



# HCLA NEWS

*Newsletter of the Halton County Law Association*

Volume 14 Issue 4

Fall 2023



Please join us for a festive evening of food, music and entertainment, which includes:

One Drink Ticket  
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# PRESIDENT'S REPORT

*by Kathy Batycky*



Hello everyone!

We are well into cool days of Autumn and with the cooler weather we also have some upcoming events that we hope you will all attend.

As I am sure you all have learned from the multiple emails sent your way about the state of our library and lawyer's lounge, due to the discovery of mould, and the disruption of the asbestos that is located in the ceiling of the library and lounge, the HCLA Law Library and Lawyer's Lounge – including the robing rooms - has been closed while workers tend to the removal of the asbestos and remediation of the mould. A big thank you to Arielle and Karen who packed up the entire library and help organize the complete removal of all furniture in both the library and lounge so that the workers could tend to the removal of the asbestos without risk of contaminating the contents of those areas. The work is now complete and we hope to be back in our space very soon. In the meantime, we have been fortunate to have been given the use of an interview room on the second floor of the courthouse, just across from the Crown Attorney's offices, in which we have set up one of the library computers for our member's use. Although it is not monitored so that personal belongings should not be let in that room, the door does have an inside lock so that if counsel needed to change for court, the space could be temporarily used. Just don't forget to unlock the door before leaving, to ensure we don't get locked out!

In addition, Arielle continues to work remotely and is happy to provide our members with assistance whenever needed. Just make sure you try to contact her by email or, if phoning in, leave a detailed voice message so that she knows what is needed and how to reach you.

The Association will continue to update our members with updates and any further developments on the state of our library, lounge and robing rooms, including when we can expect to be re-opened.

Thanks to those who attended our fun packed Family Day that was held on Saturday, September 16, 2023. in Bronte Park. The families that did attend enjoyed a free painting session along with a bouncy castle and snacks. The weather was perfect for a great day of fun... make sure you join us next year for this annual event. It is a great time for members to bring their entire family for a get together.



The Annual Family Law Seminar is just around the corner, and we are happy to have this seminar return

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to its in-person format (but also have virtual attendance available). This year it will be held on Friday, November 3<sup>rd</sup> at Rattlesnake Point Golf Club, located on Highway 25, just south of the Milton Courthouse. This afternoon event will start with a lunch for those who can attend in person. Come join us as we hear from the bench and senior members of the bar with updates on what's going on in the courts and in the law.

Don't miss out on the HCLA Annual Holiday Party which is once again being held at the glorious Paletta Mansion, on Thursday, November 16<sup>th</sup>. This year we will not only have the great food that the Paletta Mansion provides, but we will also have a Photo Booth by Imagica for everyone attending to take home some lasting memories!

The Annual EDI Webinar has been arranged for Wednesday, December 13, 2023 and is being offered free to HCLA members. This is a chance for our members to attend an informative seminar and earn the one EDI Professionalism hour needed for the Law Society annual CPD requirement. This year we are excited to have The Honourable Chief Justice Michael Tulloch speak about his experiences in diversity and inclusivity both in his practice as well as after the start of his career on the bench. This webinar is free for all our members but if you know any non-member who wishes to attend, the cost for non-members is only \$25.

Once our library does reopen in a clean, asbestos-free and mould-free state, the HCLA wants to thank everyone for their patience and what better way to do that but with food and refreshments! In December, all our members, as well as the courthouse staff and the judiciary are welcome to attend the HCLA Library Open House, on Thursday, December 7<sup>th</sup> from 4 to 6 pm. Refreshments will be provided. Come join us for a quick treat and say hi to your fellow members as well as to all those who work in the courthouse.

Details of all these events and registration links more can be found on the HCLA website:

[www.haltoncountylaw.ca](http://www.haltoncountylaw.ca)



# BENCHER NEWS

by Jennifer Gold



I was recently asked if I enjoyed being a Bench-er. I could only respond to this question based on my few months of experience but it was an immediate yes. As a Bench-er, you are at the forefront of policy and regulatory issues facing the professions. I can't imagine a more exciting place to be, given the current and future challenges confronting our legal professions and those challenges to come.

We are facing challenges from technological change, increasing diversity amongst the public and professions and the need for inclusion, economic challenges, geopolitical conflict and its effect on us, and the ongoing need to modernize for the better. Now that the 2023 Bench-er election has ended, the real work begins. I encourage everyone to make submissions to the Law Society of Ontario when there is an opportunity to do so or to send me an email. I believe that the best solutions can be arrived at when the diversity of our community's many voices are presented.

In July, Bench-ers were assigned to various committees and Boards where a Law Society representative was needed. I have been assigned to the Access to Justice Committee, the Treasurer's Appointments Advisory Committee and the Board of the Ontario Justice Education Network. The Treasurer's Appointments Advisory Committee ("TAAG") was created in 2016 to assist with recommending appointees to external committees and organizations and to bring more transparency and consistency to the process. TAAG also makes recommendations for awards for lawyers and paralegals. As the

regional representative for Central West, I am proud to advocate for, and believe that we should be considering candidates from all over Ontario and from different areas of practice. I encourage lawyers and paralegals to apply for appointments and to seek nominations for awards. Lean in!

I'm looking forward to Access to Justice Week which takes place on October 23 to 27, 2023. Access to Justice Week brings together a range of justice sector stakeholders locally and from across Canada to develop meaningful, public-centred solutions that advance systemic change in the justice system. This week is an opportunity to learn about new initiatives and to explore critical access to justice issues from different perspectives.

We will also be celebrating the launch of the [Women's Resource Centre](#) during Access to Justice Week. This hub has resources available to guide women through several phases of their career. From engaging in a job search and determining your brand, to developing your leadership presence or considering a flexible work arrangement, the content of this hub is designed to empower women with ideas, tips and information for action. Please check out this great online resource!

Finally, I would like to report that Convocation has been proceeding as it should. Convocation is the meeting of Bench-ers to decide on policies that govern the LSO. Debate at Convocation has been respectful and meaningful and a place where diverse views

are expressed. Convocation is operating as it should; efficiently, respectfully and providing a context in which there is room for thoughtful discussion. Members can have confidence in the governance of our professions.

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# LIBRARY NEWS

by Arielle Vaca



## Have you recently taken over a law practice?

We ask our members to please let us know if you have recently taken over a law practice by emailing the librarian at [info@haltoncountylaw.ca](mailto:info@haltoncountylaw.ca) as we get frequent requests for information regarding the transfer of Wills & POAs. Although we are aware that

the Law Society of Ontario has a department to achieve this, we find it valuable as a law library to support our Halton community by having this information readily available when contacted.

## e-LiRN: Electronic Resources

This is a friendly reminder that the HCLA library has access to electronic legal databases for FREE on each lawyer computer, including but not limited to: LexisNexis Advance Quicklaw, LexisNexis Practical Guidance, Westlaw and vLex.

Visit the law library in the Milton Courthouse for more information about access to these resources and training opportunities.

Westlaw is providing a free virtual training session for Criminal, Family and Estates & Trusts Source resources on October 25, 2023.

Please join us and click [here](#) to register.

The training session is accredited for 1 hour of Professionalism content.

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Phone: 905-637-5641

Fax: 905-637-5404

Email: [stephen.abraham@mhalaw.ca](mailto:stephen.abraham@mhalaw.ca)



\*Certified as a Specialist in Civil Litigation by The Law Society.  
\*Peer reviewed as a Leading Practitioner in Personal Injury Law in Ontario by Lexpert and Best Lawyers in Canada.



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## Learn with LiRN 2023

LiRN's Annual Conference (formally known as COLAL) was held in Toronto on October 19 & 20, 2023. Karen Cooper and I (Arielle Vaca) both attended the conference in-person this year! Our E-LiRN suite of vendors: LexisNexis, Westlaw and Vlex started the conference with a presentation on updates about the impact of AI on Canadian legal databases or lawyers' practices, and the research that can be offered to lawyers. LiRN Board Member, Vicki Whitmell had the pleasure of presenting an LFO Sandbox Innovation brainstorming session for association libraries, which encouraged librarians to find new opportunities to promote access, education, marketing, and research to lawyers across Ontario. OCLA Members: Nicole Strandholm, Hamilton Law Association; Betty Dykstra, York Region Law Association; George Hawtin, Simcoe County Law Association; John Gilbert, Bruce County Law Association; and Jo-Ann McQuillan, Peel Law Association demonstrated best practices in law association libraries. Irwin Law author, Natasha Bakht, author of "In Your Face" spoke on her book that explores the experiences of a group of women in Canada who are small in numbers yet have garnered much legal, political, and social attention in recent years. This book analyzes niqab bans in Canada to reveal their complex identities and multiple motivations for dressing in this way. Hor Druma, Head of Canadian Content at Alexi was invited to speak on the topic about the positive and negative impacts of AI on legal research, and ways to assist in educating lawyers to better understand the importance of selecting a reputable choice. The conference arranged lots of ideas and challenges to replicate in law association libraries!



## **HAVE YOU RECENTLY TAKEN OVER A LAW PRACTICE?**

We get frequent requests  
for information regarding the  
transfer of Wills & POAs.

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# CRIMINAL NEWS

by Russell W. Browne



**EXTRACTION ORDERS:** Procuring attendance under s. 527 of the Criminal Code of Canada

When English neonatal nurse, Lucy Letby refused to leave her cell to attend her sentencing for murdering and attempting to murder thirteen babies at the Countess of Chester Hospital NHS Foundation Trust, the British public were outraged by a gap in their criminal justice system that prevented the Court from compelling her attendance in court. Unlike the provisions of section 527 of the Criminal Code of Canada, (hereinafter "the Code"), British law currently provides no mechanism whereby judges can force a prisoner out of their cells. In response, the British government plans to introduce new legislation to remedy the gap.

By way of background, following a prosecution for seven counts of murder and 15 counts of attempted murder that began on October 10, 2022 before Mr. Justice Goss, a jury convicted Ms. Letby on August 18, 2023 of murdering seven infants and attempting to murder six others.

Shock turned to outrage when after refusing to leave her cell to attend the sentencing hearing, Ms. Letby heard neither the various impact statements which were read in court nor the Court's reasons for imposing life imprisonment with a whole life order, the most severe sentence possible under British law.

It became clear that there was a serious hole in Britain's criminal justice system and by the end of August, the government announced that it would introduce legislation that would compel convicted criminals to attend their sentencing hearings, by force if necessary, or face the prospect of more time in prison.

Britain's current situation contrasts starkly with that in Canada where section 527 of the Code grants powers to the presiding judge to order a person who is confined in a prison to be brought before the court on application. The materials must contain an affidavit that sets out the facts of the case as well as the basis upon which a judge may be satisfied that the ends of justice require that such an order be made. Such orders are known as "extraction orders".

Meanwhile, back in Britain, the Court of Appeal Criminal Division confirmed on September 15, 2023 that Ms. Letby had lodged an appeal against all her convictions.

# ESTATES NEWS

by Suzana Popovic-Montag and Nick Esterbauer



## Beneficiary Designations Under Wills

Assets for which beneficiary designations may be made can be an important part of an estate plan, whether it may be life insurance taken out to fund payment of anticipated tax liabilities triggered by death, a registered retirement savings plan (RRSP) rolled over to a surviving spouse, or a tax-free savings account (TFSA) gifted in a manner that equalizes the distribution of an estate within the context of the gift of an asset of significant value (such as a family business) to one

child to the exclusion of another.

Typically, life insurance and other assets for which a beneficiary designation may be made will pass "outside" of an estate, meaning that the asset is typically received by the designated beneficiary, free and clear of exposure to estate liabilities, subject to certain exceptions. However, in order for the proceeds to pass to the intended recipient, it is important that beneficiary designations are valid, consistent with the estate planning client's wishes, and capable of being given effect.



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WELCOME

*Scott Wodhams*

Stoner & Company is thrilled to announce the addition of Scott Wodhams to our growing team of experienced family law lawyers. Scott is a second year associate, and received his Juris Doctor from the University of Toronto Faculty of Law and his Bachelor of Business Administration degree from Wilfrid Laurier University.

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## Guidance from the Ontario Court of Appeal

A designation, alteration, or revocation of a beneficiary can be made in a beneficiary designation document provided by the financial institution or in the will of the owner of a plan such as an RRSP or registered retirement income fund (RRIF). Under the *Succession Law Reform Act*, a designation contained in a will is effective if it relates expressly to a plan, either generally or specifically.<sup>1</sup> A designation or revocation in a will is effective from the date that the will is signed<sup>2</sup> and would revoke and replace an earlier revocable designation, to the extent of any inconsistency.

In *Rehel Estate v Methot*,<sup>3</sup> the deceased's surviving spouse asserted that the deceased's RRIF designation included in his will was too vague, as it was not clear to which account he was referring. The Court disagreed with this position, holding that there was no evidence that the deceased had more than one RRIF account and it was, therefore, sufficiently clear to which account he was referring in the will.

In other decisions, including *Laczova v House*,<sup>4</sup> subsection 51(2) of the *Succession Law Reform Act* has been interpreted more narrowly. In the Lower Court's

decision (upheld on appeal), it stated, "the legislative intent is clear. The section uses the word 'expressly', a word not often found in statutory language, but when it is present, its use is there to add emphasis and clarity of purpose."<sup>5</sup>

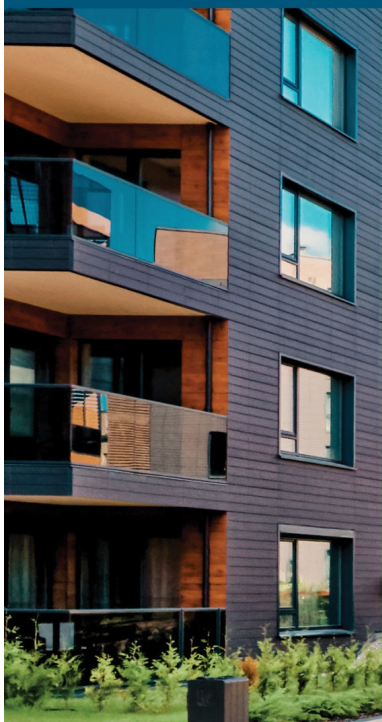
More recently, in *Alger v Crumb*,<sup>6</sup> the Court of Appeal considered a clause revoking "all Wills and Testamentary dispositions of every nature and kind whatsoever made by me heretofore made." The Court of Appeal summarized the principles it had previously applied in the *Laczova* decision as follows:

1. *The SLRA sets out statutory requirements for the designation of a beneficiary by will and for the revocation of a beneficiary designation by will, that are not required for such a designation or revocation when done by instrument;*

2. *Specifically, a designation of a beneficiary by will must relate expressly, whether generally or specifically, to the plan (s. 51(2)), while a revocation by will of a beneficiary designation that was made by instrument must relate expressly, whether generally or specifically, to the designation (s. 52(1)).*<sup>7</sup>



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The Court of Appeal agreed with the application judge that the general revocation clause did not relate expressly to the beneficiary designations with respect to the testator's RRIF and TFSA plans and, accordingly, that those pre-existing designations remained in effect. This decision highlights the importance of ensuring that language intended to revoke or amend a beneficiary designation relates expressly, without ambiguity, to the appropriate plan.

## Practical Considerations

There are a number of practical considerations that solicitors may wish to keep in mind when asked by clients to assist in making or changing beneficiary designations of plans, which are touched on below:

- Avoiding Exposure to Probate Fees** – Generally, if a client's instructions are to make a new beneficiary designation under a will, it is prudent to include the related terms prior to the vesting clauses rather than amongst other dispositive provisions of the will to assist in avoiding risk that the plan proceeds may be exposed to estate administration tax.
- Consistency with Other Designations** – Generally, the last valid beneficiary designation will govern the transfer or distribution of the proceeds after the original plan holder's death. This raises the issue of what may happen if it is not known which was the more recent beneficiary designation. For example, we often encounter holograph wills that are valid testamentary documents, yet undated. If an undated document amends or revokes a beneficiary designation, it can be difficult to determine whether this predated or followed another beneficiary designation.
- Ability to Designate a New Beneficiary** – It may not always be the case that the client is authorized to appoint a new beneficiary for a life insurance policy or other plan. A previous beneficiary designation may be irrevocable, the plan may have been validly assigned to someone else, or the plan may be subject to an agreement that will result in its proceeds being impressed with a resulting or constructive trust notwithstanding any attempted amendment or revocation of the beneficiary designation. For example, in *Moore v Sweet*,<sup>8</sup>



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an ex-wife who had been paying life insurance premiums pursuant to her agreement with the deceased that she would remain the designated beneficiary was successful in asserting that the policy proceeds were impressed with a constructive trust in her favour on the basis of unjust enrichment. As the Supreme Court of Canada affirmed, even an irrevocable beneficiary designation cannot bar equitable relief.

- **Section 72 Issues** – Clients with dependants should be cautioned regarding the possible impact of dependant's support claims commenced under Part V of the *Succession Law Reform Act* and, in particular, the chance that assets that may otherwise pass to a designated beneficiary could be "clawed back" into the estate for the purposes of funding payment to a dependant who has been left inadequate support pursuant to Section 72.

- **Will Challenges** – If a will that includes a beneficiary designation is challenged, it is possible that the entire document may be set aside, including the beneficiary designation, amendment, or revocation. Standalone beneficiary designations may separate the issue of the validity of the beneficiary designation from the validity of a will, where other issues that may not otherwise impact a beneficiary designation may result in a will challenge.

- **Compliance with Statutory Requirements and/or Those of the Financial Institution** – Legislation, such as the *Insurance Act*,<sup>9</sup> and financial institutions may have their own requirements in order for a beneficiary designation, alteration, or revocation to be valid. When in doubt, it may be prudent to confirm with the relevant financial institution that the proposed form of beneficiary designation is compliant with its requirements rather than facing problems down the road.

- **Plans to Equalize Inheritances** – If the proceeds of a plan are intended to equalize gifts made to different individuals (for example, two adult children), it is important that estate planning clients understand the implications that may result if a plan is depleted or no longer exists at the time of their death. In the case of life insurance policies or other plans for which premiums are payable, it is possible that a policy may lapse if premiums are not paid for a period preceding the client's death, such as during a period of incapacity.

- **Tax Issues** – The disposition of some plans, such as RRSPs, to someone other than the

plan-holder's spouse may trigger significant taxes. It is important that clients consider how they would like the tax liability relating to a plan to be borne and, if it is not intended that it be treated as any other liability of the estate, it should be documented within their testamentary documents to avoid any confusion.

- **Presumptions of Resulting Trust** – In 2020, *Calmusky v Calmusky*,<sup>10</sup> saw a novel application of the presumption of resulting trust to a RRIF for which an adult child had been designated the beneficiary. While it appears that subsequent decisions have not followed *Calmusky*, it remains important that a client's wishes with respect to the gift of an asset to an adult child by right of survivorship, *inter vivos* transfer, or even by beneficiary designation is clearly documented to assist in rebutting any presumption of resulting trust that may apply now or in the future.

### What is the Impact of Will Validation?

Early last year, Section 21.1 was added to the *Succession Law Reform Act* to permit judges of the Ontario Superior Court of Justice to validate "a document or writing that was not properly executed or made" if it "sets out the testamentary intentions of a deceased or an intention of a deceased to revoke, alter or revive a will of the deceased".<sup>11</sup>

This means that wills or other documents made under the *Succession Law Reform Act* may be validated by the court, whether they are substantially compliant with the formal requirements for valid execution or not. For example, in *Grattan v Grattan*,<sup>12</sup> an unsigned will was validated by the Court and admitted to probate.

The *Succession Law Reform Act* addresses beneficiary designations, amendments, and revocations for "plans". While there may not yet be any cases on point, it would appear that Section 21.1 could be applied to validate a beneficiary designation, amendment, or revocation of a plan if contained in a will that sets out the deceased's testamentary intentions. The definition of plan under the *Succession Law Reform Act* includes pensions, RRSPs, RRIFs, and home ownership savings plans.<sup>13</sup> Notably absent from this list are beneficiary designations for life insurance policies.

Beneficiary designations for life insurance policies are governed instead by the *Insurance Act*. A beneficiary designation for life insurance is to be made by way of a signed declaration. Pursuant to the definition of "declaration" under the *Insurance Act*, a declaration should identify the contract and the insurance policy, designate, alter, or revoke the designation of a benefi-

ciary, and be signed by the insured.<sup>14</sup> However, the *Insurance Act* also specifies that, notwithstanding the terms of the *Succession Law Reform Act*, the declaration may be signed electronically.<sup>15</sup> The new will-validation provision under the *Succession Law Reform Act* appears, however, to specifically exclude the validation of electronic wills.<sup>16</sup>

Interestingly, the *Insurance Act* includes terms relating to a scenario in which a valid beneficiary designation is made within a will that is otherwise invalid,<sup>17</sup> but not the opposite situation or the possible impact of Section 21.1 of the *Succession Law Reform Act* on the validity of a life insurance beneficiary designation. This raises the question of whether there is potential for a will to be validated while a beneficiary designation made within it is not. Particularly within the context of life insurance and different statutory provisions relating to beneficiary designations for these policies, a scenario in which parts of an estate plan (most gifts and residuary clauses under a will) are validated while others (a life insurance beneficiary designation, whether under a will or a standalone document) are not, appears to be possible. With the common use of life insurance as an important part of an estate plan to equalize gifts, assist with liquidity to fund payment of tax and other liabilities, and for a number of other purposes, the result could be an estate plan that does not function as planned.

## Conclusion

It will be interesting to see whether and, if so, how courts may deal with the issue of the validation of wills containing beneficiary designations in the future. For now, however, this may be another reason to consider alternatives to changing the beneficiaries of life insurance policies and registered plans under wills, such as the use of standalone documents or updating designated beneficiaries using the forms provided by (and confirmed to be acceptable by) the insurer.

8. 2018 SCC 52.

9. RSO 1990, c 1.8.

10. 2020 ONSC 1506.

11. *Supra* note 1, s 21.1.

12. (1 February 2023), 22-0054 (Ont Sup Ct J).

13. *Supra* note 1, s 50.

14. *Supra* note 9, s 171(1).

15. *Ibid*, s 190(1.1).

16. *Supra* note 1, s 21.1(2).

17. *Supra* note 9, s 192.

1. RSO 1990, c S.26, s 51(2).

2. *Ibid*, s 52(7).

3. 2017 ONSC 7259.

4. 2001 CanLII 27939 (Ont CA).

5. *Laczova Estate v Madonna House* (2001), 37 ETR (2d) 262, 2001 CarswellOnt 416 (Ont Sup Ct J) at para 14.

6. 2023 ONCA 209.

7. *Ibid* at para 22.

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# THE DEFINITIVE RESOURCES FOR ESTATE LITIGATION IN CANADA

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## Information on wills and estates?

### We wrote the book(s)

- *Macdonell, Sheard and Hull on Probate Practice, Fifth Edition:*  
Ian M. Hull, Suzana Popovic-Montag
- *Challenging the Validity of Wills, Second Edition:* Ian M. Hull,  
Suzana Popovic-Montag
- *Feeney's Canadian Law of Wills, Fourth Edition:* Ian M. Hull, James MacKenzie,  
Suzana Popovic-Montag
- *Advising Families on Succession Planning: The High Price of Not Talking:* Ian M. Hull
- *Power of Attorney Litigation:* Ian M. Hull



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# HALTON COUNTY LAW ASSOCIATION

## MENTORSHIP PROGRAM

THE HCLA IS PROUD TO ANNOUNCE OUR MEMBERS ONLY MENTORSHIP PROGRAM. THE BENEFITS AND GOALS OF THE PROGRAM ARE AS FOLLOWS:

- CONTINUE TO CREATE A STRONG, INFORMED AND COLLEGIAL HALTON LEGAL COMMUNITY
- ENCOURAGE HALTON LAWYERS TO CONTACT FELLOW MEMBERS IN THEIR SPECIFIC PRACTICE AREA FOR INFORMATION, ADVICE AND GUIDANCE
- CONNECT WITH SKILLED AND EXPERIENCED LAWYERS IN OUR COMMUNITY
- BUILD A NETWORK OF CONTACTS TO STRENGTHEN PERSONAL AND BUSINESS RELATIONSHIPS
- MENTORS CAN CLAIM UP TO 9 SUBSTANTIVE HOURS FOR CPD CREDITS

THE BASIC DETAILS OF THE PROGRAM ARE AS FOLLOWS:

- MENTORS WILL HAVE THEIR NAMES, CONTACT INFORMATION AND AREA OF PRACTICE ON THE HCLA WEBSITE THAT CAN BE ACCESSED BY FELLOW MEMBERS ONLY
- MEMBERS MAY ALSO BE PLACED ON OR TAKEN OFF THE MENTOR LIST AT ANY TIME BY EDITING THEIR PROFILE ON THE HCLA WEBSITE
- MEMBERS MAY CONTACT MENTORS BY MAKING A PHONE CALL OR SENDING AN EMAIL TO THE MENTOR
- DISCUSSIONS CAN BE BY PHONE OR EMAIL OR OTHERWISE (E.G. OVER LUNCH)
- DISCUSSIONS CAN BE AS BRIEF OR LENGTHY AS NEEDED OR AS SCHEDULING PERMITS
- MENTORS CAN BE AS INVOLVED AS THEY CHOOSE TO BE

IF YOU ARE INTERESTED IN LEARNING MORE ABOUT THE PROGRAM PLEASE EMAIL JILL EDWARDS AT [JILL@EDWARDS POLLARD.CA](mailto:JILL@EDWARDS POLLARD.CA) OR JAMES PAGE AT [JAMES.PAGE@MHALAW.CA](mailto:JAMES.PAGE@MHALAW.CA).

GO TO THE HCLA HOME PAGE. LOG IN. CLICK ON "MEMBERS" – "MY PROFILE" – "EDIT PROFILE" AND THEN SELECT "YES" TO BEING ADDED TO THE MENTOR LIST.



# FAMILY LAW NEWS

by *Kassandra Kelertas*



## Legal Aid Tariff Changes:

For those of you who take on legal aid files, there are tariff changes in the works which will be effective on certificates as of October 16, 2023. Legal Aid recommends checking any new certificates to see if these changes have already been applied. You can also make a discretionary request for specific tariffs to apply to certificates already issued. I highly recommend checking out the Tariff reform summary on their [web-site](#).

There will be an increase in the base total tariff hour maximum for Applications, Proceedings and Negotiations of domestic contracts from 12 hours to 16 hours.

Legal Aid is introducing a 5 hour tariff which covers both the court attendance and preparation time for each section 17 conferences (case conference, settlement conference and/or trial management conference) and legal aid settlement conference. This will allow some flexibility to cover attendances where the bulk of the time spent on the certificate is either during the preparation or negotiation outside of the courtroom. Albeit this is replacing the per attendance coverage (actual time) and preparation (2 hours) which used to exist. Attendances to speak to matters (to be spoken to), adjournments, motions, trial scheduling, trial audits or assignment court attendances will not be considered a rule 17 conference.

Another new tariff is an 8-hour authorization for preparation and attendance on select complex motions. A list of the motions that may qualify will be added to chapter 4 of the tariff and billing handbook. Legal aid has advised that to be considered for coverage for complex motions, members must submit a written request for

authorization.

If you practice child protection law and take on legal aid certificates and files, there is a new tariff that provides 5 additional hours per extra section 17 conference (which is to include preparation and attendance). This is replacing the per attendance coverage (actual time). You further will receive an additional 4 hours if your matter is considered complex and a third party is involved (such as if new family members or kin are added, a second band or first nation, Inuit or Metis community becomes involved, or a if a second lawyer including the OCL is appointed).

If you are not already a legal aid lawyer, legal aid is taking steps to entice and attract new lawyers by improving the compensation structure. Legal aid has committed to increase the hourly rate and block fees by 5% per year over the next three years.

## Dispute Resolution Officer (DRO) Program and Early Case Conferences:

A reminder that Dispute Resolution Conferences held before a DRO in Milton are available by zoom video conference every Friday and during the trial blitz weeks in March and October. DROs are senior family lawyers appointed to conduct family case conferences in SCJ. DRO conferences provide litigants in family proceedings with an early evaluation of their case by a neutral third party and can assist the parties in identifying, resolving or settling outstanding issues on consent and assist parties in organizing their issues and disclosure. The dispute resolution officer can often narrow the issues in dispute and can facilitate settlement. If parties are able to reach a consent order, the DRO can then forward

the consent order or minutes of settlement to a judge to be incorporated into an order. If you wish to have a DRO assist your matter, you can request a date from the court (or through Calendly, when it arrives in Milton).

Similarly, Early Case Conferences are also available and are held every Monday. These conferences are scheduled for 15 minutes before a judge and typically are to address urgent single issues to reduce the wait time for parties before their initial conference. If you wish to have an early case conference you can request a date from the court.

**The Halton County Law Association Annual Family Law Seminar is November 3, 2023 from 1:00pm to 4:30pm at the Rattlesnake Point Golf Club. If you have not already registered, it is not too late! The program is set to be an enjoyable day with speakers such as Justice Coats, Justice Cleghorn, and Justice Kurz. The program has been accredited for**

**3 hours and 15 minutes of substantive hours and 15 minutes professionalism. For more information or to register check out our [Website](#).**



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# IMMIGRATION LAW NEWS

by Melissa Babel



## CANADA IMMIGRATION NEWS

### **Canada continues to process visas for Indian Nationals**

On September 21, 2023, BLS, India's visa processing center in Canada, temporarily suspended its visa services at its Canadian based centers located in Toronto, Ottawa, and Vancouver.

Although the recent diplomatic dispute has strained the relationship between the two countries, Canada is still accepting new visa applications from Indian nationals and respecting the ability to travel to Canada on previously issued valid visas.

Source: <https://www.cbc.ca/news/canada/toronto/india-visa-service-suspension-canada-faq-1.6975990>

### **Parents and Grandparents Program Re-opens October 10, 2023**

Between October 10 and 23, 2023, IRCC will issue 24,000 invitations to apply to sponsor a parent or grandparent. Only potential sponsors from the remaining pool of interest to sponsor forms submitted in 2020 are eligible to receive an invitation.

The Parent and Grandparent Program (PGP) allows Canadian citizens and permanent residents to sponsor their parent(s) and grandparent(s) for permanent residence in Canada. There is a lottery and invitation system in place to manage demand for the program.

Those not invited to apply to sponsor their parent or grandparent may want to consider applying for a Super Visa – a multiple entry visa that is issued for 10 years and allows a qualifying parent or grandparent to remain

in Canada as a visitor for up to 5 years at a time.

Source: <https://www.canada.ca/en/immigration-refugees-citizenship/news/notices/parents-grandparents-program-re-opens-fall.html>

### **Express Entry: Category-Based Invitations for workers in transportation and agriculture**

On September 20, 2023, we saw the first round of invitations for transport occupations through category-based selection in the Express Entry system. Eligible candidates with experience in the transport sector, including commercial truck drivers, pilots and aircraft assembly workers were included in the draw. One Thousand (1000) invitations were issued to eligible candidates with a minimum score of 435 or higher.

On September 28, 2023 a similar industry based round of invitations was issued to 600 applicants in agriculture and agri-food occupations. The minimum CRS points required to be invited was 354.

Changes to Express Entry were announced on May 31, 2023 to allow category-based selection of immigrants. This occupation/industry specific based invitations is a departure from a solely points-based invitation system.

Source: <https://www.canada.ca/en/immigration-refugees-citizenship/news/2023/09/canada-announces-first-ever-category-based-selection-invitations-for-newcomers-with-work-experience-in-transport.html>

## U.S. IMMIGRATION NEWS

### **FY 2025 Diversity Visa Lottery Registration Opens October 4, 2023**

The U.S. Department of State will begin accepting online registrations for the DV lottery (FY 2025 Diversity Visa) from Wednesday, October 4, 2023 until November 7, 2023 at noon EDT. This year's DV Lottery program will make up to 55,000 green card numbers available through random selection to nationals of countries with historically low rates of immigration to the U.S. Applicants from countries with rates of U.S. immigration are not eligible for the lottery. This year, nationals born in the following countries are ineligible for the lottery: Bangladesh, Brazil, Canada, China and Hong Kong, Colombia, Dominica Republic, El Salvador, Haiti, Honduras, India, Jamaica, Mexico, Nigeria, Pakistan, Philippines, South Korea, Venezuela and Vietnam.

Individuals from the United Kingdom, Macau SAR and Taiwan can participate. Entrants must have at least a high school education or two years of qualifying work experience in the past five years.

Source: <https://travel.state.gov/content/travel/en/>

### [us-visas/immigrate/diversity-visa-program-entry/diversity-visa-instructions.html](https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-instructions.html)

### **Israel included in the Visa Waiver Program (VWP) – ESTA**

As of November 30, 2023, citizens and nationals of Israel will be able to apply to travel to the United States for tourism or business purposes for up to 90 days without first obtaining a U.S. visa. U.S. citizens may also request entry to Israel for up to 90 days for business, tourism or transit without obtaining a visa. This change allows Israeli citizens and nationals to apply for entry to the U.S. through the Electronic System for Travel Authorization (ESTA).

Source: <https://il.usembassy.gov/joint-statement-on-the-designation-of-israel-into-the-visa-waiver-program/>

### **EXPRESS ENTRY UPDATE September 2023**

#### **Category-Specific Draws and Additional 'Open' (All category) Draws**

This month saw numerous draws, with IRCC holding its first-ever draw for Newcomers with experi-

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ence in Transport occupations. Other draws this month include two no-program-specific draws and a French language proficiency draw.

On September 19, 2023, IRCC issued **3,200** invitations in No Program Specified Draw to candidates with a minimum **CRS** score of **531** or higher. On September 20, 2023, IRCC issued **1,000** invitations in the Transport Occupations category to applicants with a minimum **CRS** score of **435** or higher. On September 26, 2023, another No Program Specified Draw was held, with IRCC issuing **3,000** invitations to candidates with a minimum **CRS** score of **504**. Lastly, on September 27, 2023, IRCC issued **500** invitations in a French Language Proficiency Draw to candidates with a minimum CRS score of **472**.

Several Provincial Nominee Programs are actively issuing invitations and processing applications as an alternative strategy to the Express Entry route. For their latest draw on September 21, 2023, the Ontario Immigrant Nominee Program ("**OINP**") issued 63 interest notifications to candidates with a minimum **CRS** score range of **348-434**.

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# HCLA NEWS

*Newsletter of the Halton County Law Association*

## Advertising Rates

Size	Dimensions	Per Issue Rate	Annual Rate
Business card:	2"h x 3.5"w	\$90.00	\$310.00—save \$50.00
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Full page:	9"h x 7"w	\$300.00	\$1,000.00—save \$200.00

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- The HCLA E-Newsletter is published four times per year and is distributed electronically to members of the Halton County Law Association by email.
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Milton, ON L9Y 1Y7

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# CALENDAR OF EVENTS

October 23-26

## **Access to Justice Week!**

Learn more [here!](#)

Wednesday, October 25, 2023

## **Westlaw Canada Training Session**

Join Jeremy Dunn to explore Family Source, Criminal Source and Estates Source, which are now available for free at the law library.

12:00 noon-1:00 pm

on Zoom. Register [here!](#)

Friday, November 3, 2023

## **Annual Family Law Seminar**

Register [here!](#)

Thursday, November 16, 2023

## **Holiday Party**

Paletta Mansion

Register [here!](#)

Thursday, November 30, 2023

## **United Way Sopinka Luncheon**

Sheraton Hotel Hamilton

Speaker: The Honourable Justice Michelle O'Bonsawin, Supreme Court of Canada

For more information and to register, click [here!](#)

Thursday, December 7, 2023

## **Holiday Open House**

HCLA Law Library

Milton Court House

Register [here!](#)

Wednesday, December 13

## **EDI Webinar: Cultural Competence**

12:00-1:00 pm on Zoom

Guest speaker: The Honourable Chief Justice Michael Tulloch

Click [here](#) for details and to register! FREE for HCLA members!

Thursday, January 25, 2024

## **Family & Child Protection Law: The Year in Review**

4:30-6:30 pm

Watch for further details!

Friday, May 10, 2024

9:00 am—12:00 pm

## **Annual Estates Seminar**

Program co-chairs: Ian Hull and Suzana Popovic Montag

Watch for further details!