

THE
MIDDLESEX LAW
ASSOCIATION

Snail



May Issue

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May 25, 2022

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President's Message



Contributed by: **Karen Hulan / Beckett Personal Injury Lawyers**

“Despite the forecast, live like it’s spring.”

– *Lilly Pulitzer*

... and that is just what we are doing at the MLA.

Social Events and CPD

With the (occasional) warmer temperatures, and easing of pandemic restrictions, we are able to host in-person events. The first was the **Real Estate social** on April 21, which was well attended, and I am told, enjoyed by all. Photos of the event at page 10 certainly seem to suggest that.

A similar social event will be held for **In-House Counsel** on Thursday, June 22, from 5:00pm to 7:00pm at Toboggan Brewing Co. Look for registration details in the weekly MLA email. A **mentoring dinner will be held on Tuesday, June 14 at Anderson Craft Ale** and a summer social event is being planned.

Planning for professional development programming is well underway with programs being developed for the spring in the areas of personal injury, family law, and EDI. The **Civil Bench and Bar** meeting on May 12 is accredited for 30 minutes of professionalism content and 30 minutes of substantive content. See the **Bench and Bar Update** at page 8. An email is also circulated to the membership every Wednesday that contains updates, so please look to those for information about upcoming programs and events.

With the revitalization of the MLA, there are many opportunities for you to become involved in determining the

CPD and social events that we offer. **Jake Aitchison** describes at page 12 the **Practice Area Subcommittees** and how you can become involved. **Joel Belisle** has written something similar in the past. If you would like to learn more about how to become involved, please contact either Jake or Joel. There are also opportunities to become involved in, or share ideas with, **Western University’s Community Legal Services**. For more information, please see **Kimberley Gagan’s** article about CLS promoting access to justice at page 16.

Meetings with the Law Society Treasurer

The MLA executive met with **Treasurer Teresa Donnelly** twice in April to discuss LSO updates and initiatives in several areas, including licensing examinations and mental health.

The Law Society is hosting its second Mental Health Summit for Legal Professionals on May 3. The program will provide you with four hours of free EDI professionalism content. The keynote speaker is the **Honourable Clement Gascon**. More details can be found in the **Treasurer’s Report** at page 6 of this newsletter.

As many of you may know, the LSO was made aware that the online bar admission exams were likely compromised. It was therefore decided that all exams would occur in person. Naturally, this necessitated a change in scheduling of the exams and this will result in delay for some students being called to the

bar. Details may be found on the [Law Society’s website](#).

The change in scheduling, as well as the switch from online to in-person examinations, is understandably stressful for candidates. It may have interrupted employment or personal plans. We ask that lawyers and law firms be mindful of this as candidates prepare for bar admission. If you know a candidate who may need assistance, then please remind them that they are eligible to access the [LSO’s Membership Assistance Program](#). It provides free access to counselling, coaching, resources, and peer support.

The first of our meetings with the Treasurer was with the MLA executive and our local family and criminal law associations. **Benchers Cathy Corsetti and Michelle Lomazzo** joined the Treasurer at our second event as did our southwest **Federation of Ontario Law Associations (FOLA)** representative and representatives from Lambton and Chatham-Kent law associations. We thank **Treasurer Donnelly, Bencher Corsetti, and Bencher Lomazzo** for the generosity of their time.

The President of the Middlesex Family Law Association, Genevieve Samuels, and the President of the Criminal Lawyers Association, Cassandra DeMelo, joined the MLA at both of these events. Many MLA members are also members of the MFLA or CLA. It seems like a natural fit for the three organizations to work more closely than perhaps we have in

the past. The lines of communication are open, and we are exploring how we may support each other in offering services, including CPD, to our members.

Welcome to Justice Moore

We are pleased with the announcement that **Patricia Moore**, Crown Attorney in Kitchener, has been appointed a **Judge of the Superior Court of Justice in London**. In pre-COVID times, the MLA hosted cocktails following swearing-in ceremonies. That was temporarily paused,

but when circumstances permit, we would like to recognize the appointment of Justice Moore and her colleagues who have been appointed since 2020.

Finally, thanks are in order for the work that past editors of the *Snail*, **Nicola Circelli** and **John Nicholson**, have done in generating articles for this newsletter and for the time-consuming task of editing it at the end of each month. Their terms as editors ended in February but they agreed to remain involved until **Executive Director, Jennifer Foster**, assumed

responsibility for editing the *Snail*. All submissions may now be provided directly to Jennifer.

Happy Mother's Day to my friends and colleagues. I hope you spend at least a part of Sunday, May 8 doing something you enjoy with those you love.

Karen Hulan
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Practice Resource Centre News



Contributed by:
Cynthia Simpson and Shabira Tamachi
library@middlaw.on.ca

Masking at the MLA

We are back on-site full-time to assist anyone who needs help in the library, and it's been nice to see a few familiar faces, even if it's only 5-10 people a day. We want to remind anyone coming to the MLA Practice Resource Centre that we are still requiring people in our space to wear a mask that covers their nose and mouth at all times unless consuming food in the lounge. We appreciate your adherence to this request.

New Summer Students

It's that time of year again when the summer students start at the various law firms in town. These students, like articling students, enjoy full library privileges and most association privileges during their work term. As such, it is important for you to send them to the MLA PRC to get registered, receive a tour of our space, and find out what services

and resources are available to them here. There is no charge to register with the MLA and it guarantees they will receive all our communications while they are working for our members. You can also [email us](#) with your students' names and email addresses so we can set them up in our records. Please encourage them to drop in and we generally do not need advance notice of their arrival.

Have you been hearing from us?

We send out a weekly MLA update email each Wednesday with a summary of information pertinent to our members and the practice of law. We also send out obituary notices and periodic emails about association events and CPD programs. If you haven't been getting these emails or if you were getting them and somehow are not receiving them now, please contact the MLA PRC at library@middlaw.on.ca or give us a call

at 519-679-7046 to update your email address. We may have an outdated email address for you, or you may need to check your email settings to give permission for any @middlaw.on.ca email to get through to your inbox (we also send emails from cle@middlaw.on.ca). We are also using an online membership management program called Wild Apricot for our membership database, event and CPD registrations, dues payments, and polls. You will receive targeted emails from mla8@wildapricot.org, so please make sure your email settings allow incoming messages from either @middlaw.on.ca or @wildapricot.org to make it to your inbox.

Research Services

Are you under a time crunch with one of your files and need to get electronic copies of cases? Do you have a reference to four pages in a text in our library but don't have

Are Structured Settlements *dead*?

Inflation Rate in Canada = 6.7%

Structured Settlement Rate of Return \approx 2.25%

Real Rate of Return \approx -4.45%

CLICK HERE to find out.





time to come down and make the copies yourself? Perhaps you are dealing with a matter from 12 years ago and you aren't sure how the section of the act it pertains to read back then. Or maybe you need to know the range of notice periods for a 55-year-old woman who had worked for her employer in a lower management position for the past 17 years.

If that's the case, you can always email your research request to the MLA Practice Resource Centre. There is **no charge** for this research service but there are limits as we are not lawyers and cannot interpret the law or cases. We have a core group of regular and frequent research service users, and we'd love to assist more of you!

New Books

Hartung, Sharon & Jennifer Zegel. **Digital asset entanglement: unraveling the intersection of estate laws & technology**, Lexis Nexis, 2022

LSO. **Family law refresher 2022**

LSO. **Six-minute commercial leasing lawyer 2022**

LSO. **Six-minute administrative law and practice 2022**

McLeod, Kilpatrick, Madsen & Tobin. **McLeod's Ontario family law rules annotated 2021-2022**, Thomson Reuters, 2022

Missing Books

Auerback, Stephen. **Annotated Municipal Act, Volume 3**, Carswell

Bourgeois, Donald J. **Charities and Not-For-Profit Administration and Governance Handbook, 2nd ed.**, LexisNexis, 2009

Bullen, Edward et al. **Bullen & Leake & Jacob's precedents of pleadings, 14th ed., Volume 1**, Sweet & Maxwell, 2001

Bullen, Edward et al. **Bullen & Leake & Jacob's Canadian precedents of pleadings, 3rd ed., Volume 3**, Thomson Reuters, 2017

Fridman, G.H.L. **Law of contract in Canada, 5th ed.**, Thomson Carswell, 2006

Harris, David. **Law on Disability Issues In the Workplace**, Emond Montgomery Publications, 2017

Hull Ian M. **Challenging the Validity of Wills, 2nd ed.**, Thomson Reuters, 2018

Hull, Ian M. **Macdonell, Sheard and Hull on Probate Practice, 5th ed.**, Thomson Reuters, 2016

LSO. **Accommodating Age in the Workplace 2015**

LSO. **Duty to Accommodate in the Workplace 2016**

LSO. **Six-minute Administrative Lawyer 2018**

MacFarlane, Bruce A. **Cannabis Law**, Thomson Reuters, 2018

OBA. **Constructive trusts and resulting trusts 2007: bringing order to chaos**

Oosterhoff, Albert H. **Oosterhoff on Wills, 8th ed.**, Thomson Reuters, 2016

Osborne, Philip H. **Law of Torts, 5th ed.**, Irwin Law, 2015

Waters, Donovan, ed. **Equity, fiduciaries and trusts, 1993**, Carswell



Shining a light on wellness in the professions with the Well-being Resource Centre



Contributed by:
Teresa Donnelly / Treasurer, Law Society of Ontario

Originally published on [LSO.ca/gazette](https://www.lso.ca/gazette) on March 2, 2022

I am so pleased that in February, the Law Society launched a new Well-being Resource Centre on [LSO.ca](https://www.lso.ca).

It brings together a variety of new and existing mental health and well-being resources under a single banner, making it easier for licensees to find the resources they're looking for.

You can access the Well-being Resource Centre from the Lawyer or Paralegal tabs in the main navigation or by visiting [LSO.ca/well-being](https://www.lso.ca/well-being). Whether you're looking to connect with the [Member Assistance Program](#) or learn how to better support a colleague or client, the Well-being Resource Centre truly features something for everyone. So, let's have a closer look at what's inside:

Featured articles

Over the years, a number of mental health and well-being articles and blogs have been shared on the Gazette. This page brings together a selection of articles centred on well-being.

Member Assistance Program

In addition to providing information about the Member Assistance Program (MAP) and how to get help, this page provides information about the various counselling, coaching and peer support programs available through MAP. It also contains an archive of MAP newsletters.

Practice supports

The practice supports page points readers to strategies, practice supports and resources to help lawyers and paralegals manage personal well-being in the legal professions.

Continuing Professional Development

This page highlights a selection of live and on-demand CPD courses about managing mental health in the professions and supporting clients experiencing mental health challenges.

Research and reports

In this section, readers will find Law Society and legal sector research and reports related to mental health in the professions.

Resources

Here, readers can be connected to a variety of government, healthcare and community mental well-being supports.

I want to make sure that anyone reading this blog knows that these resources, including the Member Assistance Program, are available to Ontario lawyers, paralegals, experiential learning candidates, law students, paralegal students, the judiciary and immediate family members - not just licensees.

I'm often asked about my personal commitment to supporting the well-being of the professions. My experience as a prosecutor and working with victims of crime has allowed me to see first-hand how we are shaped by our experiences. As legal professionals, we are all at risk

that our work can pose real challenges for our mental health. We are problem solvers, setting exacting standards of ourselves and others. The very practice of law or provision of legal services itself can be demanding, from the time commitment, to expectations, billable hours and caseloads. Sometimes in the course of our work, we hear the horrors of what others have experienced. We face stressful situations regularly and it's only natural that we can carry these experiences with us.

As Treasurer, it's my privilege to have a platform that allows me to acknowledge the well-being challenges that can be faced in the legal sector and to work toward a better understanding and acceptance of those challenges. I want to empower licensees to understand the importance of their own well-being and to prioritize it at all stages of their career. Making our own well-being a priority is crucial - because we absolutely must, as legal professionals, care for ourselves if we are to take care of our clients.

I'm an optimist at heart and do believe we are making progress. For all of its challenges - and there have been many - the pandemic has shone a light on the need to support mental well-being. I encourage you all to keep the lines of communication open, to support each other and to actively work to eliminate the stigma and shame of mental health challenges that is so pervasive not just in the legal sector, but in society at large. The first step toward that is having these open,

honest conversations and acknowledging that it's okay to not be okay.

It is my personal hope that this dedicated well-being centre will help bring more awareness, understanding and acceptance about mental health challenges in the legal professions. I encourage you to visit [LSO.ca/well-being](https://www.lso.ca/well-being) to learn more about the well-being information and resources available.

On a related note, I am honoured to once again be co-hosting what is now, the Law Society's second annual Mental Health Summit for Legal Professionals, along with Beth Beattie from the Ministry of the Attorney General. This year's summit will take place on May 3 and will feature a keynote address by the Honourable Clement Gascon and several panel discussions throughout the day. This free webcast will be accredited for four hours of EDI professionalism content. [Visit the CPD store](#) for more information and to register.



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SAVE THE DATE

Spring Civil Bench and Bar Meeting

Thursday, May 12, 2022

5:00 p.m. to 6:00 p.m.

Online via Zoom

Justice Grace, Regional Senior Justice Thomas, and representatives from the Trial Coordination Unit and Court Services Division will be attending and answering questions.

If you would like to submit a question, please do so by email to our Executive Director, Jennifer Foster at jennifer@middlaw.on.ca.

Annual Mentoring Dinner

Tuesday, June 14, 2022

5:30 p.m. to 8:00 p.m.

Anderson Craft Ales

For lawyers practising law for 10 years or less. Small group discussions with mentor lawyers will focus on navigating transitions.

In-House "Warming" social event for in-house counsel

Wednesday, June 22, 2022

5:00 p.m. to 7:00 p.m.

Toboggan Brewing Co.

For more information about upcoming CPD and events, or to share your thoughts and ideas, please contact our Executive Director, Jennifer Foster, at jennifer@middlaw.on.ca.

Bench and Bar Update



Contributed by:

Rasha El-Tawil / Siskinds LLP and MLA Board Trustee

Hilary Jenkins / McKenzie Lake Lawyers LLP and MLA Board Trustee

John Nicholson / Cohen Highley LLP Lawyers and MLA Board Trustee

The Bench and Bar Committee is pleased to announce that a Spring Bench and Bar meeting has been scheduled for Thursday, May 12, to be held by videoconference.

We are especially pleased to report the Opening of the Courts Ceremony will be returning to London in September! This will be the first in-person meeting of the Middlesex Bench and Bar since early 2020 and all of your MLA Board Trustees are extremely excited about seeing you there. We are in the early planning stages, but for now, please pencil September 15, 2022 into your calendars and save the date for this important occasion.

Bench and Bar Meeting – May 12, 2022

The Spring meeting of the Bench and Bar will be held on May 12 at 5:00 p.m. by Zoom. Login details will be sent to all MLA members by email once you register for the meeting.

Regional Senior Justice Thomas, Justice Grace, and representatives from the Trial

Coordination Unit and Court Services Division have again generously given their time to answer your questions about court procedure and operations, and to receive input from our members to enhance court functioning in the interests of litigants in Middlesex.

We encourage you to submit your questions by email to the MLA's Executive Director, Jennifer Foster, at jennifer@middlaw.on.ca. We will collate the questions in advance of the meeting to avoid duplication, and to ensure an efficient meeting. Some of the topics that you might be interested in addressing include recent changes to the Rules of Civil Procedure, practice directions, and Guidelines, including the new provisions for virtual hearings and in-person hearings. All questions will be anonymized before being submitted to the Justices.

Thank you for submitting your questions. We look forward to seeing you on May 12!

Opening of the Courts – Save the date and call for volunteers!

It has been more than two years since the Middlesex Bench and Bar have been able

to meet in person. After a long hiatus, we are extremely excited to announce that we are actively planning the return of the Opening of the Courts Ceremony, so please save the date and plan to attend on September 15, 2022.

We plan to have a procession from the courthouse to Museum London where the event will be held, followed by a reception to reconnect with your colleagues. For those wishing to stay after the ceremony and reception and reconnect further with members of the bench and bar, dinner will be offered in the River Room at Museum London. Spaces for dinner will be limited, and tickets will be sold in advance.

Planning is underway for the Ceremony, and we need your help! If you are interested in joining the planning committee, or can help on the day of the event, please reach out to any of your **Bench and Bar representatives, Rasha El-Tawil, Hilary Jenkins, or John Nicholson.**

Please watch for updates in the coming months as this important event approaches.

**SAVE
THE DATE**

**194th Opening of the Courts
THURSDAY, SEPTEMBER 15, 2022**

5:00 p.m. *procession to commence at 4:30 p.m. from the
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Jennifer Steller
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Real Estate Social Recap



Members of the real estate bar came together on April 21 for the MLA's first in-person event since 2020 at Toboggan Brewing Co. Many of those who attended the event commented they were happy to reconnect with their colleagues in a social setting. Others commented they were pleased to put faces to the names of real estate lawyers they had never met in person. We look forward to having more successful events like this one.

Thank you to our Co-Chairs, **John Goudy** of Scott Petrie, **Casey Hayward** of Carlyle Peterson, and **Matthew Wilson** of Siskinds for their help in organizing the event!

Special thanks to our sponsors, **TitlePLUS**, **FCT**, and **Stewart Title** for their support of this event and their continued support of our real estate bar!



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Subcommittee Recruitment: Be a Leader in Your Practice Area



Contributed by:

Jake Aitcheson / Lerner's LLP and MLA Board Vice President

The Middlesex Law Association is actively recruiting members to contribute their expertise and voice to the newly formed subcommittees detailed below.

This opportunity will raise your profile within the community, earn you a reputation as a leader in your practice area, and connect you with other lawyers in your field.

As previously reported in the *Snail*, the MLA has reformed the way in which it will deliver CPD programming to its membership. Following the Annual General Meeting in February, the MLA formed nine distinct subcommittees, reflecting the diverse practice areas and experiences of our membership. These subcommittees include: Criminal; Family; Real Estate; Corporate/Commercial; In-house; Personal Injury; Wills, Estates and Trusts; EDI/Professionalism; and Small Firms/Sole Practitioners.

Each subcommittee is responsible for organizing informative, creative, and engaging CPD programming within the subcommittees' area of specialization and producing high quality content for publication in the *Snail*. Each subcommittee is overseen by a Trustee, but is comprised mainly of volunteers who practice in the subcommittees' area.

For instance, as I practice plaintiff personal injury, I would volunteer with the Personal Injury subcommittee. As I'm practicing exclusively in this area, I ought to be one of the first to learn of new developments, trends, decisions, or legislative changes that have wide-ranging consequences to the practice area. If I learned of something of this nature, I would connect with other members of the Personal Injury subcommittee and discuss how we should share this information with the local Personal Injury bar. For this example, the subcommittee could plan a seminar, develop an agenda, and then recruit lawyers or other experts to present on the topic. Having organized the substantive component of the

event, the subcommittee would then delegate the execution of the program to Jennifer Foster, the MLA's Executive Director, who would assist in securing a venue, marketing the event, securing sponsorship, receiving RSVPs and payment, etc. Following the event, one of the members of the subcommittee would then prepare a brief update for publication in the *Snail*. In this way, the MLA aims to leverage the legal expertise and connections of our membership to not only enhance our CPD offerings, but the overall competency of our bar.

If you are interested in volunteering within one of the listed practice groups – Criminal; Family; Real Estate; Corporate/Commercial; In-house; Personal Injury; Wills, Estates and Trusts; EDI/Professionalism; and Small Firms/Sole Practitioners – please reach out to me directly at jaitcheson@lerner.ca or call me at 519.640.6396 and I will put you in touch with a representative of the applicable subcommittee.





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? 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:

Rasha El-Tawil 519-660-7712

rasha.el-tawil@siskinds.com

John Nicholson 519-914-3358

jnicholson@cohenhighley.com

Hilary Jenkins 519-672-5666 ext.7301

Hilary.Jenkins@mckenzielake.com



The dangers of voter apathy at the Law Society of Ontario: Low engagement in the upcoming bencher election could impact the viability of self-governance



Contributed by:

Joseph Groia / Groia and Company, LSO Bencher since 2015

Emily Slessor / Groia and Company (*Emily will be attending Law School in the fall*)



Foreword by:

Michael M. Lerner / Lerner LLP, former LSO bencher and vice-chair of the Ontario Human Rights Tribunal

The article that follows is authored by Joseph Groia, who is a two-term bencher and currently the Chair of the Audit & Finance Committee of the Law Society of Ontario (and his colleague, Emily Slessor). I would not consider either Joe or myself to be alarmists. We both have serious concerns about the outcome of the upcoming bencher election in April 2023.

In the last election, in April 2019, a slate of 22 candidates opposed to the proposed Statement of Principles (commonly referred to as the Stop-SOPers) were elected primarily on their opposition to the Statement and other EDI initiatives undertaken by the Law Society. Should this same group successfully elect enough benchers to form the majority in 2023 (under their new FullStop slate), I believe the work of the Society will take a sharp turn to the right and put at risk the good work on these, and other important, initiatives undertaken in the recent past. The concerns expressed by Joe echo the expressed concerns of a majority of the profession. With the introduction of party politics at the LSO, we will likely see those who will vote in favour of this slate max out the number of votes that they cast, voting only for those who are a part of the slate, thereby increasing the risk that a small group of lawyers could take over the future direction of the legal professions in Ontario. Unfortunately, unless other viable candidates come forward, and without a significant increase in the number of lawyers voting, those concerns will come to pass.

Those who do not stand up and be counted will have no right to complain. To twist an old adage, "you get what you vote (or don't) for!"

Article originally published in *Canadian Lawyer* on
April 18, 2022 - reprinted with permission of the authors

The upcoming 2023 bencher election will be a watershed for the legal profession in Ontario. It may see the permanent introduction of party politics at Convocation.

It will be judgment day for the current bench, especially the StopSOP slate of benchers who will need to persuade the profession that their strident views on many aspects of the legal profession deserve electoral support and another term. Indeed, there can

be no doubt that there will be a concerted effort to turn the StopSOP 22 into a slate of 30 or more, thereby giving them control of the legal profession's future.

We believe there will be a wholesale turnover in lawyer benchers at Convocation in the next election. So, the question becomes, who will elect the next leadership of the profession, the entire profession or just a small portion thereof? And will we allow any small group with an extreme ideology and goals set the future course of the legal professions in Ontario?

Analyzing the poor turnout rates in recent bencher elections will help to emphasize

the critical importance of all lawyers and paralegals voting in the next election.

Political scientists describe voter apathy as the lack of interest among voters and a corresponding lack of participation by voters in the elections of representative democracies. High voter apathy causes poor turnout rates among eligible voters on election day. Several factors contribute to voter apathy. While some people are skeptical about whether their vote matters, others use non-participation to protest against a system that they condemn. Most commonly, apathy results from "[satisfaction with the status quo](#)" or "what the law

society does has no impact on me” in the legal profession. While we would like to think that this is not what has been causing the low voter turnout we have seen in past elections for Convocation, if that is the reason, then it underscores the need for a substantial increase in turnout next year.

Regardless of the cause, low voter turnout is troublesome for any democracy, especially for those with self-governing bodies, like the LSO. After analyzing the turnout rates of Benchers elections over the last two decades, it is apparent that voter participation has been steadily declining since 1999 and hit an all-time low in 2019. Of the 53,899 lawyers eligible to vote in 2019, only 16,156 cast their ballots. That accounts for only 29.97 percent of eligible voters, down from 33.85 percent in 2011 and 37.12 percent in 2015.

The LSO released a [comprehensive study of lawyer participation in benchers elections from 1999 to 2019](#). They compared voter turnout rates of several different categories, including but not limited to gender, age, year of call, size of firm and region. The data revealed a negative trend in turnout over the past two decades across each of these groups. Notably, the highest voter turnout rate was in 1999, when 42.02 percent of lawyers cast their ballots. The participation rate steadily decreased in the years following. It is important to note that nearly all regions in Ontario experienced reduced voter turnout in the last three elections, proving that voter apathy is a widespread issue throughout the province.

The number of votes it took for some lawyer candidates to be elected in 2019 was marginal compared to the size of Ontario’s bar. In Toronto, where we saw the highest votes, lawyer benchers were elected with as few as 2971 votes. The most votes that a Toronto candidate received was 5017. Similarly, outside of Toronto, the greatest number of votes that a lawyer candidate received was 5184, while the lowest was 1606. For example, I was elected with 3922 votes in Toronto or about 7 percent of Ontario’s lawyers.

Ontario’s bar should be concerned about these markedly low turnout rates, especially in light of the results of the 2019 election. We believe that the lack of participation among eligible lawyer voters in 2019 shaped who was elected and led directly to the StopSOP group’s success.

The Statement of Principles which I opposed, has now been replaced. It was a singular issue that appealed to many voters. Today what is at risk is much of the progress made on many equity, diversity and inclusion issues over the past years. Those efforts will be threatened by candidates who are directly opposed to the advancement by Convocation of progressive mandates, enhancements to programmes that will ensure competence and careful planning for the future of the professions. Common sense, practical leadership, and decision-making reflecting the breadth and depth of all professions across Ontario should be the concern of all licensees. Next year, if I run for a third and final term, it will not be as part of the StopSOP slate, a convoy of truck drivers or any party or organized group. I firmly believe that Convocation should include 40 elected individual leaders of the profession guided by their principles and not beholden to others.

In an increasingly politicized climate, all lawyers and paralegals must use their right to vote in the next election to protect the profession’s interests. We entirely agree with Toronto lawyer John Callaghan in his declaration that [“the independence of the bar depends on the participation of the bar”](#) and [“our independence should warrant more attention by the members of the bar.”](#)

How we arrived at this point and what we can do to get at least half the profession to vote in 2023 are challenges we must tackle in the upcoming year leading to this crucial election. Suppose we fail to do so, and the voter turnout remains small, we will only have ourselves to blame if the election results do not reflect the mainstream of legal professions. We will find ourselves being led down a tortured path towards the end of self-regulation as we now know it.

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Community Legal Services at Western Law Promoting Access to Justice Despite COVID-19



Contributed by:

Kimberley Gagan / Western University and MLA Board Trustee

This year, Community Legal Services ("CLS"), Western Law's student legal clinic, welcomed a new lawyer, Greg Parrack, to join us on a full-time basis as Review Counsel for our family law matters.

Greg is a Western Law grad (2012) and has spent most of his career as a sole practitioner focused on Family Law and Child Welfare in his hometown of St. Thomas. Now that Greg is in London, he is looking forward to getting to know the local family law bar better.

Greg has quickly gotten to work, not only supervising family law files, but has partnered, on behalf of CLS, with London's Rights and Responsibilities Awareness Initiative ("RRAI") to provide Public Legal Education presentations (via Zoom) for the general public on specific issues in family law and child protection law. These presentations were done by Western Law students, and they have been very well received.

Presentations included:

- Child Support, presented by Elizabeth Cinco on October 27, 2021
- Separation Agreements, presented by Yan Li on March 2, 2022
- "Notice of Recalculation of Child Support" and "Spousal Support", presented by Chanele Rioux-

McCormick, Neeley Jarvis, and Marissa Wruck Fowler on March 22, 2022

- Removal From Care - Child Protection, presented by Alex Strickland on April 12, 2022

Each consecutive presentation has garnered more attention and more feedback from the public. CLS plans on continuing these presentations and to

Despite the challenges of COVID-19, CLS at Western Law has continued to develop more robust services for the chronically underrepresented members in our community.

hopefully branch out into other areas of law. Recordings of our PLE Webinars can be found on [our website](#).

Despite the challenges of COVID-19, CLS at Western Law has continued to develop more robust services for the chronically underrepresented members

in our community. Driven by our goal of providing access to justice, CLS continues to advocate for and serve our community members with housing, small claims, criminal (non-indictable offenses), and family law challenges. Additionally, CLS has recently expanded our services to include child protection cases, as this is an area of law where many of the parties are unrepresented and have been marginalized by society in one way or another.

As CLS continues to improve our services for those in the community that direly need them, we encourage other members of the MLA to reach out to our office if you have any additional ideas as to how we can provide more access to justice, whether through collaboration with other MLA members or through other agencies/ services in our community. What challenges are underrepresented and/or unrepresented parties regularly facing in your areas of practice? Are there ways that CLS can assist with those challenges? Are there challenges that could benefit from Public Legal Education? Please contact us at CLSinfo@uwo.ca or 519 661-3352 to let us know how we can work together to better serve our community members, as it will take our ongoing collaboration to address this very real problem that pervades all areas of practice.

Kimberley D. Gagan is the Executive Director of Community Legal Services and Assistant Professor / Director of Clinics and Practical Skills in the Faculty of Law at Western University.

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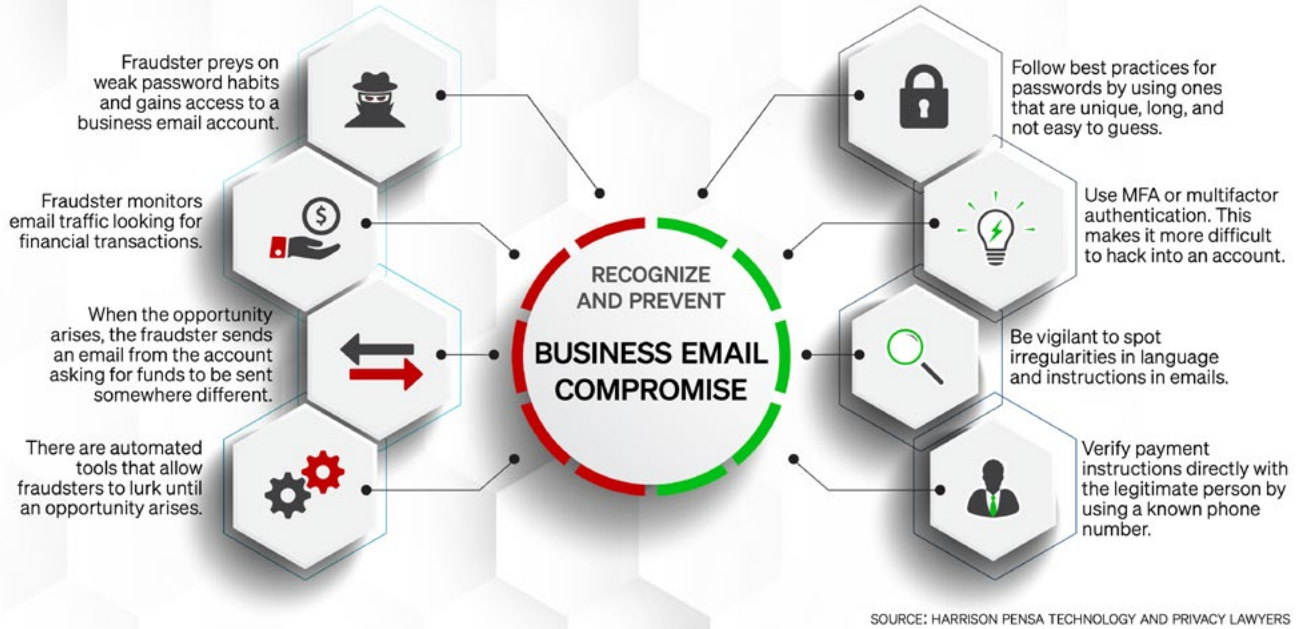
CIP, Q.Med., CSIA

Derek brings 40 years of insurance experience to his mediation practice with expertise in personal injury, product liability, professional liability, property and casualty, reinsurance and medical malpractice disputes. Derek was Vice-president of Claims for a large insurance provider and was in management at a major bank. He has instructed Chartered Insurance Professional courses, and was Vice-Chair of the Insurance Bureau of Canada Claims Committee.

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Business email compromise can happen to anyone. This is how it works and steps to prevent it.



Business Email Compromise (BEC) on the Rise



Contributed by:
David Canton / Harrison Pensa LLP

LAWPRO, the entity that provides insurance for lawyers, recently advised that they are “seeing a substantial increase in closing proceeds redirection frauds.”

This is a phishing scam that can happen to any business, not just lawyers.

Two Toronto men were recently arrested along with 63 others from around the world in an FBI lead investigation into a business email compromise (BEC) scam. The FBI says 2021 losses in the U.S. from BEC were \$2.4 billion.

What is a BEC scam?

A fraudster gains access to a business email account. That could be an account of a lawyer or other professional, an executive, or someone in an accounting role. The fraudster monitors email traffic in the account looking for financial transactions. When the opportunity arises, they send an email from the account asking for the funds to be sent somewhere different – being an account controlled by the fraudster.

The paying party reacts to what looks like a legitimate request – after all, it’s from a person they are dealing with – and makes the payment to the new account.

How does the fraudster get access to the email account?

A BEC attack happens when the fraudster somehow gets the person’s password. That might be a result of sloppy password habits, such as having an easily guessed or common password. Or the person uses the same password for their work email as other personal accounts, and one of those personal accounts was on a platform that had passwords stolen. Then it’s just a matter of the fraudster matching up the person’s name and trying that password.

This sounds like a lot of work, but there are automated tools available to fraudsters to help them with it.

The victim does not realize their email account has been hacked, because the fraudster just lurks there looking for opportunities. Once they start sending emails to redirect payments, they use tricks such as creating email rules to save email threads to an obscure folder so they can send and receive emails without being noticed.

How can we prevent our email accounts from being hacked?

Adopt best practices for passwords. Most organizations have password polices. Follow them. There is plenty of advice online for effective passwords. For example, make sure they are not short and easily guessed. And don't use the same password for a work account that you use for anything else.

Use MFA or multifactor authentication. Organizations are increasingly adopting MFA, which makes it much more difficult to hack into an account.

How can we recognize a fraudulent email?

The fraudulent emails can look legitimate. Sometimes they seem odd, because of a reference to an email address that is slightly off, wording that doesn't seem normal from that person, or an unusual payment method. But not always. The best approach is to treat every email that purports to change payment instructions as a fraud and verify it. Don't try to verify it by responding to the email, as the fraudster will intercept it, and don't verify by calling a number in the email. Verify it by calling the apparent sender at a known phone number.

Organizations should have policies in place around when and how to do that.

How can a business reduce its risk?

Businesses should keep up to date with these kinds of frauds and implement internal policies and procedures that adopt best practices. That includes password policies that set out the type of passwords that must be used and can't be used.

And policies that set out when and how to confirm payment instruction changes. Implement MFA wherever possible.

Educate staff through security training about the policies they are to follow, and how to recognize fraud. Maintain awareness with staff by methods such as security campaigns, posters, and notices from third-party victims or advisors.

I'm a victim – now what?

Sometimes financial institutions can reverse fraudulent payments. Contact your financial institution immediately to see if they can do that before the money is gone for good.

If your email account has been compromised, have your IT department or IT service provider freeze the account and change the password. They should investigate the account to look for evidence of what the fraudster did with the account, how long the account was compromised, what the fraudster changed or added to the account, and

what emails the fraudster sent. Any such changes need to be reversed.

Notify any other party that might be a potential victim.

The damage may go beyond financial fraud. If someone had access to your email account, they may also have gained access to other systems using a similar login. There is potential for the fraudster to have seen confidential or personal information that is in your emails or other systems. That may lead to the need to notify those parties, and perhaps the privacy commissioner.

David Canton is a business lawyer and trade-mark agent with a practice focusing on technology issues and technology companies. Connect with David on [Twitter](#) and [LinkedIn](#).

This article was originally published on the [HPTechlaw blog](#). To get HP's Tech Law Weekly Newsletter - which includes a blog post and other top stories at the intersection of tech and law - delivered to your inbox each week, [sign up here](#).

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Western Law Students Develop Legal Remedies and Resources Guide for Survivors of Sexual Violence



Contributed by:

Chanele Rioux-McCormick and Alexandra Strickland / 3L Law Students, Western University

Western University's Orientation Week 2021 garnered significant media coverage after multiple reports of sexual assault and allegations of drugging and/or assault of 30 women at a university residence began circulating on social media.

In the wake of these events, we attended the student walkout where thousands gathered in support for survivors of sexual and gender-based violence and in protest of misogyny and rape culture on campus. Having been involved with Community Legal Services ("CLS"), Western Law's student legal clinic, since our first year at Western Law, we felt as though we could utilize the CLS platform and the experience we've gained to better support our community members.

After a bit of research, we quickly found that legal information for survivors of sexual assault is quite scattered and difficult to decipher. At times, online resources provided either outdated or misleading information, and very few pointed to the Independent Legal Advice Program for sexual assault victims, which provides up to four hours of free legal advice to survivors. We identified this as an access to justice issue and came up with the idea of publishing a comprehensive "Frequently Asked

Questions" guide for survivors of sexual violence to better understand their legal rights and make the best decision for their particular situation.

Our goal in publishing this resource is to provide survivors with a free and accessible document that provides clear

Our goal in publishing this resource is to provide survivors with a free and accessible document that provides clear and concise legal information.

and concise legal information. The last thing a survivor needs when researching potential legal avenues is being met with unnecessarily complicated and outdated resources. We also hope that this document is a step forward in fostering a more inclusive and accessible

legal system, which better equips and encourages survivors to report their assault and seek the legal remedies that are available to them. We really hope to see other law schools and their respective legal clinics following suit and begin to develop similar programs and services to survivors within the community. Eventually, we would love to see our resource become part of a greater initiative to provide more in-person or virtual support for survivors within Middlesex County.

This resource would have been impossible without the amazing mentorship and support we received from **Kimberley Gagan** (Executive Director of Community Legal Services), as well as **Anju Fujioka and Chelsea Hishon** (Beckett Personal Injury Lawyers, counsel who specialize in this area of law), and **Dr. Mandi Gray** (a leading academic and advocate in anti-sexual violence on university campuses). Our resource guide will soon be available for access on the [Community Legal Services website](#) as well as from other key campus services and departments.

Both Chanele and Alexandra are 3L Law students at Western University and avid Team Leaders/Student Caseworkers with Community Legal Services at Western Law.

Want to contribute to the next issue?

Deadline is Noon, May 25, 2022

The Snail welcomes articles from MLA members in Word format, along with photos, a headshot and headline. For clarity and readability, we encourage submissions in the range of 200-500 words, with a maximum limit of 1,000 words for news and opinions, and a limit of 2,000 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 and case reviews, or practice tips

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Letter to the Editor

From:
Jonathan Pitblado / JPitblado Law Office

As a sole practitioner/litigator covering two basic areas of law, I note that the Lexis Nexus package I had for a year was about \$280 a month, and had employment, criminal and decent civil lit coverage, but the textbook in the employment section did not have human rights coverage. I now have Westlaw that has better employment (as the Ball text has great human rights coverage) and crim coverage (in my view) but no civil lit textbook coverage other than the CED for around \$320 per month.

I make this point for a very practical reason and I am going to reference one of my precedent cases, because it is funny/

sad the things you forget as you age.

I had a large wrongful dismissal/human rights case a few years ago, where my plaintiff ex-employee had done various misdeeds at work over time and there was a serious "just cause" defence lead by the employer. My guy did have depression.

I had forgotten that the Ontario Court of Appeal in 2000, in a case of mine called *Chambers v. Omni Insurance Brokers* had held, among other things, that clinical depression could be used as a shield by an employee against just cause employer allegations if it was a factor in the misdeeds.

That case was not mentioned for that proposition in the two leading employment law textbooks, the one by Ball and the other by Levitt.

It was mentioned in the third leading textbook by Mole, and I found the section in Mole in your law library and settled my case well as a result.

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Member Updates

Copies of our print Members' Directory are available for pickup in the library. We are asking that members only take one copy for now until we can offer additional copies, due to our reduced printing this year. Our continued thanks to Davis Martindale LLP for their generous sponsorship of this valuable resource. These updates below came in after the directory files were sent for printing so will not be reflected in the new edition. However, you can also search the [MLA's online Members' Directory](#) for updated information.

Lawrence Blokker – has rejoined the MLA and is at Robinson Blokker, 202-735 Wonderland Rd. N., London, N6H 4L1, ph: 519-657-8985, fax: 519-657-7286, lblokker@robinsonblokker.com

Lou-Anne Farrell – is now practicing at Harrison Pensa LLP, direct ph: 519-850-5561, lfarrell@harrisonpensa.com

Jacqueline Fortner – is now practicing at Dyer Brown LLP, ph: 519-673-1100 x239 jfortner@dyerbrownlaw.com

Aarij Jawaid – is now at MD Lawyers, ph: 519-672-1953 x5215, ajawaid@md-lawyers.ca

Ashley Maciuk – is now with Borden Ladner Gervais, 3400-22 Adelaide St., Toronto, M5H 4E3, ph: 416-367-6000, fax: 416-367-6749, amaciuk@blg.com

Carolyn McKeen – is now at Lerner LLP, direct ph: 519-640-6381, cmckeen@lerner.ca

Lucas O'Hara – has moved to 307-717 Richmond St., London, N6A 1S2, all else is the same

Luigi Perzia – has rejoined the MLA and is at 207-400 Queens Ave., London, N6B 1X9, ph: 519-645-1300, direct ph: 519-319-4562, luigi@perzialaw.ca

Danielle Ramsay – new call at MD Lawyers, ph: 519-672-1953 x5223, dramsay@md-lawyers.ca

Li Tian – is now at Diversitas Law Group, 100-145 Wharncliffe Rd. S., London, N6J 2K4, ph: 519-670-0879, litian@dlawgroup.ca

Wilhelm Family Law – the office has moved suites in the same building so the address is now 203-1555 Glenora Drive, London, N5X 1V7

Trent Zimmerman – has rejoined the MLA and is at T. Zimmerman Law Prof. Corp., 46 Vansittart Ave., London, N4S 6E2, ph: 519-290-1990, tzimmermanlaw@icloud.com



May 2022 Middlesex Law Association Newsletter

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Will Notices

Joel Harris Borsack

Anyone having knowledge of a Will of the late Joel Harris Borsack of the City of London in the County of Middlesex, Province of Ontario, who died on January 24, 2022, is requested to contact Jennifer Butkus, McKenzie Lake Lawyers LLP, 1800-140 Fullarton Street, London, Ontario, N6A 5P2, at 519-672-5666 x7356 or jennifer.butkus@mckenzielake.com.

Cecil William Daniels

Anyone having knowledge of a Will of the late Cecil William Daniels of the City of London in the County of Middlesex, Province of Ontario, who died on January 22, 2022, is requested to contact Jennifer Butkus, McKenzie Lake Lawyers LLP, 1800-140 Fullarton Street, London, Ontario, N6A 5P2 at 519-672-5666 x7356 or jennifer.butkus@mckenzielake.com.

Donna Marie Dunn

Anyone knowing of a Last Will and Testament for Donna Marie Dunn, born April 22, 1951, and died April 23, 2022 in London, Ontario, please contact Chris Dunn at 519-619-3025.

Peter Frances Gallagher

Anyone knowing of a Last Will and Testament for Peter Frances Gallagher, born May 24, 1947, and died March 29, 2022, of London, Ontario, please contact Patricia Watson at 226-580-9461 or pattycakes1177@gmail.com.

Phyllis Gwendolyn Inch

Anyone knowing of a Last Will and Testament for Phyllis Gwendolyn Inch, born September 13, 1932, and died March 1, 2022, of Wallaceburg, Ontario, please contact William J. Leslie, Q.C., Stewart, Esten LLP at wleslie@stewartesten.ca.

Nikola Ivanovich

Anyone knowing of a Last Will and Testament for Nikola Ivanovich, born September 9, 1941 of the City of London, Ontario, please contact Todd Rutledge, Brown Beattie O'Donovan LLP at trutledge@bbo.on.ca.

Rosalie Martineau or Rosalie Sandra Martineau

Anyone knowing of a Last Will and Testament for Rosalie Martineau, born September 14, 1961 and died April 8, 2022 of London, Ontario, please contact Hayley Martineau-Deans/Curtis Martineau at 647-405-0294/519-200-4188 or hayleymd1@hotmail.com / mbavibut@gmail.com.

David McCormick

Anyone knowing of a Last Will and Testament for David McCormick, born May 28, 1952, and passed away on February 3, 2021, is asked to contact his daughter, Jennifer Kathryn McCormick, at jen.mccormick10.07@gmail.com or 226-980-5733. He lived at 429 Duke Street in Cambridge but it is believed he had a Will prepared in London.

Ernest Edward Rebeau

Anyone having knowledge of a Will for the late Ernest Edward Rebeau of London, Ontario, born on October 6, 1938, and died on November 10, 2021, is asked to contact Casey Hayward, Carlyle Peterson Lawyers LLP at 519-432-0632 x226 or chayward@cplaw.com.

James Robinson

Anyone knowing of a Last Will and Testament for James Brian Robinson, born September 5, 1966, and died April 17, 2022 in Niagara Falls, Ontario of London, Ontario, please contact Cheri Robinson at 519-859-2444 or cherirobinson@me.com.

Michelle Marie Thompson (Marshall)

Anyone knowing of a Last Will and Testament for Michelle Marie Thompson, aka Michelle Marie Marshall, born July 22, 1969 and died March 6, 2022, of London, Ontario, please contact Sue Carlyle at 519-432-0632 x222 or scarlyle@cplaw.com.

Michael Tomas Zaruba

Anyone having knowledge of a Will of the late Michael Tomas Zaruba, of London, Ontario, who died on December 31, 2021, is requested to contact Rachel L. Jennings, Friedman Estate Litigation, 185 Bayfield Street, Barrie, Ontario, L4M 3B4, at 705-809-0934 or rjennings@felitigation.com.



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