

President's Message

If you're like most members of the KDLA, you ask neither what your Association can do for you, nor what you can do for your Association. Long stretches will pass, in fact, during which you betray no conscious awareness that such an organization even exists. But, dear colleagues, if (like me) you are awakened at night by the panicked thought that no one cares, rest assured that the KDLA, at least, remains actively committed to your professional well-being. To wit:

This past September Sioux Lookout hosted the biggest (and first) KDLA semi-annual meeting to be held outside Kenora, Dryden, Red Lake, or greater Sioux Narrows. Take that Ignace!

Two Vice-Presidents of Legal Aid Ontario graced us with their talking points, and we also held lively (and actually substantive) discussions with our LAO and NAN Legal Area Directors about the delivery of family and criminal legal services to

our region's neediest people.

Our website, www.kenoralawassociation.ca is being updated and improved. This will make it easier for colleagues and members of the public to retrieve contact information, which may be sorted according to practice area as well as alphabetically. We also intend to include news, upcoming events and, other items of interest to our membership.

April showers bring Continuing Legal Education powers! (Shakespeare, I believe). That's right, we are planning a two-day CLE gathering in Kenora, April 23-24. Speakers will include Law Society Treasurer Janet Minor, Rupert Ross, Justice Gibson, and forensic psychiatrist Dr. Philip Klassen. Several (we hope positive) surprises will also be in store, so gnaw the plastic off your 2015 calendars and save those dates now.

Your Executive and committee members continue to

represent your interests at the local, regional, and provincial levels (not to suggest that we've given up on the Feds entirely). That said, we are poor telepathists, so if you have any questions or suggestions on any issue, please articulate them.

With warmest wishes in this time of dwindling light and creeping chill,

Simon Owen



KDLA president Simon Owen and friend. "Shouldn't every good president be always pictured holding infants?"

KDLA IN ACTION

- ◆ Sioux Lookout hosted the September semi-annual meeting, including discussions with Legal Aid VP's and NAN Legal area directors.
- ◆ KDLA website is to be updated and improved
- ◆ CLE event planned for April 23-24 in Kenora.



INSIDE THIS ISSUE:

<i>Articling Students</i>	2
<i>Gladue Study Group</i>	3
<i>A visit to Keewaywin</i>	4
<i>Library Acquisitions</i>	5
<i>Letter from CDLPA</i>	6
<i>View from my Window</i>	6





Pavan Passi is articling with Legal Aid Ontario in Kenora.

Meet the Articling Students

PAVAN PASSI

Pavan Passi is the 2014-2015 articling student with Legal Aid Ontario assisting in the criminal and family law office. He received his B.Sc. from the University of Toronto and his L.L.B. from the University of Buckingham in the U.K. Prior to joining Legal Aid, Pavan worked in the healthcare sector in Canada and the United States.

While in law school, Pavan was a member of the student law society, negotiation and mooted teams as well as an active member of the Amnesty International student chapter.

Originally from Toronto, Pavan looks forward to assisting clients in Kenora and learning of the unique legal challenges present in Northwestern Ontario.



Sarah Burden is articling with the Crown Attorney's office in Kenora.

SARAH BURDEN

Sarah Burden completed her undergraduate degree in Criminal Justice as well a diploma in Police Foundations at Nipissing University in North Bay. She received her Juris Doctor from the law school at University of Ottawa. Sarah is currently articling with the Crown attorney's office in Kenora.

Sarah served one year as a military police officer and is currently a member of the Reserves. She is looking forward to taking advantage of all the outdoor activities the Kenora area has to offer.



Caroline Soulé is articling with Brenda Leigh Bell in

CAROLINE SOULE

Caroline Soulé has obtained a Juris Doctor along with a Legum Licentiatu (LL.L.) at the University of Ottawa, Ontario. She also has a certification in International Arbitration Law from the University of Penn State in collaboration with McGill University. Caroline recently moved to Dryden, Ontario to start an exciting position as an articling student at Brenda Leigh Bell Law Office.

Being an outdoor and athletic person, Caroline is excited to discover all the beauties of Northern Ontario. Her second passion, after law, is cooking. This passion has led her to win a few prizes at food contests and to constantly be on the hunt for new flavours.

GLADUE STUDY GROUP*: *What I learned about Residential School Claims*

Peter Kirby, Elaine Bright, Sharon Scharfe

On September 30, Elaine Bright presented, along with Eric Myles of the Department of Justice, who was in Kenora for a week of Residential School Hearings. Below is a summary of what you need to know about the claims process.

There is a Common Experience Payment calculated on the basis of the number of years of school attendance; and there is a hearing process (Independent Assessment Process or IAP) to decide on claims for specific forms of abuse. The deadline time for filing claims passed in September of 2012.

The hearing process is more inquisitorial than adversarial. The amount of a claim payment is determined by adding up points, based on a chart listing different types of "Acts Proven" and "Consequential Harm" with a corresponding number of points (for example, up to 60 points for sexual assault claims; and up to 25 points for "serious" resulting dysfunction).

There is another chart setting out dollar amounts based on the number of points score. The total number of points can be increased as a result of "aggravating" factors such as accompanying verbal or racial abuse and humiliation and as a result of inability to obtain employment or undertake or complete education or training.

Profiles on different schools,

including, locally, St. Mary's and Cecilia Jeffrey, have been built up over the years hearings have been taken place.

Many decisions (identifying information redacted) are on available online, but only to lawyers representing clients in the IAP process. Claimants are entitled to a copy of their decision and a transcript of their evidence, at no charge. They may share this information with whomever they wish.

About 20,000 claims have been processed; with another few thousand still undecided. Canada has paid out 2.5 Billion, to date. The average IAP payment is 115,000, including legal costs. The government of Canada contributes 15% of the claim towards legal fees.

An Ontario Superior Court has ordered that IAP records be retained for fifteen years and then destroyed unless Claimants provide written authorization for their records to be retained by the Truth and Reconciliation commission. This is a serious issue for those who want to preserve records of the Residential School experience and make it available for future generations.

Eric Myles told us of holding a hearing in Thunder Bay hospital room: the IAP will accommodate the need for speedy hearings.

For further information, link to iap-pei.ca

PRACTICE TIP Lawyers looking to bolster *Gladue* submissions should ask their clients for their histories. If a client has made a claim, then there will likely be a history, and possibly medical or psychological reports, which can be obtained from the client's lawyer or from the IAP office.

*The *Gladue* Study Group is an informal group of lawyers, judges (active and retired), court workers, interpreters and Restorative Justice workers, join periodically to study issues relating to, specifically, Aboriginal people, their history, living conditions and world view—*Gladue* data and more generally, how to address incarceration and *Gladue* factors identified in the case law.

Early this year, we heard from Aaron Mills, a PHD student at the University of Victoria, discussing Aboriginal concepts of law. We also heard from Professor Anthony Doob, Criminologist, University of Toronto.

Sessions-in-planning, include a speaker from Legal Aid Ontario's Aboriginal Justice Strategy and Dr. Laurence Hunt.

Meetings run from 4:30 to 5:30 and hours count for self-study credits.

We welcome topics and presenters.



A Summer Student's Perspective: Keewaywin by Caycie Soke

My experience in Keewaywin left me alternately awed by the untouched beauty of the northern Ontario landscape and disconcerted by the obvious cultural estrangement felt by the people of the community of Keewaywin towards the 'court-on-the-go' we set up in their local community hall.

After only one week in Kenora as a visiting summer student I was allowed to attend a fly-in court in Keewaywin, Ontario. My previous placement in Thunder Bay had been very court-centered and had only allowed me to accompany Duty Counsel out of town once during my three and a half month stay, and then only to Nipigon. Naturally, when the opportunity presented itself in Kenora, I jumped at the opportunity to see a part of the country most Canadians will never see. As a third year law student at the University of Manitoba I have had some opportunity to attend the 'circuit courts' in rural Manitoba, however those were a mere two hour drive away (on paved roads, no less). My experience in Keewaywin left me alternately awed by the untouched beauty of the northern Ontario landscape and disconcerted by the obvious cultural estrangement felt by the people of the community of Keewaywin towards the 'court-on-the-go' we set up in their local community hall.

On the morning of my flight to Keewaywin, I arrived at the Walsten Air hangar 45 minutes early for a security check with the pilots, as it was my first time flying on such a small aircraft. After a brief demonstration of belts, buckles and emergency exits (in a surprisingly cushy plane interior) I was able to chat with the two pilots and get a feel for what work as a private pilot entailed in such a remote portion of Canada. They informed me that they were mostly contracted by the government for court-related matters, but that occasionally "rich Americans" would charter a Walsten aircraft to and from Texas or Minnesota for fishing expeditions. The fly-in community of Pikangikum is their most travelled to destination for the government contracts, as the fly-in courts operate most frequently there. I learned that this was due to its relative high population (roughly 2500) and high crime rate. Pikangikum most notoriously came into the public eye in a Maclean's article from March 2012 entitled "Living and dying in Pikangikum" which explored the sky-high suicide rates and solvent abuse epidemic that afflict this remote community.¹ The article speaks of the relative isolation, cultural estrangement and lack of opportunities for youth in these fly-in

communities which has made it constructively impossible to break the cycle of substance abuse and immobilizing poverty. Upon landing in Keewaywin later that afternoon, it was not difficult to perceive that there were similar socio-economic manifestations of colonialism at play.

The flight was a brief one hour but due to the rainy weather the pilots kept us relatively low to the ground, which allowed a better view of the swaths of thick forests, dotted with dozens of small bodies of water. Upon landing we were escorted into the NAPS truck which was to shuttle us to the building where court would be held. The clerks and I piled into the prisoner portion of the truck and experienced the hard seats and limited views out of the barred windows en route to the community. We drove down a long dirt road and eventually stopped on a street with four large buildings; the community center and church building, the band office, the Northern Store, and the nursing station. Upon exiting the vehicle and entering the community center where the court was to be held, I could see that defence counsel were already present, idly chatting with clients as they waited for court to begin. The clerks began unpacking the microphones and recording devices while the judge disappeared to change into his robes. I was informed by a defense counsel to avoid the washrooms, as there was no running water. She led me next door to the nursing station, a bright and clean one-story building where a pleasant nurse allowed us to use their facilities. We returned to the community centre as the court was about to begin. Four large folding tables, uncovered, had been moved to form a rectangle and seated defense counsel, the Crown, the clerks and the judge, respectively. The two, and sole, defense counsel were both private bar lawyers acting as per diem Duty Counsel from Legal Aid Ontario.

The docket was shockingly short, only 8 people, and was dealt with swiftly and resulted in one plea, four remands where the clients were not present, two first appearances and one matter that had been withdrawn. Court was open for a matter of minutes. Apparently,

the near-by community of Sandy Lake has very busy fly-in court days; however the two communities' criminal matters are not merged to the same date and location due to a jurisdictional conflict between their respective band councils. After all eight matters had been dealt with; the clerks proceeded to pack up their equipment while I wandered outside and observed the 'main drag' of the community. There were quite a few children and teenagers gathered outside the makeshift courthouse and across the street silently watching us as we exited. One of the clerks joined me outside. While we were waiting for the NAPS vehicle to retrieve us, we wandered over to the Northern Store to check out some of the food prices. As to be expected, the non-perishable items were markedly less expensive than the incredibly inflated prices for fresh food (\$48.00 for a frozen roast of beef!). It made me pause to consider how difficult it would be to provide a balanced meal for one's family when selection is such an issue, not to mention the impossible cost. The drive back to the waiting airplane and the voyage home were smooth and the view from my airplane window was as incredible as the journey there.

My experience in Keewaywin has left me with a lot of questions about the methods to better and more appropriately service small, remote fly-in communities. It was remarked upon earlier in the day that there were some communities similar in size and demographics to Keewaywin which had no police presence and instead relied on a sort of "vigilante justice" model and worked things out, for better or for worse, amongst themselves unless someone reported a matter to the authorities. It is no doubt important to service these communities so to not silence complainants or victims of crime; however it seems a tricky task when the community at large seemed so alienated by our presence. The increasing presence of indigenous people in the legal field over the last few decades is unquestionably helpful in mitigating this cultural dissonance. However I cannot help but feel as though we are treating a symptom of the larger issues of lack of resources, geographic and cultural isolation, and difficulties of self-empowerment in these communities.

¹ <http://www.macleans.ca/news/canada/living-and-dying-in->



The view from the plane en route to Keewaywin

RECENT LIBRARY ACQUISITIONS

BOOKS

The 2014 Annotated Ontario highway traffic act (Segal)

The 2014 Annotated Ontario provincial offences act (Segal & Libman)

2014-2015 Canada business corporations act

2014-2015 Consolidated Ontario family law statutes and regulations (Siegel)

2014-2015 Ontario business corporations act

The 2015 Annotated Ontario personal property security act (McLaren)

2015 Guide to consent and capacity law in Ontario

Bullen & Leake & Jacob's Canadian precedents of pleadings – 2nd ed.

Canada's constitutional law in a nutshell (Funston & Meehan) – 4th ed.

Canada's Indigenous constitution (Borrows)

Canadian legislation on intellectual property (Mackaay & Gendreau) 2015

Charter justice in Canadian criminal law (Stuart) – 6th ed.

The Commercial lease: a practical guide (Haber) – 5th ed.

Criminal law & procedure: proof, defences, and beyond (Abell et al) - 5th ed.

Default and summary judgments in Canada (Tweedie)

Defending battered women on trial (Sheehy)

Defending drinking and driving cases 2014 (Gold)

Disability management: theory, strategy & industry practice (Dyck) – 5th ed.

Drawing out law: a spirit's guide (Borrows)

The Estate planner's handbook (Spenceley) – 4th ed.

Family law litigation handbook (Joseph et al)

Federal labour & employment legislation 2014

Introduction to Canadian insurance law (Brown & Mercer) - 3rd ed

Introduction to legal ethics (Cockfield)

Investment act Canada: commentary and annotation – 2014 ed.

The Law of civil procedure in Ontario (Perell & Morden) – 2nd ed.

The Law of evidence in Canada (Lederman et al) – 4th ed.

The Oatley McLeish guide to scheduling civil trials and other matter in Ontario courthouses (McLeish et al)

Ontario civil practice 2015 (Watson & McGowan)

Ontario employment standards act: quick reference (Roher & Warner) 2014 ed.

Ontario small claims court practice 2015

Powers of attorney and capacity: practice and procedure (Sweatman)

A Practical guide to occupational health and safety compliance in Ontario (Keith & Chandler) - 4th ed.

The Practitioner's Ontario criminal practice - 2014

Principles of administrative law (Jones & de Villars) – 6th ed.

Recovering Canada: the resurgence of Indigenous law (Borrows)

Solicitor-client privilege (Dodek)

Volunteer administration: professional practice (Seel) – 2nd ed.

NEW CLE

From LSUC

Annotated shareholder agreement 2014

Class Actions: a boot camp for litigators

Commercial mortgage transactions 2014

Family law toolkit 2014

Injunctions: a boot camp for litigators

PRACTICE GEMS: The Administration of Estates

PRACTICE GEMS: Mortgage enforcement essentials

Probate essentials 2014

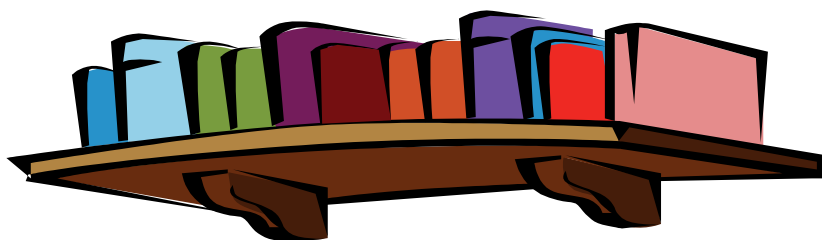
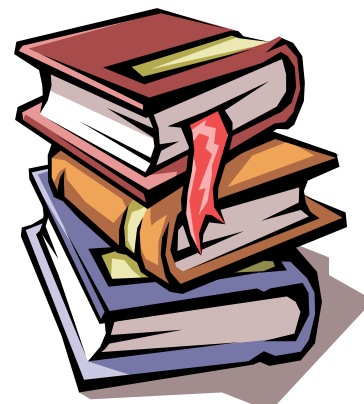
Six-minute employment lawyer 2014

Six-minute labour lawyer 2014

Solo and small firm conference 2014

Taxation issues for general practitioners

Twelve minute civil litigator 2014



KENORA DISTRICT LAW ASSOCIATION

District Courthouse
216 Water St.
Kenora Ontario
P9N 1S4

Many of you have had questions following LibraryCo's announcement last month that they would no longer subscribe to LexisNexis' QuickLaw legal research tools. Please see the following letter from CDLPA chair Cheryl Siran.



The County & District
Law Presidents' Association

L'Association Des Bâtonniers
De Comtés et Districts

YOUR LAW LIBRARY

Maria Berezowski
Librarian

PHONE:

807-468-9335

TOLL FREE

1-866-684-1164

FAX

807-468-1758

E-MAIL

lawlib@kmts.ca

HOURS

Monday, Tuesday, Thurs-
day

8:00 AM-12:30 PM

Wednesday, Friday

8:00 AM—12:00 noon.

Dear Presidents,

We have received a few enquiries with respect to the future of LexisNexis on the toolkit and whether it will be a topic discussed at the upcoming plenary. To answer these questions for everyone and for all to have the same information:

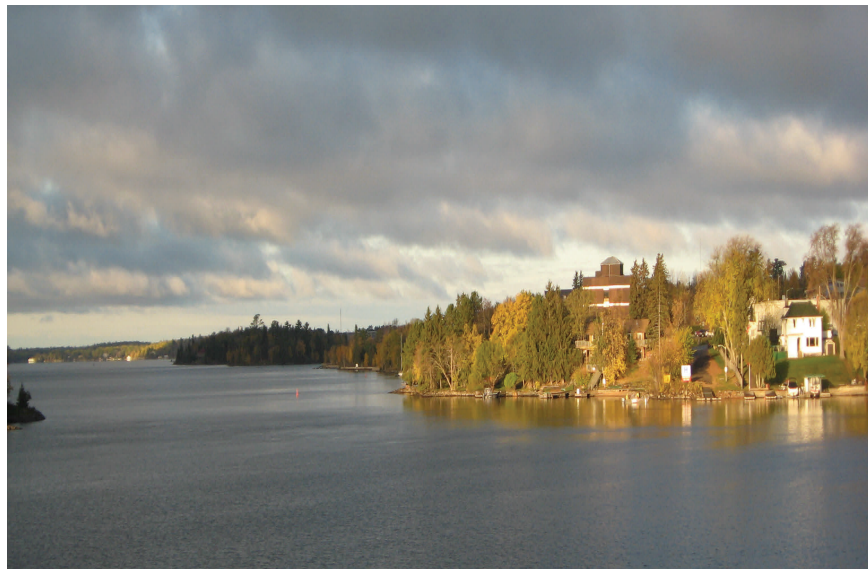
1) The entire issue of the future of libraries will be discussed at Plenary and in the course of those discussions, we will be examining operational things such as the future of LexisNexis. There is no specific motion on LexisNexis currently on the table, unless an association brings one forward, but we can assure the presidents that it is going to be discussed. A significant portion of our plenary agenda has been set aside for discussion of libraries and at the recent COLAL conference, your library staff met with members of the LibraryCo Board and representatives of the shareholders (including CDLPA) to offer their opinions on a variety of topics, including LexisNexis.

2) Details on the availability of LexisNexis post-December are still being worked out, but we understand that the LibraryCo Board and the Law Society are negotiating to at least maintain LexisNexis access in the libraries past December. Those discussions are ongoing and taking place until at least early November. In the meantime we are advising at this point in time that no association should take any further actions to purchase their own LexisNexis access until we know the results of those discussions. We have warned for some time now that the desktop access, which was funded by a Law Foundation grant, was in jeopardy because of low usage but our focus now is on at least maintaining access in the libraries.

We look forward to the discussion at Plenary in two weeks and hope that the negotiations with LexisNexis will have concluded by then so we have a more definitive answer to offer.

Cheryl Siran
CDLPA Chair

A View from my Window



THE GOLDEN HUES OF AUTUMN ARE ENHANCED BY THE EARLY MORNING SUNSHINE LATE IN SEPTEMBER

KDLA EXECUTIVE

President—SIMON OWEN

Beamish & Associates,
Sioux Lookout

Vice President—ELAINE
BRIGHT

Pace Law Firm, Kenora

Secretary/Treasurer—
SAYER DOWN

Hook Seller & Lundin LLP,
Kenora