presidents from the central west region that covers six counties; Peel, Halton, Wellington, Dufferin, Bruce and Grey.

The common theme to our discussions at Plenary and during our monthly conference calls has been an expression of concern over the possibility of local associations losing their libraries and/or their “lawyers lounge” space in their respective courthouses. The thought of ‘long distance central libraries’ sends shivers down their collective spines. Consensus is that we need to individually, as local law associations, and collectively, as the CDLPA, rebrand our libraries as practice centers and make visible their importance to the practicing bar.

Well received and supported was the “private counsel emphasis initiative”, the brainchild of then Peel Law Association President Vince Houvardas. Vince participated in a panel discussion on this issue at the November Plenary and his concerns regarding the erosion (or appearance of same) of an accused’s right to private counsel rang true across the province. Thanks to the CDLPA for running with this one.

The travels of Janet Whitehead and Scott Lovell have been appreciated in our region and all associations report they distribute “In The Trenches” to their membership. Some even post them on the association websites, a practice that I suggest should be adopted by every association that maintains a website.

The closing of local jails in Bruce and Grey has caused problems for criminal defence lawyers in that region and the associations reported on the difficulties of travel to Penetanguishene to see clients. The local bar also has voiced concerns over prisoner transport and the problems that arise when prisoners are released from custody at the courthouse, having no means of retrieving their belongings from jail and often no means of transport home.





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To help compensate for the closure of the Walkerton/Owen Sound jails the “MOVI” pilot project has been installed in the law libraries in Bruce and Grey Counties. MOVI stands for ‘mobile video service ‘ and once the initial bugs are worked out I hope to report more fully on the success of that system. The observation has been made that with the apparent movement to replace local jails with ‘super jails’ MOVI may be coming soon to a library near you (assuming the library hasn’t been closed as well).

While all regions would be delighted with an increased judicial complement in light of the difficulties facing some of the northern communities no one is complaining too loud or too long about their own situations in that regard.

Overall I am pleased to report that, subject to the concerns I have identified herein, the associations of Central West appear to be among the more content of the CDLPA membership.

Beverley A. Martel  
Central West Representative



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## **East Region Report**

The Counties in the East Region saw very little significant change during 2012.

The continued existence of the local county law libraries has been discussed at some length by Presidents in the East and continues to be a concern. Local libraries serve as the centre for the associations, the main access point for legal research, and in most Counties, the library fulfills a significant role in delivering CPD to members of the associations. The central importance of local libraries was brought to the attention of the Treasurer, Tom Conway, at the recent East Region Treasurers Dinner held in Ottawa. All of the Presidents in attendance expressed a strong sentiment in favour of maintaining the local library system.

The Treasurer's Dinner gave East Region Presidents an opportunity to comment on a number of different topics and to receive information from the Law Society in relation to the revised Member Assistance Program, changes to the articling requirements in Ontario as well as a number of other topics important to lawyers in the East. Overall, the feedback in relation to the dinner was very positive and it is hoped that the tradition will be continued in future years.

There has been a significant amount of discussion concerning the Law Society's CPD requirements. Each of the Counties provides significant access to CPD programs for their members with the CCLA and Frontenac County Law Association providing comprehensive legal conferences which have been very well attended. Presidents in the East expressed strong support for the recommendations made by CDLPA to remove the need to report CPD hours via the Law Society portal on an ongoing basis.

The East has had the benefit of a number of ongoing outreach meetings with local members of provincial parliament including a meeting with the current Attorney General.

Overall, all of the associations in the East continue to be active.

Eldon Horner  
East Region Representative



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## **North East Region**

I was honoured once again to be appointed the Northeast representative last plenary & I thank the presidents. Overall it has been a very quiet & content year.

Legal Aid continues to require improvement but that appears to be an issue province wide. The mandatory information sessions in family law do not appear to be all that helpful. There have been a few courthouse issues that are currently being discussed. Libraries & in particular library space continue to be very important to the NorthEast. There are large distances geographically between libraries making each very relevant to the practicing lawyers.

The Parry Sound Law Association was grateful for being consulted by the Attorney General's office with respect to the changes to its courthouse. I understand that the new library in its new location has even attracted a few new members of the law association.

Sault Ste. Marie lawyers were able to move back into their courthouse subsequent to fire repairs. Sudbury continues to require a new courthouse.

The monthly telephone meetings with the presidents are invaluable in permitting full & frank discussion; especially of issues. I look forward to continued consultation with the presidents.

Many thanks for all that you do.

Jackie McGaughey-Ward  
Northeast Regional Representative



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## **North West Region Report**

The past few months have been busy ones in the Northwest Region, with judicial services and Courthouses being prominent.

As previously discussed at last May's Plenary, the Rainy River District Law Association has gone through major judicial change with the loss of their resident Ontario Court of Justice judge. Although the Association has continued to dialogue with the OCJ Regional Senior, there has been a continued reduction in court dates and an extreme strain on scheduling, which is forced upon the local bar to deal with. These reductions in court cases have caused access to justice issues in both family law and criminal law matters. The OCJ appointment has now been announced in the Kenora District.

Coupled with the judicial issues is the fact that the Rainy River District Law Association suffered a June 2012 flood at the Fort Frances facility that caused significant damage to an already aging building, and further challenges in the administration of justice in the district. The Rainy River District Law Association tried to seek to accelerate the approval of planned capital redevelopment at the Fort Frances Courthouse, particularly in light of the damage to the building, and the need for more space and security. However, funds dedicated to this project were reprioritized by the government in response to a courthouse fire in Sault Ste. Marie that required immediate reparation. As such, despite the efforts of the local bar, the Ministry of the Attorney General and Court Services moved forward with a repair plan, and deferred redevelopment plans. Unfortunately, this was done and approved without consultation of the local bar, and other stakeholders.

The Thunder Bay District remains anxiously awaiting the fall of 2013 and the commencement of classes at the Law School of the North and the opening of the new Thunder Bay Consolidated Courthouse. However, judicial resources are becoming an issue in this District as well, as the Association recently learned of the transfer of one of their Superior Court of Justice to Southern Ontario, and that this appointment would not be replaced. Additionally, another Superior Court Justice was transferred to the Kenora District, to begin sitting as the full time Judge of that Court. In the result, Thunder Bay is operating with a complement of three full-time Superior Court Judges and three supernumerary judges. As the supernumerary judges begin retiring, there will need to be a dialogue with the Chief Justice to ensure the appointment of full-time Superior Court Justices in that district.



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In the District of Kenora, the Association were very pleased when local lawyer, Peter Kirby, was awarded the Sidney B. Linden award by Legal Aid Ontario in September. Kenora was also very pleased to learn that after years of discussions with the Superior Court of Justice on the replacement of their supernumerary judge, that the Chief Justice had confirmed that Justice Fregeau of the Thunder Bay Court, would become the new resident judge in the District of Kenora effective January 1, 2013.

Cheryl Siran  
Northwest Regional Representative



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## **South West Region Report**

The Southwest Region usually has few issues of an ongoing nature. Unquestionably, however, the continued funding of local libraries is a concern for all of the smaller associations. Few issues have galvanized the practising bar in this area to the extent that this one has. Lawyers see their county libraries not only as a facility for research, but also as a meeting centre for CPD, settlement conferences, research during trials and more.

Mike Fair is the new President in Perth County. The Social Committee has made arrangements for members to attend a performance of Tommy at the Stratford Festival Theatre. The Association is strongly in favour of keeping its law library open in Stratford

James R. Morgan is now the President of the Oxford County Law Association. Trudy Mauth is the immediate Past President. Concern over the status of funding for the County Library is a paramount concern expressed by the membership.

The Essex Law Association will be holding its Annual Meeting on April 27, 2013. J. Cheney Mason who was on the defense team for Casey Anthony will be the guest speaker. Ron Reaume will retire as President at that meeting. I want to thank him for his dedication to his local association and also to CDLPA. I could always rely on him to join in our teleconferences. His association has shared some good ideas on how to present CPD courses in the library and to make them useful, pleasant and cost-effective.

William Woodward is the new President in Middlesex taking over from Jennifer McGill. All of us in the surrounding regions are pleased that this association sponsors CPD courses in London throughout the year.

We are well represented by Tom Chalmers who sits on the library committee. He has expressed some insightful ideas regarding the approach to library funding which deserve recognition by LibraryCo.

We are looking forward to the Treasurer's dinner to be held in London on May 2<sup>nd</sup>.

The monthly circulation of "In the Trenches" appears to be well received in all the associations.

John Buechler  
Southwest Regional Representative



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## **Toronto Lawyers Association Report**

In 2012, the Toronto Lawyers Association (“TLA”) continued its close relationship with CDLPA. We worked together on matters of mutual interest, including court house security, title insurance, changes to articling and the evaluation of library services by LibraryCo. In order to maintain continuity in TLA’s contact with CDLPA, we have established a practice whereby the past president sits as the TLA representative on the CDLPA executive. I took on this role in March 2013 when Miriam Young became the new TLA president.

TLA was very active in 2012. Membership numbers increased over the past year. This is particularly heartening when firms are no longer automatically paying association fees and when other legal organizations are suffering declining memberships. Nonetheless, TLA must continue to meet the challenges that lie ahead for all county law associations. We can do so by advocating for our members, making them aware of the assistance the associations can give them in their practices, and showing them the benefits that they can realize from being a member of the association.

To that end, we conducted a strategic planning session in April 2012, which has given us a road map for the future and which will assist us in meeting Toronto lawyers’ changing needs. We have also worked to protect and enhance our core services relating to the library, courthouse facilities, and CPD.

TLA is also making efforts to reach a broader base of Toronto lawyers, including those in government, in-house counsel positions and solicitors’ practices. Included in our body of trustees are law officers of the Crown and two in-house counsel.

In 2012, TLA continued with its diversity initiatives. Our second, very successful, diversity reception was held in November 2012. We are also involved with the “Roundtable of Associations”, an effort to bring all equity seeking associations in Toronto to find areas of mutual interest. TLA also continued in a leadership role in the fundraising for the Toronto Lawyers Feed the Hungry program.



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We have reached out to the Deputy Judges of the Small Claims Court in the Toronto Region. TLA now provides complimentary membership and research services. Given that Deputy Judges now hear most small claims cases, we believe this is an important initiative.

On the education front, TLA regularly publishes the TLA Law Journal and held 13 CPD “Nutshell” sessions in 2012. These ranged from our “Head Start” program for articling students, to IT training, criminal, family, commercial, and succession and tax planning. We also held a joint program with University of Toronto on ethics in the profession. In addition, TLA lawyers participated in the OJEN mock trial program in elementary schools.

In February 2013, our Awards of Distinction were presented to Tim Kennish, a pioneer in the field of competition law, and Justice Edward Ormston, for his work in developing the first mental health court.

TLA has continued to build a close relationship with the bar of Montreal. I attended the opening of courts in Montreal in September 2012 and, by the same token, we invited our Montreal counterparts to our events. Both the president of the Montreal Bar and I will be attending the World City Bar Leaders Conference in Frankfurt in May 2013.

Chris Matthews  
Toronto Lawyers Association Representative





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## **Advocacy Initiative Report**

On February 22, 2012, the Minister of Community Safety and Correctional Services introduced Bill 34; *Security for Courts, Electricity Generating Facilities, and Nuclear Facilities Act*. The introduction of this legislation was motivated by the findings of Former Chief Justice Roy McMurtry, who was asked by the Ontario Government to review and report on the *Public Works Protection Act* following activities and authorities given to law enforcement agents during the 2010 G20 Summit in Toronto. Acting upon the recommendations of Chief Justice McMurtry, Bill 34 if passed, would have repealed and replaced the *Public Works Protection Act* and amended the *Police Services Act*.

In amending the *Police Services Act*, the government sought to designate security officers at the defined facilities as peace officers with the power to request any person seeking to enter these premises to produce identification, provide information for the purposes of assessing a person's risk and search (upon consent) any person, property or vehicle entering or on the premises.

Member Associations and the CDLPA had serious concerns with provisions of Bill 34 which would have given authority to court agents to search, without warrant, lawyers as they entered a courthouse. By prescribing the powers of search extend to property in the possession of lawyers it may have ultimately included the search of privileged information. This was unacceptable to our Member Associations and other community justice partners. The CDLPA immediately began to organize a campaign to amend the proposed legislation.



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The campaign included a number of features that when combined would contribute to the success of our collective efforts. Our Member Associations acted as an “early warning system”, helping alert the Executive and the profession to some of the inherent challenges in the legislation. The CDLPA leveraged its good standing as a justice stakeholder to secure a presentation before the Standing Committee on Justice Policy and presented first hand the concerns of the practising bar while offering a solution point. The organization targeted Members of Provincial Parliament who practiced law with a direct message about the sanctity of client – solicitor privilege. Members of the Standing Committee on Justice Policy received correspondence specific to their role. And finally, we asked our Member Associations to send their concerns to their local Member of Provincial Parliament.

Before the legislation was returned by the Committee to the House, it included an amendment that affirmed “*nothing in this Part shall operate so as to require the disclosure of information that is subject to solicitor – client privilege. . .*” At the same time, the CDLPA learned a very important lesson about the power of advocacy and the strength and influence of its Membership when we all work together.

In establishing and supporting the position of a Director of Public Affairs, the CDLPA is seeking to leverage the consensus voice of Member Associations and use the natural advantage of our grassroots potential and membership base. The legal profession is subject to a number of rules, regulations and standards of practice either longstanding or recently incorporated in to the justice system as it evolves. At any given point, government or regulatory agencies may be contemplating policies that affect the way you practice and the viability of the profession. The profession therefore needs to advocate in the interest of its members to ensure our needs are being represented to these decision makers. The CDLPA is striving to become the premier voice of the practising bar. Using the lessons we learned from Bill 34, we can achieve this together.



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During the November Plenary, an Advocacy Initiative was presented to Presidents and delegates. The central tenet of this initiative is simple: talk to the full spectrum of decision makers in the communities in which they live and work to ensure they understand the impact of their decisions on your practice. The governing and regulatory bodies that affect our membership are represented locally by someone entrusted with the responsibility of understanding the full measure of their decisions. Strong relationships between our local members and local decision makers will help ensure our collective voice is heard on the issues that matter to us.

Tactically the initiative is more robust. It is the CDLPA's obligation to assist our members in facilitating the discussions and relationship with local decision makers. In order to do so, a phased approach to advocacy will be implemented. The first phase will see the Chair and the Director of Public Affairs engaging in a "supported tour" – reaching out to select Members of Provincial Parliament and Law Society of Upper Canada Benchers throughout Ontario. The intent of the supported tour is to ensure our message and approach to advocacy is efficient and effective – allowing for evaluation and improvement before it is more broadly implemented.

Once the supported tour is complete, the second phase envisions local associations being given the tools and a framework from our initial outreach in order to continue this important work with the participation and assistance of the Director. We want to provide our Member Associations with a "product" that makes advocacy manageable for our Presidents and members who already devote so much time to public service. The templates we create in the supported tour will be designed to ensure that the modest investment of time we ask of you is of value. We need to make sure, however, that we continue to establish strong local connections to strengthen our advocacy positions. People are more likely to give primacy to a position or suggestion when it is presented to them in a local context.



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The supported tour will focus on the following areas:

***Members of Provincial Parliament*** – In meeting with Members of Provincial Parliament, it is the goal and intent of the CDLPA to provide an overview of our organization and our priority issues. As often as possible, we will align these priorities with a Member's portfolio or area of interest to make our presentation more relevant. Additionally, we will seek to connect local Law Association leadership with their Member of Provincial Parliament and encourage their attendance and participation. Establishing these connections will benefit both the CDLPA and the local Association in the future.

***Benchers*** – In meeting with Benchers, it is the goal and intent of the CDLPA to promote the interests and priorities of our membership on matters considered by the Law Society that affect the profession directly. In the short term, these discussions will likely focus on two issues: the Law Society budget and expenditures and the importance of the County Library system as a practice resource.

***Law Associations*** – Being invited to attend meetings and address our Local Associations will help us connect with the grassroots of our profession and better understand the colleagues we represent. We want to remind Associations how their strength gives CDLPA strength and that through collaboration and participation with each other, we truly represent the consensus voice of over 12,000 members of the practising bar. Your voice is the one we seek to amplify to those who are making decisions that affect the way we work. The supported tour is expected to be complete in April, with an update on our success, learning and next steps to be provided at our May Plenary.



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In addition to outreach and advocacy, as Director of Public Affairs, I was proud to contribute to other activities in 2012 that served to improve the influence and standing of the CDLPA as a community justice partner including; supporting our submission to the Law Society & an independent review on the regulation of paralegals in Ontario, a submission to the Law Society on the future of Articling and supported local Law Associations on their own advocacy initiatives in their communities.

The past year has provided the CDLPA the opportunity to assess the value and input that this position can bring to the profession. I have been proud to be a part of your advocacy, and look forward to the year ahead.

Scott Lovell  
CDLPA Director of Public Affairs



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## **Articling Committee Report**

The Articling Task Force was established by the Law Society of Upper Canada in May, 2011 in response to the rising number of unplaced articling candidates seeking access to the licensing process in Ontario. The mandate given to this Task Force was broad based. In addition to considering the “articling crisis”, it was also directed to consider the competence-related goals that articling is intended to address, such as its effectiveness, its place in the licensing process and additional or alternative approaches to fulfilling transitional training requirements.

The Articling Task Force prepared a Consultation Report dated December 9, 2011, which constituted a review and analysis of the identified goals and purposes of the current articling program. The Consultation Report also proposed five specific options for a practical skills program in order to ensure competence in newly licensed lawyers. These options ranged from maintaining the status quo with articling, to abolishing articling, to creating a practical legal training course.

Through early 2012, the Task Force participated in extensive consultations with lawyers, students and academics across the province. CDLPA and its member associations participated in the regional consultation meetings with the Task Force members. Based on feedback received from its members, CDLPA prepared written submissions for the Task Force, which advocated for the retention of articling, along with suggestions for reducing the demand for articling placements. CDLPA further took the position that the current evaluation process for determining whether articling students have developed the requisite skills prior to licensing could be improved.

The Task Force completed its work in October, 2012, and released its final report and recommendations. The Task Force was unable to reach a consensus position. Instead, the report was comprised of a majority position, which proposed that the current articling process continue, but be supplemented by new Law Practice Program (LPP) for those candidates unable to find an articling position. This LPP would be approximately eight months long, and be comprised of a skills training program and a co-op work placement. The proposal included an enhanced assessment process for all candidates prior to being licensed, to confirm adequate competency in five particular skill sets.



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The minority position called for the end of articling and instead proposed a comprehensive transitional pre-licensing program, two to three months long, with objective, measurable standards that would assess substantive legal knowledge and business, professional and ethical issues. Post-call, new lawyers who choose to practice on their own would be subject to other regulatory oversight, in order to ensure public protection.

The Report came before Convocation for debate in November, 2012. Prior to the debate, CDLPA advised the benchers that while the Articling Task Force did not adopt our submission, the majority position in the Report represented an acceptable compromise to our membership. This position, would allow for the continuation of articling in conjunction with the Law Practice Program. Further, the implementation plan associated with the majority position was robust in its detail and would provide more certainty to the profession and law students as the process moves forward. It offered clear direction, timelines and established the metrics necessary to evaluate both the outcome and the process that would contribute to continuous quality improvement of the recommendation. It built upon the principles of articling that serve to contribute to competency while seeking to address the need to modernize the process through which new lawyers are integrated into practice.

Convocation ultimately adopted the majority report and is now working on developing the Law Practice Program. CDLPA continues to monitor the progress of this initiative on behalf of our members.

Janet Whitehead  
Chair



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## **CPD Committee Report**

Throughout 2012, the CDLPA consulted extensively with its Presidents and individual members concerning the Law Society's mandatory CPD requirement. Detailed submissions were submitted to the Law Society in March 2013 as part of its comprehensive review of the program. Based upon the feedback provided, the following submissions were made to the Law Society:

1. The number and scope of available CPD programs is adequate and the cost of such programs reasonable. Lawyers expressed a strong desire to continue to have CPD programs available through the county library system.
2. The total required minimum CPD hours (12 per annum, comprised of 3 professionalism hours and 9 substantive hours) are sufficient and reasonably attainable. Special emphasis on professionalism requirements during the first two years of practice is important.
3. The accreditation process and approved delivery methods are appropriate. However, the accreditation process is sometimes overly complex and time consuming. Any efforts to streamline the process would be beneficial to suppliers of CPD including local law associations.
4. CPD record keeping requirements, enforcement procedures and sanctions for failure to comply are sufficient to maintain compliance. Notices sent to lawyers requiring proof of CPD completion should be sent via more than one method to ensure timely receipt.





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5. The current portal in place within the Law Society's website for the reporting of CPD by lawyers and paralegals is unwieldy and time consuming. As CPD is now accepted and functioning well, modifications to the CPD reporting requirements should be implemented for the calendar year 2014. Consideration should be given to incorporating CPD reporting into the Lawyer's Annual Report and discontinuing use of the existing portal.

It is not anticipated that there will be significant changes to the mandatory CPD requirements, however there have been modifications made since the mandatory requirement was introduced in 2011 designed to provide additional flexibility, particularly for practitioners in more remote areas. It is hoped that the reportable requirements will be modified following the completion of the review.



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## **Judicial Appointments Advisory Committee Report**

As the CDLPA appointee to the Judicial Appointments Advisory Committee for the Ontario Court of Justice, I wish to advise that for the calendar year of 2012 there were 10 appointments made to the Ontario Court of Justice. In addition to these appointments, the Committee had made 3 recommendations to the Attorney General and these appointments were pending at the conclusion of 2012.

It is interesting to note that of these 10 appointments, 9 of the Judges were from private practice, and one Judge was a Provincial Crown Attorney.

Also of these 10 appointments, 4 were women, 2 were Francophone, and one was First Nations.

The ages of the appointees range from 37 to 59 years, and the average age of an appointee is 48.

It has been estimated that each vacancy requires approximately 75 hours for consideration by each member of the Committee. This is comprised of reviewing all of the applications and the creation of a short list. The Committee then meets and reviews the short list and determines a shorter list of candidates to be interviewed. After the interviews, the Committee sends a list of recommended candidates to the Attorney General from which the Attorney General chooses the candidate to fill the judicial vacancy.

A significant part of my role is to make inquiries of members of the Bar who are familiar with the candidates. I encourage the Presidents of the local law associations to advise me of the leading candidates in their Bar who seek judicial appointment to contact me, and undertake to bring to the attention of the Committee the view of the local law associations with respect to these judicial candidates.

If you require further information or wish to review the entire JAAC 2012 Annual Report, it can be found at [www.ontariocourts.on.ca](http://www.ontariocourts.on.ca).

W. Ormond Murphy  
CDLPA Representative



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## **Library Committee Report**

The biggest issue dominating the Library Committee in the last year, and continuing, is the issue of the threat to the funding of the library system.

As early as the Library Committee's first face-to-face meeting in 2012, the Chair of LibraryCo., Alan Silverstein, alerted the Committee to the threat to the funding to libraries, and in addition, the need to justify relevance and value in the current system.

For those who attended the November Plenary in 2012, these issues, particularly the threat to funding, became forefront, to the point of derailing existing efforts by the Library Committee to form a primary position paper on relevance and value. These discussions left the Committee in the unenviable position of creating a new strategy to respond to both the issue of the funding of libraries and to facing potential changes to the system as a whole.

The Committee did formulate a strategy, focused on a developing concept of re-branding "libraries" into a broader and more encompassing "Practice Management Center" - a more reflective term for the totality of services provided by the library spaces and the staff within them. It was hoped that working towards this re-branding, and performing some research on the different uses of a library space and its staff, would form the basis of a position to be put forward to LibraryCo. upon the next face-to-face committee meeting and for other advocacy efforts.

The Library Committee did not believe that funding cuts can be justified if relevance and value in the current library system can be shown. This is consistent with the Elliott Report, drafted in 2001, that made clear that the issue of funding must be separated from determining the kind of library system needed. To preserve a strong library system, the funding required must be determined first, as opposed to designing the system around the funding offered.



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As such, the Committee proceeded with developing an evaluation form for all library staff to complete, to collect valuable information justifying the current system. The collected information, plus other funding documentation (specifically, the annual increase cost to collections), will be used to form the basis of a submission that funding should not be cut, nor should significant changes be introduced absent proper evaluation and discussion with all shareholders.

Practice Resource Centers are extremely important to practicing lawyers in Ontario, particularly those outside of larger areas. It remains the goal of the Committee to ensure the viability of the current system, while trying to be creative in the use of existing funds. We will be working going forward preparing a position paper outlining not only the idea of relevance and value to the current system, but to demonstrate the continued need for adequate funding of these centers, and the library staff who work within them.

Cheryl Siran  
Library Committee Chair



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## **Paralegal Standing Committee Report**

As the regulation of paralegals reached the 5 year mark in 2012, the Law Society was obligated to provide a report to the Ministry of the Attorney General with respect to whether regulation had been effective and beneficial to the public who use paralegal services. As part of this review, CDLPA was invited to provide comment for consideration by the Law Society.

The CDLPA Paralegal Subcommittee prepared a submission entitled "Response to the Law Society of Upper Canada's Five Year Review of the Regulation of Paralegals", which was ultimately adopted by the CDLPA executive. Our position was that while the regulatory process was generally successful, four areas of difficulty were identified and we made recommendations for improvement.

As the potential expansion in the range of services provided by paralegals has always been an issue of primary concern to our membership, we specifically submitted that until such time as the regulations are proving to be working effectively in all respects, particularly in connection with training and education, there should be no consideration given to expanding the scope of paralegals.

In addition to the Law Society review, the relevant legislation also provided for an independent review to be conducted by a person who is neither a lawyer nor a paralegal with a report to be provided to the Attorney General. David Morris was appointed by the Attorney General to conduct such a review and provide a report by November 1st, of 2012. His review was to include:

- \* an assessment of the status of the regulation of paralegals and the integration of paralegal regulations into the Law Society system of regulations;
- \* consideration of the Law Society's Five Year Report on Paralegal Regulation;
- \* analysis of stakeholder feedback, including the perceptions and experiences of key stakeholders in the public;
- \* conclusions and possible suggestions for the Ministry of the Attorney General and/or the Law Society on options for enhancing the effectiveness of paralegal regulation.



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We were again invited to provide submissions, which we did. In our submissions, we again emphasized CDLPA's position that no consideration should be given to the expansion of the scope of practice of paralegals while issues remain regarding the implementation and application of the regulations.

The Committee notes various Law Associations are permitting paralegals to use their libraries, usually on the basis that an annual fee is paid.

On June 30th, 2011 Justice of the Peace G. M. K. Forrest made an Order which had the effect of preventing Marian Lippa, a licensed paralegal, from sitting past the gate of the Bar and requiring her to remain outside the area and in the body of the Courtroom until matters in which she was acting were called. Ms. Lippa took exception to this ruling and as well to the practice of the Crown Attorney in calling matters where the accused person was represented by a lawyer in priority to paralegals. She brought a Notice of Application in the Superior Court of Justice in Newmarket which was originally returnable in August of 2011. The York Region Law Association sought intervener status which was granted. The matter was recently heard but Judgment has been reserved.

Alfred Schorr  
Chair, CDLPA Paralegal Subcommittee



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## **Real Estate Committee Report**

Committee members continue to be W. John Buechler from Stratford, Gordon R. MacKenzie from Angus, Tannis Waugh of the Toronto Lawyers Association and Sally Burks, member of The CDLPA Executive Committee.

### Registry Office Service Delivery Changes

We continue to be aware of the new service delivery methods through Service Ontario and continue to offer input from our membership to help the smooth transition in all parts of the province.

### Working Group on Lawyers and Real Estate

The Working Group on Lawyers and Real Estate (joint CDLPA/OBA/ORELA committee) is currently working on a mentorship initiative to benefit real estate lawyers. That mentoring initiative is on the verge of being launched. We are putting together questions about practices in real estate files which will be accessible through the website [www.lawyersworkinggroup.com](http://www.lawyersworkinggroup.com). The responses we are seeking from real estate lawyers will be given anonymously. Our goal is to have one or two questions per month to build a database of questions from which to draw. We will then collate the responses and present the information with or without our comments, as appropriate.

The Next Generation Teraview (NGTV) Consultation Subcommittee (a subcommittee of the Working Group on Lawyers and Real Estate) with a mandate to deal with Teranet and the Ministry of Government services on the replatforming of Teraview and to bring forward the interests of Ontario lawyers and their clients in the process will be scheduling a next meeting if warranted by the extent of changes undertaken to the system. The subcommittee would like to obtain information and ideas from Ontario lawyers regarding the improvement of the next generation Teraview.



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The Condominium Documents Subcommittee (a subcommittee of the Working Group on Lawyers and Real Estate) has a mandate to create a set of province-wide precedents which lawyers can use and adapt for their residential condominium real estate practice which sufficiently informs the clients, sets out the parties' duties and obligations and manages the risk inherent in the condominium transaction. This subcommittee now meets every two weeks and has made great progress in producing documents in an analytical and thoughtful manner.

Proposed Amendments to *Electronic Commerce Act*

Work continues on preparing a submission on the proposed amendments.

Submitted by Sally H. Burks  
Chair, Real Estate Liaison & Practice Issues Committee





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## **Treasurer's Report**

The CDLPA ended 2012 on a very solid financial footing, despite a significant increase in the level of activities carried out by the organization. The CDLPA had before the year ended December 31, 2012: Revenue equaled \$313,008.00; Expenses totaled \$289,061.00, leaving a net surplus for the calendar year of \$23,947.00. When added to the unrestricted fund balances from December 31, 2011 of \$284,217.00, this left an unrestricted fund balance at December 31, 2012 \$308,164.00.

Revenues for the CDLPA are made up largely of member contributions together with funds received to offset expenses from the Law Society of Upper Canada. During 2012, we also embarked on a program to attempt to raise some additional funds by way of private company sponsorships.

During 2012, as a result of changes in the funding approval process by the Law Society of Upper Canada, the CDLPA submitted a three year budget plan to the Law Society detailing anticipated revenues and expenses. These budget submissions were approved by the Law Society of Upper Canada. Based on our intended continuation of the outreach program and the hiring of a full time Director of Public Affairs, it is anticipated that we will see a net loss at the end of each year beginning in 2013. These anticipated losses are estimated at \$22,770.00, \$19,000.00 and \$20,950.00, for 2013, 2014 and 2015 respectively.

As has been the case for the past several years, our financial administration on a daily basis continues to be carried out by Deborah Chabot of Ottawa with the assistance of Kelly Lovell. All of our financial statements and reports are reviewed annually by KPMG Chartered Accountants, Hamilton.

The CDLPA intends to continue seeking private sponsorship opportunities in order to provide us with additional funds to be utilized for the benefit of our members. We do not anticipate increasing membership dues in the upcoming year.

Eldon Horner  
Treasurer, CDLPA



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## CDLPA CHAIRS

Willson McTavish	1980 – 1982
Colin McKinnon*	1982 – 1984
Douglas Thoman	1984 – 1986
Lloyd Brennan*	1986 – 1988
Nancy Mossip*	1988 – 1990
Michael O’Dea†	1990 – 1992
David Lovell	1992 – 1994
Harrison Arrell*	1994 – 1996
Richard Gates*	1996 – 1998
Johanne Morissette*	1998 – 2000
Lawrence Eustace	2000 – 2002
David Sherman	2002 – 2004
W. Ormond Murphy	2004 – 2006
Paul Kowalyszyn†	2006 – 2008
Randall Bocock§	2008 – 2009
Robert Zochodne	2009 - 2011
Michael Johnston	2011 - 2012
Janet Whitehead	2012 - Present

\* Now of the Ontario Superior Court  
§ Now of the Tax Court of Canada

† Now of the Ontario Court of Justice

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