



# Supreme Court of British Columbia

## Annual Report 2002

*The Supreme Court of British Columbia*  
*800 Smithe Street*  
*Vancouver, BC V6Z 2E1*  
*[www.courts.gov.bc.ca](http://www.courts.gov.bc.ca)*

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## ***JURISDICTION OF THE COURT***

The Supreme Court of British Columbia is the province's superior trial court. It is a court of general and inherent jurisdiction and hears both civil and criminal cases and also hears appeals from Provincial Court. The Supreme Court is a circuit court in which all the judges and masters travel throughout the province to preside over cases. The Supreme Court sits in eight judicial districts and has resident judges in the following locations: Vancouver, Chilliwack, Cranbrook, Kamloops, Kelowna, Nanaimo, Nelson, New Westminster, Prince George, Prince Rupert and Victoria. The Supreme Court also sits in the following additional locations where there is no resident judge or master: Campbell River, Courtenay, Dawson Creek, Duncan, Fort Nelson, Fort St. John, Golden, Penticton, Port Alberni, Powell River, Quesnel, Revelstoke, Rossland, Salmon Arm, Smithers, Terrace, Vernon and Williams Lake.

The Supreme Court currently consists of the Chief Justice, Associate Chief Justice, 85 full time and 14 supernumerary judges. Full-time judges are required to sit 32 weeks a year, with 20 non-sitting weeks. Judges who have obtained the age of 65 and have 15 years of service, or who have obtained the age of 70 and have 10 years of service, may elect to continue in office as a supernumerary judge until mandatory retirement at age 75. Supernumerary judges are required to sit for 16 weeks per year. New judges are appointed upon the retirement of a full-time judge or when a full-time judge elects supernumerary status. Appointments are made by the Governor in Council on the recommendation of the Federal Minister of Justice. The Commissioner for Federal Judicial Affairs oversees the appointment process on behalf of the Minister of Justice.

The Supreme Court also has 16 masters. Masters are judicial officers appointed by Provincial Order-in-Council on the recommendation of the Attorney General after consultation with the Chief Justice. Masters preside in civil chambers and registrars hearings and decide on pre-trial motions and procedural orders.

## ***Members of the Supreme Court of British Columbia***

<p>The Honourable Chief Justice Brenner          The Honourable Associate Chief Justice Dohm          The Honourable Mr. Justice Bouck*          The Honourable Mr. Justice Paris*          The Honourable Mr. Justice Lander*          The Honourable Mr. Justice Hutchison*          The Honourable Mr. Justice Lysyk*          The Honourable Mr. Justice Oppal          The Honourable Mr. Justice Cohen          The Honourable Mr. Justice Shaw*          The Honourable Mr. Justice Coultas*          The Honourable Mr. Justice Maczko          The Honourable Mr. Justice Stewart          The Honourable Mr. Justice Hood          The Honourable Mr. Justice Harvey*          The Honourable Mr. Justice Fraser          The Honourable Mr. Justice R.R. Holmes          The Honourable Mr. Justice Parrett          The Honourable Mr. Justice Catliff*          The Honourable Mr. Justice Melvin*          The Honourable Mr. Justice Wong          The Honourable Mr. Justice Lamperson*          The Honourable Mr. Justice Drost*          The Honourable Mr. Justice McKinnon          The Honourable Madam Justice Boyd          The Honourable Mr. Justice Curtis          The Honourable Mr. Justice Singh*          The Honourable Mr. Justice Owen-Flood*          The Honourable Mr. Justice Melnick          The Honourable Mr. Justice Preston          The Honourable Mr. Justice Scarth          The Honourable Madam Justice Allan          The Honourable Madam Justice Sinclair-Prowse          The Honourable Mr. Justice Josephson          The Honourable Madam Justice Gill          The Honourable Mr. Justice Warren          The Honourable Mr. Justice Lowry          The Honourable Mr. Justice Meiklem          The Honourable Madam Justice Dorgan          The Honourable Mr. Justice Vickers          The Honourable Mr. Justice Blair          The Honourable Mr. Justice Tysoe          The Honourable Mr. Justice Shabbits          The Honourable Madam Justice Kirkpatrick          The Honourable Madam Justice Koenigsberg          The Honourable Mr. Justice Edwards          The Honourable Madam Justice Baker          The Honourable Mr. Justice R.D. Wilson          The Honourable Mr. Justice Sigurdson          The Honourable Mr. Justice Williamson          The Honourable Madam Justice Humphries</p>	<p>The Honourable Madam Justice Quijano          The Honourable Mr. Justice Henderson          The Honourable Madam Justice Dillon          The Honourable Mr. Justice A.F. Wilson          The Honourable Mr. Justice Romilly          The Honourable Mr. Justice Taylor          The Honourable Mr. Justice Davies          The Honourable Madam Justice Satanove          The Honourable Madam Justice Stromberg-Stein          The Honourable Mr. Justice Cole          The Honourable Madam Justice MacKenzie          The Honourable Mr. Justice Grist          The Honourable Mr. Justice Bauman          The Honourable Madam Justice Morrison          The Honourable Mr. Justice McEwan          The Honourable Madam Justice Beames          The Honourable Madam Justice Loo          The Honourable Mr. Justice Burnyeat          The Honourable Madam Justice D. Smith          The Honourable Mr. Justice Pitfield          The Honourable Mr. Justice Macaulay          The Honourable Mr. Justice Ralph          The Honourable Madam Justice Bennett          The Honourable Mr. Justice Chamberlist          The Honourable Madam Justice Martinson          The Honourable Madam Justice L. Smith          The Honourable Mr. Justice Halfyard          The Honourable Madam Justice Neilson          The Honourable Mr. Justice Powers          The Honourable Mr. Justice Metzger          The Honourable Mr. Justice Brooke          The Honourable Mr. Justice Cullen          The Honourable Madam Justice Garson          The Honourable Madam Justice H. Holmes          The Honourable Madam Justice Ross          The Honourable Mr. Justice Slade          The Honourable Mr. Justice Joyce          The Honourable Madam Justice Wedge          The Honourable Mr. Justice Crawford          The Honourable Mr. Justice Goepel          The Honourable Madam Justice Gray          The Honourable Mr. Justice Barrow          The Honourable Mr. Justice Rogers          The Honourable Mr. Justice Groberman          The Honourable Madam Justice Brown          The Honourable Mr. Justice Truscott          The Honourable Madam Justice Gerow          The Honourable Mr. Justice Williams          The Honourable Mr. Justice Masuhara          The Honourable Madam Justice Ballance</p>
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*\* Indicates Supernumerary*

## ***Masters of the Supreme Court***

<p>Master Donaldson          Master Doolan          Master Horn          Master McCallum</p>	<p>Master Patterson          Master Barber          Master Bolton          Master Brandreth-Gibbs</p>	<p>Master Bishop          Master Tokarek          Master Nitikman          Master Baker</p>	<p>Master Groves          Master Scarth          Master Brine          Master Hyslop</p>
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## ***Judicial Staff Of British Columbia Supreme Court***

### ***Office of the Chief Justice and Associate Chief Justice***

Linda Larson  
Lois McLean  
Judith Hoffman

Executive Assistant to the Chief Justice  
Executive Assistant to the Associate Chief Justice  
Law Officer

### ***Judicial Administration***

Delia Moran  
Margaret Neuhaus  
Tammy McCann  
Yvonne Samek  
Michelle Sam

Director  
Manager of Support Services  
Secretary  
Secretary  
Secretary

### ***Registrars***

William McCallum  
Carolyn Bouck  
Murray Blok  
Kathryn Sainty  
Dawn Levert

Master and Registrar  
District Registrar (Victoria)  
District Registrar (Vancouver)  
District Registrar (New Westminster)  
Deputy District Registrar/Manager,  
Provincial Registrar's Program

### ***Information Officer***

The Honourable Lloyd MacKenzie

### ***Information Analyst & Statistician***

Shihong Mu

### ***Judicial Administrative Assistants***

Vancouver

Diane Berry, Doreen Chiew, Monelle Clements,  
Sharon Dunn, Cecilia Eadie, Joy Eliasson, Tannes Gentner, Felipa Ibarrola,  
Wanda Lam, Beverlee Lea, Patricia Lloyd, Barbara Moss, Sam Servis, Ruth  
Scott, Brenda Vawda, Wanda Wilk, Mary Williams  
Gail Woods, Adele Whelan, Rita Wikkerink

Chilliwack  
Cranbrook  
Dawson Creek  
Kamloops  
Kelowna  
Nanaimo  
Nelson  
New Westminster

Laura Burgess  
Jeanne Brock  
Susan Mitchell  
Eleanor Thomas, Linda Mann & Jane Raggatt  
Lana Pardue & Sharon LeBlanc  
Pat McKeeman, Patricia Robison  
Sandra Smith

Prince George  
Prince Rupert  
Victoria

Margaret Henderson, Val Medlock, Sylvia Wilson,  
Kimberley Jensen, Debbie Soroka  
Susan Johns, Kelly Parmar  
Norma Heke  
Karen Gurney, Margaret Lewis, Cherry Luscombe,  
Victoria Osborne-Hughes

### ***Trial Coordination***

Cindy Friesen  
Shera Lee  
Stefanie Wyer

Manager, Trial Coordination  
Reserve Judgment Clerk  
Assistant to Manager, Trial Coordination

### ***Vancouver - Civil***

Sue Smolen  
Christine Hutton  
Anna Stokes  
Chantal Cattermole  
Kim Gunn  
Allison Donnelly  
Kathy MacDonald

Trial Coordinator  
Assistant Deputy Trial Coordinator/Case Management Clerk  
Case Management Clerk/ Pre-trial Conference Clerk  
Pre-trial Conference Clerk/Typist  
Registrar's Office Booking Clerk  
Secretary  
Acting Data Entry Clerk

***Vancouver – Criminal***

Mary Ellen Pearce  
Anna Stokes  
Lisa Wrinch  
Irene McLeod

Trial Coordinator  
Acting Trial Coordinator  
Assistant Trial Coordinator  
Assistant Trial Coordinator

***Campbell River & Courtenay***

Diane Utendale

Trial Coordinator

***Chilliwack***

Margaret Fisher

Trial Coordinator

***Kamloops***

Dave McCoy

Trial Coordinator

***Kelowna***

Sandra Sanderson  
Barb Turik

Trial Coordinator  
Assistant Trial Coordinator

***Nanaimo***

Cheryl Turner

Trial Coordinator

***New Westminster***

Laura Weninger  
Brenda McPhee  
Tanya Dixon  
Kathy Moir

Trial Coordinator  
Trial Coordinator  
Trial Coordinator  
Assistant Trial Coordinator

***Prince George***

Joan Foisy

Trial Coordinator

***Victoria***

Judy MacFarlane  
Tania Linkes

Trial Coordinator  
Assistant Trial Coordinator

***Judgment Database Office***

Heidi Hoefner

***Management Consultant***

Alix Campbell

***Judges Library***

Anne Rector  
Diane Lemieux  
Leaellen Gurney  
Carmen De Olazaval (Annotator)

***Supreme Court Ushers***

Gerry Cumming, David O'Brien, Al Shorting,  
Jamie Sanford, Thomas Huang

***IT Consultant***

Steve Blanchard

## ***CHANGES IN THE COURT'S COMPLEMENT IN 2002***

In 2002, three members retired from the bench: Mr. Justice Donald Clancy, Mr. Justice Hutchinson and Mr. Justice Robert B. Hunter. In addition, Madam Justice Kathleen Downs resigned. These members of the bench will be greatly missed.

### **1. Retirements**

**The Honourable Mr. Justice Clancy**, a native of Halifax, graduated from Dalhousie Law School and was called to the bar of British Columbia in 1958. After articling at Davis and Company, Mr. Justice Clancy commenced his practice in Dawson Creek. In 1980, he joined the department of the Attorney General and was eventually appointed as the Chief Solicitor in the Legal Services Branch. He was appointed Assistant Deputy Attorney General in 1990 and remained in that position until his appointment to this court in 1991.

**The Honourable Mr. Justice Hunter** was born in 1935 in Vancouver. After completing his secondary schooling in Vancouver, he obtained his Bachelor of Commerce degree and his Bachelor of Law degree from the University of British Columbia in 1961 and 1962 respectively. After articling with the firm of Campney Owen and Murphy, he commenced his practice with the firm of Fulton Rogers & Co. in Kamloops. Mr. Justice Hunter remained with that firm until his appointment to the bench in 1992. He was appointed Queen's Counsel in 1982.

**The Honourable Mr. Justice Hutchinson** was born in 1930 in the former British protectorate of Tanganykia. He spent his childhood in Kenya and completed his secondary schooling in South Africa and England. He obtained a B.A. in economics and law from Cambridge. He came to Canada in 1952 and eventually articulated in Vancouver with Sutton, Braidwood, Morris Hall & Sutton and was called to the bar in 1956. In 1960, he relocated to Nanaimo where he practiced with Buz Heath. In 1980, he was appointed to the County Court of Prince Rupert. He later returned to Nanaimo where upon merger of the courts in 1991, he became a judge of the Supreme Court. Throughout his career, Mr. Justice Hutchinson was an avid and well-known mountaineer with many ascents from around the world to his credit. As a regular wine columnist to the Supreme Court Judges Newsletter, his counsel in this regard will be particularly missed by members of the Court.

### **2. Resignations**

**The Honourable Madam Justice Downs** was born in 1946 in Neenah, Wisconsin. After completing secondary school, she studied at Radcliffe College eventually receiving her degree in Social Relations from Harvard in 1969. In 1976 she enrolled in the Faculty of Law at UBC and graduated with her LL.B in 1979. After being called to the Bar in 1980, she joined Heath, Hutchison, and remained with it and its successor firms until her appointment to the Supreme Court on November 3, 1995. Throughout her career, Madam Justice Downs, has been involved in both the Child Development Centre and the SPCA. Madam Justice Downs resigned September 1, 2002.

### 3. Appointments

In 2002, we welcomed 6 new judges: Madam Justice Brown, Mr. Justice Truscott, Madam Justice Gerow, Mr. Justice Williams, Mr. Justice Masuhara and Madam Justice Ballance.

**The Honourable Madam Justice Brown** was appointed to the Supreme Court at Vancouver on April 18, 2002. After obtaining an honours B.A. from the University of Alberta, she graduated with an LL.B. from the University of Victoria in 1980. She clerked at the British Columbia Court of Appeal and was called to the bar in 1982. Madam Justice Brown practised with Boughton & Company until 1995 in the area of civil litigation with an emphasis on insolvency. In 1995 she joined Davis & Company where she was a partner until her appointment to this court. Throughout her career Madam Justice Brown has been active with the B.C. Branch of the Canadian Bar Association as an elected member of council for six years and as a member of several committees. She is a director of the Lawyers Inn Society and has lectured at numerous CLE courses.

**The Honorable Mr. Justice Truscott** was appointed to the Supreme Court at New Westminster on October 10, 2002. He was born in Saskatoon and obtained his LL.B. in 1971 from the University of Manitoba. Mr. Justice Truscott articulated at Guild, Yule and Company in British Columbia, where he practised until his appointment to this court last fall. In 1998, he was appointed Queen's Counsel. A civil litigator with a particular expertise in insurance practice, Mr. Justice Truscott frequently defended lawyers on behalf of the Law Society's Insurance Fund.

**The Honourable Madam Justice Gerow** was appointed to the Supreme Court at Vancouver on October 11, 2002. Madam Justice Gerow received her LL.B. from the University of British Columbia in 1981 and was called to the Bar of British Columbia in 1982. She began her legal career with Harper Grey Easton becoming a partner in 1987. She remained at Harper Grey Easton until 1989 when she joined the Vancouver office of the Toronto adjusting firm F.C. Maltman & Company. Madam Justice Gerow returned to Harper Grey Easton in 1991 and remained there as a partner until her appointment to the Bench. Throughout her career, Madam Justice Gerow practised in the field of civil litigation, concentrating on construction law. In recent years, she was active in the mediation of construction law disputes, particularly those involving "leaky condos".

**The Honourable Mr. Justice Williams** was appointed to the Supreme Court at New Westminster on October 10, 2002. Mr. Justice Williams was born in Brooks, Alberta and obtained a B.A. from the University of Alberta in 1970 and a LL.B. from the University of British Columbia in 1984. Between those dates, he worked for the RCMP in the Kamloops detachment and the Commercial Crime Sections in Vancouver and the Kootenays. He articulated with Doust and Smith, staying with the firm when it merged to become part of McCarthy Tetrault. His primary focus was on criminal law, although he also practised in the areas of civil litigation and administrative law. In 1990, he left McCarthy Tetrault to join a former member of Doust and Smith, Bill Smart. For 12 years they practiced together at the firm of Smart & Williams. Throughout his career, Mr. Justice Williams has been a regular presenter at numerous CLE courses, PLTC courses and for the Trial Lawyers Association. In addition, he was a member of the B.C. Civil Liberties Association and the Lawyers' Assistance Program.

**The Honourable Mr. Justice Masuhara** was appointed to the Supreme Court at Vancouver on October 11, 2002. Mr. Justice Masuhara received a B. Comm. from the University of British Columbia in 1979, a LL.B. from the University of British Columbia in 1982, and was admitted to the Bar of British Columbia in 1983. In 1984, he became corporate counsel at Inland Natural Gas, which later became BC Gas. He practised largely in the energy regulatory field as well as corporate matters. At BC Gas he was a vice-president responsible for a wide range of governance and operational responsibilities, including legal, corporate secretary, regulatory, environment, health & safety, facilities management, supply chain and lands. He is the former chair of the corporate counsel section of the B.C. Branch of the Canadian Bar Association, a founding member of the executive of the Canadian Corporate Counsel Association, and as a member of the Special Compensation Fund Committee of the Law Society of B.C. Mr. Justice Masuhara is the first Japanese Canadian appointed to a Superior Court in Canada.

**The Honourable Madam Justice Ballance** was appointed to the Supreme Court at Vancouver on December 12, 2002. Madam Justice Ballance received her LL.B. from the University of British Columbia in 1984, and was called to the Bar of British Columbia in 1985. At the time of her appointment, Madam Justice Ballance was a partner with the Vancouver firm of Legacy Tax and Trust Lawyers; her own practice was comprised exclusively of estate and trust law. During her time as a respected member of the bar, Madam Justice Ballance belonged to several Wills and Trusts related organizations and has acted as the chair of the Wills and Trusts section of the Canadian Bar Association and as president of the Estate Planning Council of Vancouver. A co-editor of the Wills and Estate Planning Materials for the Professional Legal Training Course, Madam Justice Ballance has been recognized as a valued author and lecturer on various estate administration topics. She will be an equally valued addition to the Supreme Court of British Columbia.

## ***Report of the Honourable Chief Justice Brenner***

In this report I will briefly review and highlight the activities of our court during the past year. In 2002, we were faced with a number of challenges many of which are specifically addressed in the accompanying committee reports.

Our court is acutely aware that the costs of litigation are significant and, for an increasing number of litigants, are becoming prohibitive. As such, we continue to explore ways in which to make justice both more affordable and accessible. The numbers of self represented litigants appearing in our court is increasing. Recognizing that access to legal services is an integral element of access to justice, over the past year, our court has continued to support several initiatives to increase the ability of the public to obtain legal representation. In December 2002, the Western Society for Access to Justice opened a pro bono legal clinic located in the courthouse at 800 Smithe Street to add to its complement of legal aid clinics located in communities across the province. The court has also continued to support the efforts of the joint Canadian Bar Association Law Society Committee on Pro Bono Services which this past year launched Probono Net BC, a website that matches lawyers who want to donate their services to clients in need of legal assistance. The court is also lending its support to an initiative being spearheaded by the Law Courts Education Society to create self-help centres in courthouses to assist self represented litigants by educating them on court procedures and forms.

In July 2002, Rule 60E became effective implementing the Family Law Judicial Case Conference Pilot Project province wide. The report from the Family Law Committee outlines the extensive work done by members of that committee to make this proposal a reality. Building on the success of the earlier launch of this project in the Okanagan in September 2001, reports from the bench and bar across the province continue to be positive. We are seeing strong indications that these new procedures are reducing the overall costs and time expended by litigants involved in family law matters. The pilot will remain in place until July 2004. It is currently being evaluated and we welcome feedback from those members of the profession and the public who have had experience with the new procedures.

Since March 2002, I have been an active participant in the Justice Review Task Force ("JRTF"). The JRTF was established at the initiative of the Law Society and has representation from key players in the justice system. Its mandate is to identify a wide range of reform ideas and initiatives to make the justice system more responsive, accessible and cost effective. One of the first initiatives examined by the JRTF was the possibility of a Unified Family Court ("UFC") for British Columbia which stemmed from the announcement by the Federal Minister of Justice of an intention to expand UFCs across the country. While we support any initiative that improves access to the justice system for family litigants, our court has been clear that such a reform should not be undertaken unless improved access to justice services currently available to family law litigants across the province can be demonstrated

In September 2002, our court made a decision to change our policy regarding the posting of family law judgments on our court's website. Family law decisions are now posted to the website only if names and other sensitive personal information are removed from the judgment. This decision was made in recognition of the unique privacy interests which arise in family law matters, particularly with respect to children of divorcing parents. Since the inception of the website in 1996, the court has received several complaints from individuals concerned about the existence of their families' personal information on a website accessible to anyone who logs on to the internet.

Consultation demonstrated that the bar and the public were evenly divided about whether the principle of privacy should prevail over the principle of openness. In the end, the policy takes a small step in the direction of protecting privacy of family law litigants only in the context of our publicly accessible website. All written family law judgments continue to be available from the registry and courthouse libraries and continue to be distributed to legal publishers.

During 2002, our court played host to many visiting judges and judicial delegations from foreign jurisdictions including Japan, Taiwan, the Netherlands and the United Kingdom. We are always delighted to have the opportunity to gain insights from our colleagues who preside in judicial systems different from our own.

Also, during the past year, our trial coordinators have been hard at work developing requirements for a new computerized Supreme Court Scheduling system. Currently, scheduling of court matters in our court is largely performed through manual procedures although there are a number of unconnected and antiquated automated systems that assist in this process. The new province wide integrated scheduling system will streamline and automate most scheduling tasks. This will allow our trial coordinators to respond more quickly to requests for information from counsel and the public regarding scheduled appearances. In addition, the system will provide a much needed source of statistical and management information.

In closing I want to take this opportunity to acknowledge and thank my colleagues, the judges and masters of our court, for their generous support and help.

I also want to thank the employees of judicial administration and court services. Without the support of these individuals our court could not operate. 2002 has been a difficult year as government cutbacks have meant a reduction in court staff. Their ability to maintain the same level of service to the public and the members of this court is a testament to their dedication and hard work.

Donald I. Brenner  
Chief Justice

# MANAGEMENT INFORMATION

The charts in this section provide statistical information regarding the filings in the Supreme Court both with respect to both new actions and chambers applications.

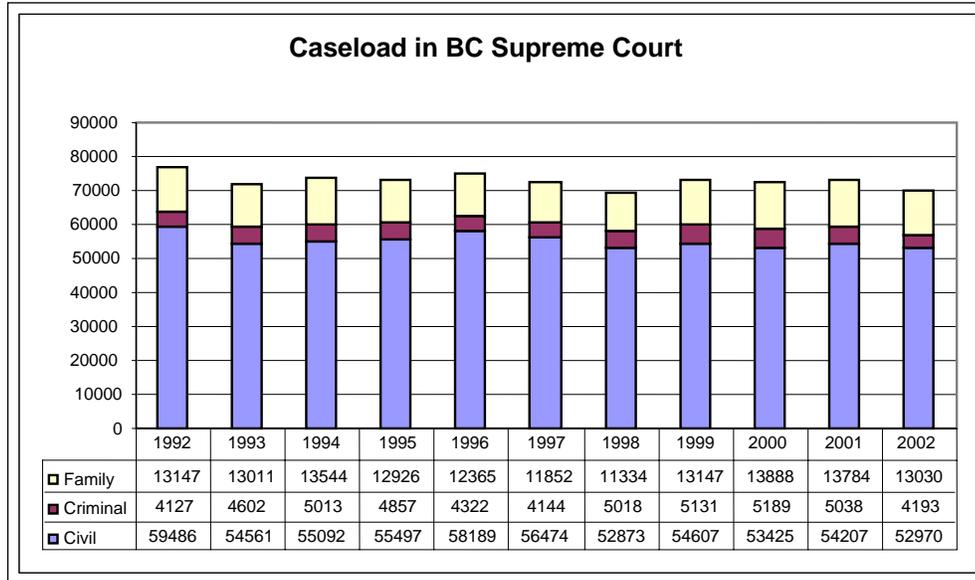


Figure 1\*

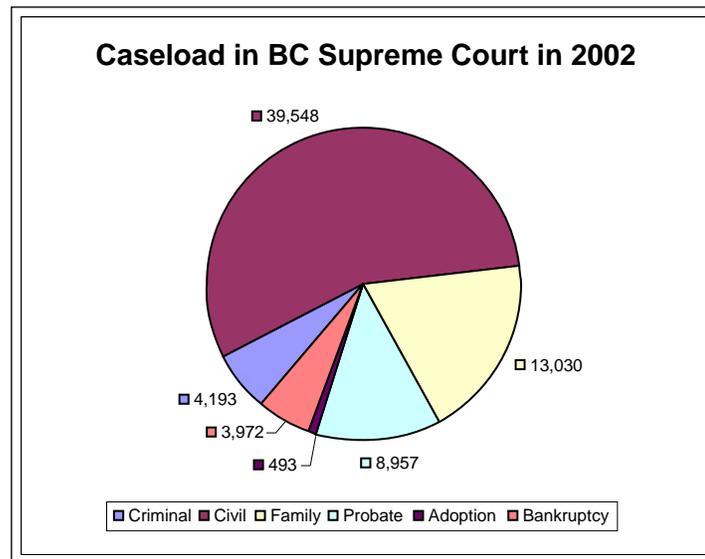
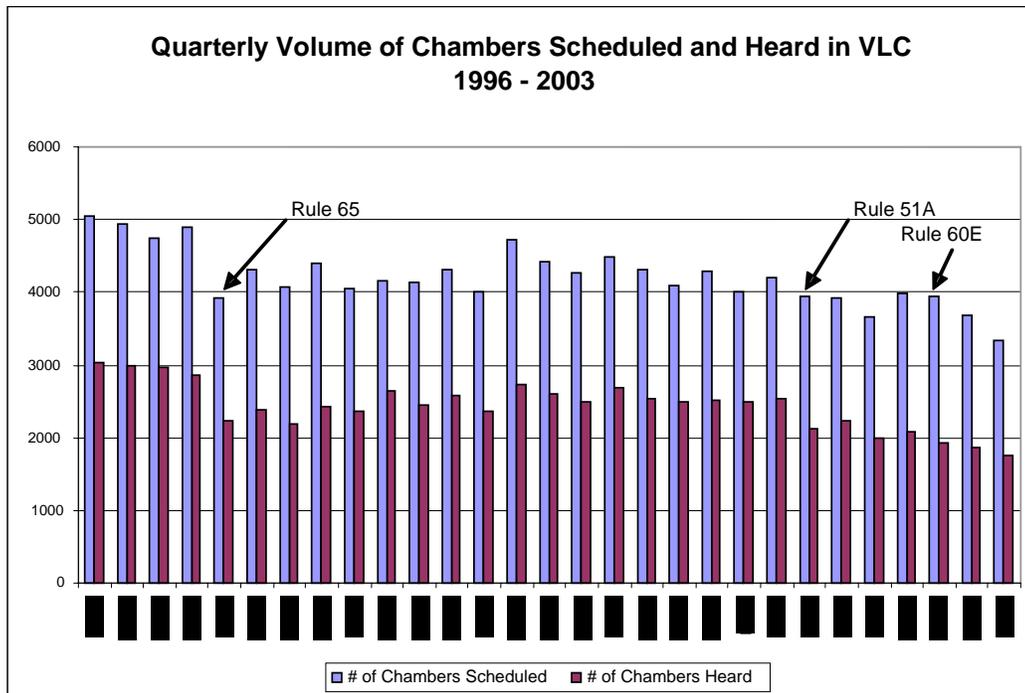


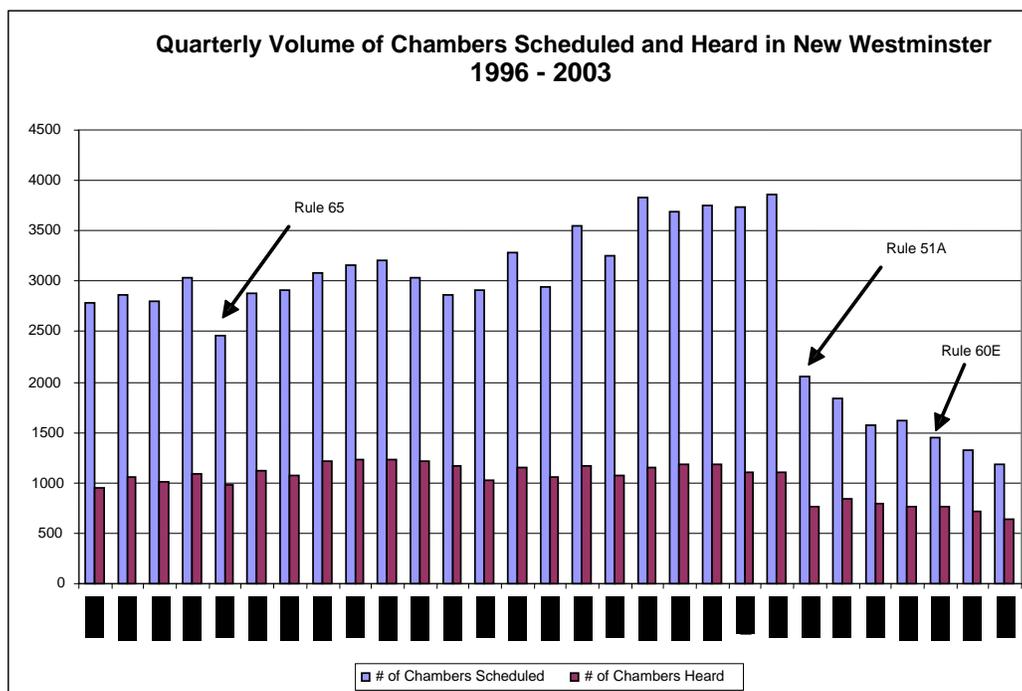
Figure 2\*

\*In Figure 1, the "Civil" category includes all general civil cases such as Motor Vehicle bodily injury, debt collection, breach of contract, foreclosures, adoptions, bankruptcies and *Companies Act* matters. This category also includes *Family Relations Act* filings before Sept. 1, 1998. The "Family" category includes "Divorce" filings only before Sept. 1, 1998. As of Sept. 1, 1998, because of the *Divorce Act* Rule 60 changes, "Family" category includes Divorce and FRA filings.

\*Figure 2 shows greater detail regarding the types of new filings received by the Supreme Court in 2002.



**Figure 3\***



**Figure 4\***

\* Figure 3 shows the quarterly volume of chambers applications scheduled and heard in Vancouver from 1996 to the first quarter of 2003. It also demonstrates the impact of the introduction of Rules 65 (which was effective only in Vancouver), Rule 51A and the recently implemented Judicial Case Conference Pilot (Rule 60E)

\* Figure 4 shows the quarterly volume of chambers heard and scheduled in New Westminister for the same time period.

## ***Criminal Law Committee***

***Members: Madam Justice Koenigsberg (Chair)  
Chief Justice Brenner  
Associate Chief Justice Dohm  
Madam Justice Bennett  
Mr. Justice Cullen  
Madam Justice Holmes  
Mr. Justice Josephson  
Madam Justice MacKenzie  
Mr. Justice Oppal  
Mr. Justice Romilly  
Mr. Justice Stewart  
Madam Justice Stromberg-Stein***

The Criminal Law Committee's primary focus this past year centered on considering what recommendation, if any, can be made to the Court for shortening or making more efficient the conduct of criminal trials.

Several projects have been undertaken to examine means to shorten trials, particularly, lengthy voir dices. The use of pre-trial conferences has been identified as the most likely vehicle for reform. Further investigation of the use of pre-trials in other Canadian jurisdictions is underway.

The Committee remains in support both with word and deed of significant education for all judges in the area of criminal law, particularly procedure. Specifically, the Committee supports through the considerable – some might say awesome – efforts of Stewart J. to provide an update on all significant developments in criminal case law.

Legislative updates are being prepared by Bennett J. with the assistance of H. Holmes J.

Other questions considered by the Committee are the following:

1. The use of pattern jury charges. The Committee defers to the national Criminal Law Committee on Jury Charges in this realm. The Committee considered that CRIMJI, Watt Criminal Jury Instructions and other tools for assisting judges with jury charges are adequate.
2. Sentencing – in particular, whether and in what circumstances sentencing can be done by teleconference or video conferencing has been considered. The Committee's view is that Criminal Code s. 650 (1.1) circumscribes the circumstances in which any part of the sentencing process may be conducted other than in a courtroom with the offender present.

"Koenigsberg, J."

## ***Joint Courts Technology Committee***

***Members: Mr. Justice Tysoe (Chair)  
Madam Justice Boyd  
Mr. Justice Mackenzie  
Mr. Justice Pitfield  
Jennifer Jordan  
Delia Moran  
Ex Officio: CJSC & CJBC***

The mandate of the Committee is to deal with the technology requirements of judges, including software and hardware, and security concerns arising from use of the judicial network, including the e-mail system.

The issues which have recently been discussed by the Committee include the following:

- development of a trial scheduling program;
- e-filing initiatives and related case management and case tracking programs;
- development of a strategic plan for the delivery of information technology to the judiciary;
- introduction of an Intranet for the Courts' network and potential revision of the Courts' website;
- revisions to judgment standards;
- issues related to the posting of judgments on the Courts' website;
- computer training for judges;
- high speed access to the Courts' network;
- technological aspects of the construction and renovation of courtrooms;
- internal network issues and security concerns;
- electronic benchbook project;
- consideration of management information issues; and
- discussion of Summation software for real-time reporting and document management.

"Tysoe, J."

## ***Public Affairs Committee***

***Members:***    ***Mr. Justice Williamson (Chair)***  
                  ***Mr. Justice Blair***  
                  ***Mr. Justice Oppal***  
                  ***Madam Justice L. Smith***  
                  ***The Hon. Lloyd McKenzie***  
                  ***Ms. Judith Hoffman***  
                  ***Ex-Officio: CJSC***

The Public Affairs Committee is responsible for liaison with the media, court staff, and the Law Courts Education Society.

The committee continues to meet with "working journalists" of the Vancouver courthouse, and in particular to monitor the implementation of the changed policy with respect to the use of recording devices by the media in court rooms. We have brought various concerns of journalists to the attention of the Sheriffs' Office, BCBC or Court Services. Chief Justice Brenner and Williamson J. met again this fall with the court clerks, and have managed to assist them in issues they have raised. We also meet regularly with representatives of the Legal Education Society. These overtures have been generally welcomed by all three groups.

At the request of the Executive Committee, the Public Affairs Committee is currently reviewing the information officer position which is now vacant due the retirement of the Honourable Lloyd McKenzie. We are gathering information from other jurisdictions as to how this function is performed in other courts to inform our discussions in this regard.

The committee recognizes the tension that of necessity exists between the courts and the media. We intend to move forward cautiously with the media in order to make their task easier and to facilitate accurate coverage of court matters. The committee welcomes comments on these matters.

"Williamson, J."

## ***Family Law Committee***

***Members: Madam Justice Martinson (Chair)***  
***Mr. Justice Cole***  
***Mr. Justice Joyce***  
***Mr. Justice Metzger***  
***Mr. Justice Preston***  
***Madam Justice D. Smith***  
***Master Donaldson***  
***Master Patterson***  
***Ms J. Hoffman***

On July 1, 2002, Rule 60E came into force implementing the Judicial Case Conference Pilot Project province wide. Much of the Committee's time for the first half of 2002 was devoted to finalizing the procedures for Judicial Case Conferences (JCCs). The Committee was assisted throughout this implementation stage by Madam Justice Beames and Mr. Justice Warren. The Committee also continued to receive invaluable support and contributions from Ms. Cindy Friesen and Ms. Sue Smolen.

To assist members of the bar with the transition to Rule 60E, members of the Committee also participated as faculty in a CLE course on JCCs.

Since the implementation of Rule 60E, the Family Law Committee has continued to discuss issues arising from the operation of the new procedures. Through this process, the Case Management Plan, which is used to record the issues discussed and any agreements reached at the JCC, has been refined by drawing on the experience of masters and judges who have conducted JCCs. Members of the registry staff were also of great assistance in this process.

An evaluation sub-committee has also been struck to assess the impact of Rule 60E and to determine whether the objectives of the JCC program are being met. The feedback received from the bar to date has been very positive. The Committee continues to welcome feedback and comments from those who have participated in the JCC program. Comments may be sent by email to [JCC\\_Comments@courts.gov.bc.ca](mailto:JCC_Comments@courts.gov.bc.ca)

The Committee continues to be concerned regarding the long delays in obtaining section 15 custody and access reports and, in 2002, met with representatives of the Attorney General to explore solutions to this problem.

In early 2002, the Committee made a recommendation that family law judgments no longer be posted on the Supreme Court website. The Court adopted a new policy in this regard in September 2002, whereby family law judgments are only posted to the website after personal identifying information is removed from the judgment.

In the latter half of 2002, the Committee was asked to consider its response to the federal proposal to establish a Unified Family Court in British Columbia. While the Committee generally supports the concept of a Unified Family Court, it is imperative that such a court

be fully funded with sufficient judges and staff as well as court attached resources (including legal aid, duty counsel, legal information officers and family court counsellors, child support guideline assistance and interpretation assistance) to ensure that family law cases can be heard in a just, timely and efficient manner. The Committee is also of the view that such a court must operate on a province wide basis.

"Martinson, J"

### ***Education Committee***

***Members:*** ***Mr. Justice Sigurdson (Chair)***  
***Madam Justice Beames***  
***Mr. Justice Henderson***  
***Madam Justice Loo***  
***Madam Justice Martinson***  
***Madam Justice Neilson***  
***Mr. Justice Oppal***  
***Mr. Justice Romilly***  
***Madam Justice L. Smith***  
***Mr. Justice Williamson***  
***Mr. Justice Goepel***  
***Mr. Justice A.F. Wilson***  
***Master Baker***  
***Judith Hoffman (Law Officer)***  
***Ex Officio: CJBC, CJSC, ACJ***

The primary objectives of the Education Committee are to assist members of the court to keep abreast of significant changes in the law and to provide continuing education opportunities which are both engaging and practical. Over the past year, our Committee was very active in the planning of the educational aspects of the three court conferences held in 2002 and in the programs for 2003, including joint sessions with the Court of Appeal and the Provincial Court. Recently, a decision was made to reduce the number of court conferences to two per year but to extend each conference from two days to three days. In addition to these regularly scheduled conferences, our Committee organizes more informal educational sessions which take place bimonthly during the noon recess. Judges outside of Vancouver attend these sessions via teleconference.

The Education Committee is indebted to the National Judicial Institute for their ongoing assistance and guidance in program selections and making the logistical arrangements for our educational conferences.

"Sigurdson, J."

## ***Rules Revision Committee***

***Members:***     ***Mr. Justice Macaulay (Chair)***  
***Madam Justice Dillon***  
***Mr. Justice Bauman***  
***Mr. Justice Joyce***  
***Master McCallum***  
***Master Baker***  
***Ms. N. Cameron***  
***Mr. K. Downing, Legislative Counsel***  
***Mr. J. E. (Ted) Gouge, Q.C.***  
***Mr. N. Smith, Q.C.***  
***Mr. J. K. McEwan***  
***Ms. J. Hoffman***  
***(Law Officer) – Secretary***  
***Mr. R. Rondeau (ex officio)***

### **I.     Mandate of the Committee**

The *Court Rules Act*, R.S.B.C. 1996, c. 80 provides that the Lieutenant Governor in Council has the power to make rules governing the conduct of litigation in the Supreme Court. The Rules Revision Committee (“Committee”) assists the Attorney General in making recommendations for rule changes to the Lieutenant Governor in Council. The Attorney General appoints the members of the Committee by ministerial order, usually after consultation with the Chief Justice and the Chair. The Committee includes judges, masters, representatives of court services, legislative drafting counsel and members of the private bar. The members of the private bar are chosen for their expertise in civil or family litigation and also broadly represent larger and smaller areas of the province.

The Committee meets regularly in person and by teleconference throughout the year to discuss proposals for rule changes expressed by the Judiciary, the Profession, and the Attorney General's department. The composition of the Committee, together with a policy of expansive consultation, ensures that proposed amendments to the Rules are evaluated in the broadest context. This report provides an appropriate opportunity for the Chair to specially thank the members of the private bar on the committee who have each year so generously volunteered their time, energy and commitment.

Once the Committee makes recommendations to the Attorney General, the Attorney General then consults with the Chief Justice, as is required by the *Court Rules Act*, regarding the proposed changes before presenting them to Cabinet. With the exception of some stand-alone amendments, proposed rule amendments are presented to Cabinet each spring. Upon Cabinet approval, the amendments are enacted by Order-in-Council effective July 1st.

Copies of the Orders-in-Council giving effect to the amendments as well as the full text of the Rules are available on our website at [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca). From the Supreme Court page click the Rules Amendment link. In addition, invitations for comments on proposed rule changes are often posted on the website. We encourage members of the bar and the public to regularly check the web site for information on rule amendments.

## **II. Composition of the Committee**

During 2002, the composition of our Committee changed. In March 2002, Mr. Justice Fraser advised that he would not be seeking a reappointment to the Committee. Mr. Justice Fraser was an extremely active member of the Committee for many years and his contributions and wisdom will be greatly missed by our Committee. In April 2002, the Committee welcomed Mr. Justice Bauman who was appointed to replace Mr. Justice Fraser and Master McCallum who was appointed in his capacity as Supreme Court Registrar. In late December, Ken McEwan, of the firm Farris Vaughan Wills & Murphy was appointed to the Committee as a representative from the bar.

During early 2003, the composition has further changed. Master Horn, like Mr. Justice Fraser, a long term active member of the committee retired. Master Hyslop was a lawyer representative until recently when she retired from the committee after being appointed a Master of the court. It is anticipated that a new lawyer representative will be appointed to the committee in near future.

## **III. Work of the Committee in 2002**

Some of the more significant issues that the Committee worked on in 2002 included the following:

### **(a) Rule 37 - *Calderbank* Letters**

In response to the Court of Appeal decision in *Brown v. Lowe*, 2002 BCCA 7, which cast doubt on the validity of offers to settle made in the form of *Calderbank* letters, the Committee invited comments from the profession as to whether Rule 37 should be amended to specifically preserve *Calderbank* letters. The majority of the feedback received wished the Committee to take steps to codify *Calderbank* letters into Rule 37.

### **(b) Family Law Procedures**

In the first half of 2002, the Committee devoted much of its time to the implementation of the new Rule 60E. This new rule provides for a Judicial Case Conference to be presided over by a judge or master and makes a Judicial Case Conference mandatory (with some limited exceptions) in all family law cases before a contested application can be set down.

### **(c) Tariff Review**

In response to feedback received from the bar regarding the repeal of increased costs, a sub-committee has been struck to consider whether the tariff is providing adequate indemnity and whether it should be revised.

Some of the more substantial rule amendments passed in 2002 included the following:

- Rule 66 - The Fast Track Litigation Pilot Project was enacted as a permanent rule and its application was extended to all registries in the province.
- Rule 37(26.1) - Rule 37 treats plaintiffs and defendants differently with respect to the consequences that flow from making or accepting a formal offer. This amendment removed this distinction in a family law proceeding.
- Rule 40(16) – This amendment provides a mechanism by which the Registry can, with the approval of the Deputy Attorney General and on 30 days notice to the parties, dispose of exhibits where no steps have been taken in a proceeding for 2 years.
- Rule 57 & the Tariff – Several amendments were made to Rule 57 as a result of an overall view of Rule 57 by the Committee.
- Rule 60E – Family Law Judicial Case Conference Pilot Project.

Some rule amendments considered in 2002 and expected to be enacted in 2003 include:

Rule 14(6) – This amendment allows the court to make directions to allow a party to take certain steps in the proceeding to challenge the jurisdiction of the court without attorning to the jurisdiction.

Rule 18A(8)(b) – This amendment clarifies that masters have jurisdiction to decide whether a matter is suitable for a summary trial application and that in such an application there are two separate and distinct considerations; (1) is the matter suitable for summary trial; and (2) would the application assist the efficient resolution of the proceeding.

Rule 18A(1.1) – This amendment limits the filing of a summary trial application within 45 days before trial.

New Fax Filing Rule – This amendment allows many Supreme Court documents to be delivered to the Registry by fax for the purposes of filing.

Rule 44(40) – (48) - This amendment makes it clear that leave of the Court will always be required to introduce evidence in-chief by affidavit and that an application to do so can be made either at or before trial.

Rule 66 – This amendment extends Rule 66 to personal injury actions as of right before trial.

#### **IV. Other Matters Currently Under Consideration**

Matters currently under active consideration by the Committee include:

- The codification of *Calderbank* Letters into Rule 37
- The use of privileged documents at trial without disclosure
- Description of privileged documents
- Adverse Party Rule
- Discovery and the obligation to disclose the names of witnesses
- Review of the Rules under the *Patients Property Act*
- Proscribed form of accounts in estate matters

The Committee welcomes comments, suggestions and even criticism from the Court, members of the bar and the public related to its work. We also appreciate receiving copies of judgments that identify any ambiguities or anomalies in the Rules. Please forward your comments to Mr. Justice Macaulay, Chair, Rules Revision Committee, The Law Courts, 850 Burdett Avenue, Victoria, B.C. V8W 1B4.

"Macaulay, J."

#### ***Law Clerk Committee***

**Members:** *Madam Justice Humphries (Chair)*  
*Mr. Justice Curtis*  
*Madam Justice Kirkpatrick*  
*Mr. Justice Shabbits*  
*Ms. J. Hoffman*

Each year the Supreme Court hires law school graduates who have not yet been called to the bar to serve as law clerks to the judges of the Supreme Court. The clerks serve for 12 month terms commencing in September. In September 2002, 17 law clerks began their clerkships with the Supreme Court. Of these, thirteen are located in Vancouver, two in New Westminster and two in Victoria. Each law clerk is assigned to a compliment of five to seven judges.

For the last round of hiring, the Committee moved the application deadline to January 15, 2002 to bring the timing of our recruitment process in line with other courts across the country. To accommodate this new deadline, a notice describing the clerking program was distributed to all common law faculties across Canada in late September 2001. The Law Officers to the Court of Appeal and the Supreme Court, accompanied by current law clerks, conducted information sessions at the law schools at UBC and UVic in October and November 2001.

In January 2002, Meg Gaily, Law Officer to the Court of Appeal, and Judith Hoffman, Law Officer to the Supreme Court, received 75 applications for the 28 law clerk positions at the Court of Appeal and Supreme Court. After reviewing the applications, the Law Officers interviewed most of these candidates during February of 2002. Of these candidates, the Supreme Court Law Clerk Committee interviewed 27 and selected 17 candidates for the law clerk positions for the 2003-2004 term.

Of the 17 law clerks who commenced their terms with the Supreme Court in September 2002, 9 are graduates of UBC Law School, 6 are graduates of the UVic Law School, one is a graduate of the University of Alberta, Faculty of Law.

For the term commencing September 2002, the law clerks for the Court are:

Michelle Isaak	Andrea East
Debra Bell	Miranda Lam
Jennifer Whately	Dierk Ullrich
Tyler Galbraith	Shawna Specht
Amy Campbell	Homi Bindra
Jay Kesten	Richard Lord
Amber Elliot	Daphne Fedoruk
Henning Faust	Christopher Massey
Wanda Kelley	

In 2002, the Law Clerk Committee began a series of seminars for the law clerks covering research skills, civil procedure, crown practice in criminal matters and chambers practice in family law. These seminars were offered by judges and masters of the court to further enhance the educational aspects of the clerkship program. The Committee hopes to continue and expand these seminars in 2003.

The Committee members wish to thank Ms. Gaily and Ms. Hoffman for their assistance during the year.

"Humphries, J."

## ***Library Committee Report***

***Members:***    ***Madam Justice Newbury (Chair)***  
                  ***Mr. Justice Hood***  
                  ***Madam Justice Humphries***  
                  ***Madam Justice D. Smith***  
                  ***Ms. Delia Moran***  
                  ***Mrs. Anne Rector***

Meetings of the Library Committee were held in 2002 as required to consider new acquisitions. The library is operating on a budget which has remained the same in terms of absolute dollars, for the last few years. We continue to maintain an up-to-date collection of textbooks and similar resource materials, while trying to "hold the line" on duplicative case reports and subscriptions.

We also supply important services to judges in the area of computer research, including e-mail list serve network and Quicklaw.

In terms of the physical plant, the library has benefited from the efforts of Associate Chief Justice Dohm to enhance our library by making available some beautiful furniture from the old courthouse. As well, an informal "subcommittee" has been at work on our "Archives Project", which has operated with funds kindly supplied by the B.C. Legal Historical Society. The Archives Committee, which consists of Madam Justice Newbury, Madam Justice Saunders and Madam Justice Huddart, engaged a student from the School of Library, Archival and Information Science at U.B.C., Ms. Caroline Casenas, to create a database and to catalogue all the photographs and other items displayed on the walls in the Vancouver courthouse. These photographs can now be searched by library staff according to the judge, date or occasion; all have been properly labelled; and many were reframed and rehung thanks to the efforts of Mrs. Betty Craig who volunteered her time this summer. We are most grateful to Ms. Casenas and Mrs. Craig for their invaluable assistance. It is hoped that in the coming year, photographs and other historical materials in other courthouses throughout the province can be added to our data base.

In the coming year, we will unfortunately be losing our head librarian Anne Rector. We wish Anne a long and happy retirement.

"Newbury, J. A."