



# HCLA News

Newsletter of the Halton County Law Association

Volume 1 Issue 2

Spring 2010



HCLA Golf Tournament  
in support of  
Parkinson's Society of Canada

**Tuesday, June 8th**  
Hidden Lake Golf & Country Club  
See flyer on page 6!

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## HCLA AGM and Spring Social

The Halton County Law Association held its Annual General Meeting and Spring Social on Thursday, March 4, 2010 at the Atrium Conference Centre. Claire Wilkinson is the new Halton County Law Association President, taking over the reins from Stephen Abraham. Thanks to Jeffrey Manishen, the dinner's keynote speaker, as he was able to provide an informative and entertaining talk on the topic "Fighting for Civility". See Claire Wilkinson's article on page three for a listing of the executive members for the coming term. They will be working diligently on your behalf to plan seminars and social events for the year ahead. Please feel free to contact any board member to bring forward any concerns or suggestions.



Stephen Abraham and Michael Emery



Jeffrey Manishen, Joanne Manishen and David Wands



Paul Henderson, Claire Wilkinson, Robert Brooks

**Deadline for Next Issue:**

**July 1, 2010**



## President's Report by Claire Wilkinson

I am pleased to write this first article as the new President of the Halton County Law Association. As most of you know, Stephen Abraham has been the President these past two years, and did an excellent job, including ensuring that the H.C.L.A website was up and running, developing a logo for the H.C.L.A., organizing a very successful Past Presidents celebration at the November 2009 Annual Dinner & Dance, running very successful golf tournaments, and, not to be forgotten, developing the concept of this newsletter!

On March 4, 2010, we held our Annual General Meeting at the Atrium in Burlington, and we were delighted to have Jeff Manishen as our keynote speaker. Jeff Manishen is a well known criminal lawyer in the Hamilton area, and those of you who know him will agree that he is a lively and engaging speaker. Jeff spoke on the topic of "Fighting for Civility", and treated all of us in attendance to an entertaining talk with some historical and some anecdotal stories, that gave us pause for thought. Even if we are on opposite sides of a case, we still need to work together. We should strive to avoid acrimony between counsel, even if our clients are engaged in a bitter conflict. Jeff reminded us that our work is more enjoyable, and our lives consequently more pleasant, if we can conduct ourselves in a respectful and calm manner.

At our Annual General Meeting, I officially took over the Presidency of the Association.

In addition, we were pleased to welcome four new members to our Board: Dale Fitzpatrick, Kimberley Wolfe, Sally Chiarelli, and Katherine Batycky. We feel most fortunate to have these four new members join the Board, and look forward to many great contributions from them in the months and years to come!

I also wish to take this opportunity to thank our retiring board members, Bill Perras, Paul Henderson, Kathryn Gamble-Lerchner and Wendy Oughtred, for all their tremendous service and dedication over the past several years.

The new executive is as follows:

Claire Wilkinson – President  
 Ted Graham – Vice-President  
 Laura Oliver – Treasurer  
 Stephen Abraham – Past President  
 Katherine Batycky  
 Sally Chiarelli  
 Michael Darling  
 Dale Fitzpatrick  
 Brendan Neil  
 Rachael Pulis  
 Karmel Sakran  
 Lynne Thompson  
 Kimberley Wolfe

On March 11, 2010, Laura Oliver represented our Association at a meeting for the Simplified Procedure Master Pilot Project, hosted by Regional Senior Justice Francine Van Melle. An email was forwarded to all members of the Association on April 15, 2010, which contains a summary of what was discussed during this meeting.

On April 6, 2010, our Association hosted free Quicklaw training at the law library, which provided very useful and practical training for the essential skill of researching case law on line.

Thanks to Laura Hillyer, Monica MacKenzie, Nick Chiera and Nicholas Fur, who acted as a Judges at a mock trial for the Halton Catholic School Board, which took place on April 13, 2010, at Corpus Christi High School in Burlington.

On May 6 and 7, 2010, I will be representing our Association at the County Law and District Presidents' Association meeting in Toronto, Ontario. A report from that meeting will be included in the next newsletter.

We are also looking forward to the Real Estate Seminar on May 4, 2010, chaired by Michael Darling and Bill Perras.

Our next big event is our annual Golf Tournament, taking place on June 8, 2010 at Hidden Lake Golf & Country Club. In addition to enjoying a great day of golf together, the past several years we have succeeded in raising funds for local charities through our silent auction and the "Gimme Sticks" (if you don't know what those are, you need to come to this year's tournament to find out!). This year we will continue our fundraising efforts, and I am pleased to announce that this year's recipient of our fundraising work will be the Parkinson's Society of Canada.

Also mark your calendars to attend the Halton County Barn Dance on September 17<sup>th</sup> at the beautiful home of Rick and Karen Day. We will be having a great dinner, a live band, and a fabulous bonfire, so make sure you come out and join the fun!

I look forward to continuing my work on behalf of this Association, and hopefully to meeting many of you over the course of the next year.



Claire Wilkinson and Jeffrey Manishen



### On the Record or Not

On March 26, 2010 the Supreme Court released their decision in R.v. Cunningham and in doing so may have changed the way in which criminal counsel proceed with matters.

The decision holds that lawyers do not have an unrestricted right to cease acting on a matter due to the non-payment of fees by their client. While the ability to be removed from record in a criminal matter has always depended to a certain degree on timing this case suggests that lawyers that have set a matter for trial without having secured a full trial retainer may run the risk of running the trial for free. The court, in their decision, has suggested that an order requiring the counsel to remain on the record should only be made as a last resort may be little comfort if counsel ends up being required to conduct a multiple day or even week trial absent compensation.

This ruling combined with the lack of permanency of legal aid retainer may lead to a shift in how defence counsel set trials going forward. Unfortunately, those counsel that accept legal aid certificates for criminal matters have no guarantee that the certificate will remain in place at the time of trial, which is often some 8 to 10 months after the setting of the trial dates. In the event that the legal aid certificate is cancelled/revoked by legal aid without adequate time for the counsel to bring a motion to be removed properly the counsel is now likely to be ordered to conduct the trial absent compensation even at a legal aid level.

Given the financial uncertainty of legal aid certificates combined with the ruling in R. v. Cunningham it is likely that more and more matters will be set with or without counsel if the lawyer is retained by a legal aid retainer or the private retainer has not been paid in full. One of the

## The Criminal Docket by Brendan Neil

effects of this is that those matters that have the prospect of a section 486(3) application will be less certain and may see the need for such applications to be conducted as a safety measure just in case the retainer is not solidified prior to trial. While this may increase costs and time spent in court defence counsel may be left with few options.

### Legislative rumblings

There has been recent publicity concerning the federal government's proposed changes to the Youth Criminal Justice Act. These proposed changes include provisions to make it easier for youths to be tried as adults, for deterrence to be used as a primary factor in sentencing of youths, as well as provisions to make custodial dispositions more likely in youth matters. It will be interesting to see the written proposed amendments, and how the drafters deal with what appears to be an inherent conflict between the principles of the Youth Criminal Justice Act and the proposed amendments as advertised. We may have a fair amount of time to ruminate over these changes as it appears that this issue may be a platform issue during the next federal election.

### 2 for 1

"The Truth in Sentencing Act" has now come into force and we should see in the next few months how it will be interpreted, not by the courts but by accused. The legislation appears to be a double edged sword which may lead to early pleas for those less familiar with the criminal justice system but may lead to the more frequent setting of trials for other more serious matters. There are many opinions regarding whether or not this legislation will speed up the resolution of matters or have the opposite effect. Only time will tell.

*Brendan Neil is certified by the Law Society of Upper Canada as a Specialist in Criminal Law and sits on the Board of the Halton County Law Association. Comments in the above piece are his alone and should not be considered as the position of the HCLA or it's respective members.*

### Criminal Bites

With spring upon us and with thoughts of entertaining friends and family at the forefront a new feature to the newsletter is born. Many of us have our favourite recipes whether food or beverage. The hope is that our members will contribute with their own favorites as we move forward. These bars are loved by the kids and adults alike although the adults seem to enjoy with a cold glasses of Sangria or Tom Collins.

### Zesty Lemon Bars:

#### Crust:

1 cup flour  
½ cup butter  
¼ cup sugar  
Pinch of salt

#### Lemon Custard:

1 cup sugar  
2 tbsp flour  
¼ tsp baking powder  
Rind of 1 lemon, finely grated  
Juice of 1 lemon, 3 tbsp  
2 eggs beaten  
Sprinkling of icing sugar

To make crust: cut butter into dry ingredients and press into ungreased 9" square pan. Bake at 350 for 20 minutes.

To make custard: beat all ingredients together and pour over crust. Bake at 350 for 25 minutes. Cool and sprinkle with icing sugar. Cut into squares.

## Annual Criminal Law Seminar

Saturday, June 12, 2010  
9:00 a.m.—1:00 p.m.

Quality Hotel,  
754 Bronte Road,  
Oakville

### Topics will include:

- Charter of Rights S. 8 & 24(2)
- Advocacy in Bail Court
- Mental Health
- Youth Sentencing

**Call Karen  
at the HCLA  
at 905-878-1272  
&  
Register today!!!**



## Family Law News by Susan Berry

other jurisdictions. The FRO answers about 2,500 calls per day and the automated line handles 14,700 calls per day on weekdays and 2,800 calls on weekends. These facts will hopefully be useful in calming down clients who are irate at their perception the agency is unresponsive!

Here are a few tips shared by Mike Marra in obtaining relief for support payors who require relief from support collection:

Pursuant to s. 27 of the Family Responsibility and Support Arrears Enforcement Act a payor can obtain relief from the amount being deducted from their wages. No case conference is required. The FRO will require that the payor also seek a change to the original support order or enforced agreement by way of a Motion to Change within 20 days of any order providing relief from collections.

The question to ask before seeking such relief is whether or not the facts support an exercise of discretion on an early basis. Was the client a good support payor? Does they come to court with "clean hands"? Is the cause of the inability to pay support outside of the control of the payor? If so, there is a case to have the support order changed on an interim, interim basis without prejudice and counsel should work to get the matter before the court, either on the basis it is an uncomplicated matter or that there is urgency or hardship.

Finally, when preparing the materials, consider the expenses (if your client can afford \$250.00 per month in alcohol and tobacco but not child support, this is going to be a problem!) and that the FRO can utilize the assets statement as a discovery tool that may lead to property seizure

### Dealing with the FRO

There were a number of counsel present at the HCLA presentation "Dealing with the FRO". Ms. Azra Champi, FRO Counsel, provided some interesting statistics about the Family Responsibility Office: the agency manages 188,000 active cases with approximately 400 staff, 22,000 of which involve

## People on the move



**Joel Kissack** has recently joined the HCLA. Joel is a business lawyer with a primary emphasis on transactions. His legal background was with Davies, Ward in Toronto, where he practiced corporate/commercial/securities, then competition law, then IT (information technology) following which he spent 10 years in business running the operations of three technology companies. He describes himself as a business lawyer with business experience.

He has set up an office in downtown Oakville, and is very interested in meeting both other business lawyers for mutual support and lawyers in complementary practice areas to whom he can turn or refer clients for their specialized help.

He can be reached at 905-849-5635 or through [www.kissacklaw.com](http://www.kissacklaw.com)

Thanks to our member Leslie Smith for recommending to Joel that he join HCLA!

Check your listing on the Halton County Law Association web site to be sure that your information is up to date.

Please report changes to Karen Kennett at 905-878-8298 or [hcla@bellnet.ca](mailto:hcla@bellnet.ca)

Check your listing by either clicking on the Membership Directory or the Find a Lawyer search feature!

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



## Classified Ads

### Office Space

Office space to rent immediately. Spotless, new, green, Class "A" building. Free parking. Designer decorated suite. Classy, impressive space for your clients. North Oakville. Easy access to 401, 407, QEW. Call 905-257-7714 ext 4 for more details.

### Job Opportunities

Sole practitioner requires a real estate clerk as soon as possible for short term assignment (will pay above market rate for experienced person). The work can be done from home on weekdays, evenings or weekends. Please reply to [rol.y.at@live.com](mailto:rol.y.at@live.com).

**Place your classified  
ad here**

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## Calendar of Events

- May 4                    **Real Estate Seminar**  
8:30 a.m.—1:00 p.m.  
Halton Region Museum  
Details to follow.
- May 26                   **Family Law Lunch & Learn**  
Speaker: Madam Justice Francine Van Melle  
Topic: Costs  
1:00—2:00 p.m.  
Cost: \$10.00
- June 8                   **Annual Golf Tournament**  
Hidden Lake  
See page 6 for details.
- June 12                  **Criminal Law Seminar**  
Quality Inn, Bronte Road  
Details to follow.
- September 17          **Barn Dance**  
Karen & Rick Day's Farm  
Details to follow.
- November 26           **Annual Dinner Dance**  
Burlington Golf Club  
Details to follow.



## HALTON COUNTY LAW ASSOCIATION Charity Golf Tournament

In Support of Parkinson's Society of Canada

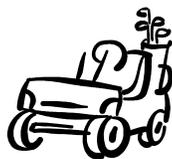
Tuesday, June 8, 2010

Hidden Lake Golf & Country Club  
1137 No. 1 Side road, Burlington

Thank you to our generous sponsor PricewaterhouseCoopers LLP

Prizes, Silent Auction  
Registration limited to the first 72 golfers ... register today!!

- Golf & dinner: \$125.00
- Tee times begin at 11:30 a.m.
- Dinner at 7:00 p.m.
- Golf cart included in the price
- Hole sponsorship opportunities available ... only \$130 per hole  
Please contact Lynne Thompson or Karen Kennett



RSVP to Karen Kennett, Halton County Law Association, 491 Steeles Ave. E. Milton, Ontario L9T 1Y7

Telephone 905-878-1272 or fax 905-878-8298 or email: [hcla@bellnet.ca](mailto:hcla@bellnet.ca) by June 1, 2010.