



Supreme Court of British Columbia

Annual Report 2003

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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 as well as 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, 83 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 14 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

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 Cohen
The Honourable Mr. Justice Shaw*
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 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 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
The Honourable Madam Justice Quijano
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
The Honourable Mr. Justice Rice
The Honourable Mr. Justice Bernard
The Honourable Mr. Justice Kelleher
The Honourable Mr. Justice Ehrcke

** Indicates Supernumerary*

Masters of the Supreme Court

Master Donaldson	Master Bolton	Master Nitikman	Master Scarth
Master McCallum	Master Bishop	Master Baker	Master Brine
Master Patterson	Master Tokarek	Master Groves	Master Hyslop
Master Barber			Master Keighley

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

Alix Campbell
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 of the Supreme Court
District Registrar (Victoria)
District Registrar (Vancouver)
District Registrar (New Westminster)
Deputy District Registrar/Manager,
Provincial Registrar's Program

Information Analyst & Statistician

Dr. Shihong Mu

Judicial Administrative Assistants

Vancouver

Diane Berry, Doreen Chiew, Monelle Clements, Joanne Ivans
Sharon Dunn, Iolanda Organ, Adrien Amadeo, Linda Peter, Evelyn
Mathesius, Tannes Gentner, Felipa Ibarrola, Wanda Lam, Beverlee Lea,
Samantha Servis, Brenda Vawda, Wanda Wilk, Mary Williams
Gail Woods, Adele Whelan, Rita Wikkerink, Stella Phillip

Chilliwack
Cranbrook
Kamloops
Kelowna
Nanaimo
Nelson
New Westminster

Laura Burgess
Jeanne Brock
Jane Raggatt, Kelly Hartnell
Lana Pardue, Sharon LeBlanc
Pat McKeeman, Patricia Robison
Sandra Smith
Margaret Henderson, Pat Lloyd, Sylvia Wilson,
Kimberley Jensen, Debbie Soroka
Susan Johns, Kelly Parmar
Norma Heke
Karen Gurney, Margaret Lewis, Cherry Luscombe,
Victoria Osborne-Hughes

Prince George
Prince Rupert
Victoria

Trial Coordination

Cindy Friesen
Angela Allwood/Shera Lee
Stefanie Wyr

Manager, Trial Coordination
Reserve Judgment Clerk
Assistant to Manager, Trial Coordination and Law Officer

Vancouver - Civil

Sue Smolen
Brenda McPhee
Christine Hutton
Carmen Pascuzzi
Anna Stokes
Kathy Moir
Allison Donnelly
Julia Ross

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

Vancouver – Criminal

Mary Ellen Pearce
Lisa Winch
Irene McLeod

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
Tanya Dixon
Don Ellam

Trial Coordinator
Trial Coordinator
Assistant Trial Coordinator

Prince George

Pamela Wallin

Trial Coordinator

Victoria

Judy MacFarlane
Tania Linkes

Trial Coordinator
Assistant Trial Coordinator

Judgment Database Office

Heidi Hoefner

Judgment Clerk

Judges Library

Diane Lemieux, Librarian
Leaellen Gurney
Carmen De Olazaval (Annotator)

Supreme Court Ushers

Gerry Cumming, David O'Brien,
Jamie Sanford, Donna Cox

IT Consultant

Steve Blanchard

Report of the Honourable Chief Justice Brenner

The Annual Report gives me the opportunity to report on the activities of the court and the progress of several initiatives over the past year. There are many changes underway which will have a fundamental impact on the justice system. Many of these changes are occurring as we try to take advantage of advances in technology; others arise from our court's constant pursuit of justice reform. Regardless of the impetus, all of these initiatives have at their root our court's desire to make the justice system more responsive, accessible and affordable for the people of British Columbia.

In July 2002, Rule 60E was enacted to implement the Family Law Judicial Case Conference Pilot across the province. Under Rule 60E, parties to a family law proceeding may not set down a contested chambers application until they attend a Judicial Case Conference ("JCC") before a judge or master. The purpose of the JCC is to explore an early resolution of the dispute or to narrow the issues between the parties and to set a case management plan for the proceeding. The feedback we have received so far from members of the profession has been very positive. The pilot was to have ended in July of 2004 but we will continue it for at least another year so that we can fully evaluate the project and to consider further refinements.

Our court has historically been a leader in Canada in the application of technology to the justice system. As appropriate technology develops and becomes available we are getting closer to the day when we will be able to offer our services as well as access to our court's records electronically over the internet.

In 2003 and early 2004 Court Services implemented a new electronic case tracking system called CEIS (Civil Electronic Information System). This new system is a significant improvement over the previous system as it allows for province wide access to case tracking information from a single database. Moreover, it will serve as the platform for both electronic search and filing services. Since 2002 Court Services has been developing a system to offer electronic search services of court docket information to members of the public over the internet. This service, which will be piloted in the spring of 2004, will allow lawyers and members of the public to search court docket information from their desktop computers. Work is ongoing with respect to the development of the technical architecture for the electronic filing of court documents. Rules are being drafted for a pilot project which is currently scheduled to begin in the fall of 2005.

From a policy perspective, the ability to offer electronic access to court record information raises particular challenges and new issues which demand an examination of the balance between two fundamental values: open access to the courts and individual privacy. In May 2003, the Judges Technology Advisory Committee to the Canadian Judicial Council released a paper entitled: "Open Courts, Electronic Access to Court Records and Privacy". This paper explores the many policy and logistical issues which must be confronted in the shift to an electronic court record. It is available on the Canadian Judicial Council website at www.cjc.ccm.gc.ca.

In BC, the courts have been at the forefront of Canadian jurisdictions with respect to policy development in this area. All three levels of court adopted an Electronic Access Policy in

2002. This policy is administered by the Judicial Access Policy Working Committee, the work of which is outlined in the appended Committee reports.

Following on the design requirements process which took place in 2002, work began on developing the technical architecture for our new Supreme Court Scheduling System (SCSS). Once this new province wide integrated scheduling system is in place, it will replace several outdated and unconnected electronic systems. We are looking forward to the launch of this system which will greatly enhance the court's efficiency in scheduling matters for hearing and in having improved access to management information.

One of the challenges which our court continued to face this past year is an increase in the number of litigants appearing before the court without legal representation, particularly in the family law area. This presents unique issues for judges and masters dealing with these matters. In November 2003, the court's educational conference devoted one day to the discussion of unrepresented litigants. Aside from educational initiatives to assist the court to better deal with these challenges, the court has lent its support to two major initiatives to assist litigants who cannot afford to hire a lawyer. The first is a collaborative effort among a number of stakeholders under the leadership of the Law Courts Education Society to establish a self-help centre in the Vancouver courthouse (with a New Westminster location to follow in the second phase). This will coordinate the services which are currently available in the community to help those litigants who have to appear on their own behalf. Such a service would be of great assistance to both the court and the registry staff by providing a place to which litigants could be directed to access information on court process and procedures. Secondly, with the support of the court, Pro Bono Law BC, has undertaken a project to develop a volunteer roster of civil duty counsel who can appear on behalf of low income litigants in chambers. The court is grateful to the organizations who are involved in these initiatives. The court also continues to support the work of the Western Society to Access Justice and the Salvation Army Pro Bono Lawyer Consultant Program to provide legal advice to litigants in our court who are unable to hire a lawyer. The court is grateful to all the organizations who are involved in providing services to unrepresented litigants.

During 2003, I continued to actively participate in the Justice Review Task Force ("JRTF"). This group, made up of representatives of key players in the justice system, meets on a regular basis to explore options for reform with the objective of making the justice system more responsive, accessible and cost effective. The JRTF web site is found at www.bcjusticereview.org.

One of the first priorities of the JRTF when it was initiated in 2002 was to consider reform in the family justice system and in particular, whether a Unified Family Court model should be adopted in this jurisdiction. In 2003, the JRTF appointed a Family Law Working Group made up of representatives from the judiciary, family law bar, family justice service providers, family mediators and government policy analysts to explore options for fundamental change in the family law system that will better serve the parents and children who access it.

The JRTF is also examining the nation wide trend towards large criminal trials, often referred to as "mega trials", which is a subject currently being examined by Ministers of Justice across the country. Many jurisdictions have now had the experience of accommodating long running massive criminal trials which raise unique issues relating to

jury management, security and court house facilities. The JTRF is monitoring this national dialogue and will consider any potential reforms which emerge from this debate.

Mostly recently, the JRTF has struck another working group to examine how the justice system can more effectively respond to street crime. The group, made up of members of the provincial court judiciary, corrections and law enforcement personnel, lawyers and government representatives, will focus initially on the Vancouver downtown eastside where much of the street crime is committed by repeat offenders who may be suffering from mental illness, addictions or other social problems. The goal of the group is to design a model for identifying and dealing with those offenders who could most benefit from treatment or other intervention and delivering services to these individuals in a way that will provide a long term solution to recurring criminal behaviour.

During 2003, the court underwent a rationalization of its committee structure to streamline the committee process and eliminate several committees that were no longer necessary. The work of several of the core court committees is outlined in the accompanying committee reports.

In 2003, we welcomed a new Director of Judicial Administration, Alix Campbell. Ms. Campbell was called to the bar of British Columbia in 1980 and practiced both as a crown prosecutor and in private practice. From 1986 onward, she ran a consulting firm and worked on numerous justice system projects. Ms. Campbell also comes to us with a wealth of experience in institutional computer automation project management. We are most grateful to have the benefit of her guidance.

It is with much sadness that I report the loss of our colleague, Mr. Justice Lysyk, who passed away on July 28, 2003.

This report gives me an opportunity to acknowledge and express my gratitude to my colleagues, the judges and masters of this court, for their generous support and assistance over the past year.

Finally, I wish to thank the staff employed by Judicial Administration and Court Services whose tireless efforts are essential to the administration of justice in our court.

Donald I. Brenner,
Chief Justice

CHANGES IN THE COURT'S COMPLEMENT IN 2003

In 2003, two members retired from the bench: Mr. Justice Coultas and Mr. Justice Catliff. In addition, Mr. Justice Henderson resigned and Mr. Justice Oppal and Mr. Justice Lowry were both elevated to the Court of Appeal. These members of the bench will be greatly missed.

In addition, there were three transfers in 2003. Mr. Justice Drost transferred from Vancouver to Nanaimo. Master Patterson transferred from Vancouver to Nanaimo to take up the resident Master vacancy left by the retirement of Master Horn. Master Groves transferred from Kamloops to Vancouver to take the place of Master Patterson.

1. Deaths

The Honourable Mr. Justice Kenneth Lysyk was born on July 1, 1934 in Weyburn, Saskatchewan. He won a scholarship to McGill where he completed his B.A. in 1954. He returned to the University of Saskatchewan to study law. After obtaining his LL.B. he took up studies for his Masters in Law degree at Oxford. In 1960, he became a member of the Faculty of Law at the University of British Columbia and he was one of the first legal academics in Canada to specialize in Aboriginal rights and title. In 1969, he became a Privy Council Office Advisor and then in 1972 was appointed as the Deputy Attorney General for Saskatchewan. In 1976, he returned to Vancouver to become the Dean of the UBC Faculty of Law. He was appointed to the Supreme Court in 1983 where he sat until his recent illness. During his last ten years of his time on the bench, he devoted much time and energy as B.C. vice-president of the International Commission of Jurists.

2. Retirements

The Honourable Mr. Justice Gerald Coultas was born in Vancouver. He studied law at the University of British Columbia and was called to the bar in 1956. Mr. Justice Coultas practised with the firm of Drost & Co. for 20 years before his eventual appointment as a Provincial Court Judge in November of 1977 and further appointment as the Chief Judge of the Provincial Court in 1983. He was elevated to the Supreme Court of British Columbia on April 27, 1988. Mr. Justice Coultas retired on May 1, 2003.

The Honourable Mr. Justice Michael Catliff was born in London, England. He studied law at Oxford and graduated in 1951. He was called to the bar by the Inner Temple in 1952 and practised in Common Law Chambers. In 1956 he came to Vancouver and joined the firm of Douglas, Symes & Brissenden where he continued to specialize in civil litigation. He remained there until his appointment to the County Court of Vancouver on July 15, 1975 and his further appointment to the Supreme Court of British Columbia on July 1, 1990. Throughout his time at the bar, Mr. Justice Catliff remained active in community activities such as the Catholic Children's Aid and the Crisis Intervention Centre, and as a member of the Vancouver Bar Executive and its group called The Twenty Club. During his time on the bench, Mr. Justice Catliff continued to contribute his time to the administrative activities of the court. In particular, he was a long serving member of the Supreme Court Rules Committee and served as its chair from 1986 to 1993. Mr. Justice Catliff retired on June 30, 2003.

The Honourable Master John Horn was born in Portuguese East Africa (now Mozambique) in 1933 but spent most of his childhood in Southern Rhodesia (now Zimbabwe). He attended the University of Capetown and graduated in 1956 with both a B.A. and a law degree. For the first four years of practice, he worked as a prosecutor. He then joined a private firm where he practiced until his departure for British Columbia in 1966. He settled in Nanaimo where he articulated and practiced. He spent stints teaching law at both UVic and UBC. Master Horn contributed immensely to the profession both while in practice and after his appointment to the bench. He served 29 years on the Rules Revision Committee, two of those as Chair, and is the co-author of one of the most important and well known works on civil procedure in this jurisdiction; *Conduct of Litigation in British Columbia*. He also sat on numerous boards and served as a Bencher for the County of Nanaimo. In 1989, he was appointed as a Master of the Supreme Court.

The Honourable Master Kenneth Doolan was born in Edmonton, Alberta in 1933. During his childhood he migrated west and, in 1962, graduated from UBC with a commerce and law degree. He articulated to Allan McEachern and was called to the bar in 1964. He practiced for 21 years before his appointment as a District Registrar in 1984. Master Doolan was part of a group of 10 masters appointed upon the creation of the Masters Program through amendments to the *Supreme Court Act* in 1989. Master Doolan was a tireless contributor to the Masters Program and its success owes much to his dedication and hard work.

3. Resignations

The Honourable Mr. Justice Alexander Henderson was born in Montreal, Quebec. He received his B.A. degree from Bishops University in 1965 and graduated from Osgoode Hall Law School Faculty in 1968. He articulated at Bull Housser and Tupper and was called to the bar in 1970. Immediately thereafter, he joined the Vancouver City Prosecutor's office. In 1974 he left the City and began a criminal defence practice in Gastown. Throughout the 1970s he continued to provide advice and guidance to the commercial crime prosecution unit of the Vancouver office of the Criminal Justice Branch. In 1981 he joined Davis and Company and remained there until his appointment to the Supreme Court on April 25, 1995. Mr. Justice Henderson resigned on June 28, 2003 to take an appointment with the Grand Court of the Grand Cayman Islands.

4. Appointments

In 2003, we welcomed four new judges and one new master all of whom are valued additions to the Court:

The Honourable Mr. Justice Eric Rice was appointed to the Supreme Court at Vancouver on July 24, 2003. Mr. Justice Rice was born and raised in Winnipeg. He received his LL.B. from Dalhousie Law School in 1971. He went on to obtain his Masters of Law from the London School of Economics and then settled in Vancouver where he articulated with Shrum, Liddle and Heberton. After short stints with Lawrence & Shaw and with Mabel Eastwood, he settled in Richmond in 1976 with the firm that is now Campbell Froh May & Rice. He became a partner in 1978 where he continued to practice until his appointment to the Bench. Throughout his career Mr. Justice Rice has been active with the Canadian Bar Association. He worked in the young lawyers section and rose through the ranks of the B.C.

Branch to be its president and after through the ranks of the National Branch to become its president.

The Honourable Mr. Justice Stephen Kelleher was appointed to the Supreme Court at Vancouver on July 24, 2003. Mr. Justice Kelleher received his B.A. from the University of British Columbia in 1968, having moved with his family to Vancouver from Montreal. He received his LL.B. from U.B.C. in 1973 and was admitted to the B.C. bar in 1974. He showed an interest in labour law early on and, while in his third year of law school, he was selected as the legal assistant to the Committee of Special Advisors who prepared the landmark 1973 provincial *Labour Code*. In 1974, Mr. Justice Kelleher joined the firm that became known as Munroe, Fraser and Kelleher, practicing primarily as counsel in labour arbitrations and administrative law matters. He left that firm to serve as vice-chair, in 1981, then chair, in 1982-84, of the Labour Relations Board, before returning to private practice in 1984. Mr. Justice Kelleher acted exclusively as an arbitrator and mediator from that time until his appointment to the bench. He was appointed Queen's Counsel in 1994 and served as a bencher for the Law Society from 1988 to 1993.

The Honourable Mr. Justice Lance Bernard was appointed to the Supreme Court at New Westminster on July 24, 2003. Mr. Justice Bernard received his Bachelor of Laws from the University of British Columbia in 1980 and was called to the bar of British Columbia in 1981. Mr. Justice Bernard practiced law with the Crown Counsel Office where he served as Deputy Regional Crown Counsel, Senior Trial Counsel and in other capacities. Mr. Justice Bernard is an active contributor to the legal community being a frequent guest lecturer and panelist and having acted as Chair of the Advisory Committee to the Judicial Council for the Provincial Court of B.C.

The Honourable Mr. Justice William Ehrcke was appointed to the Supreme Court at Vancouver on October 28, 2003. Mr. Justice Ehrcke holds a Ph.D. in Philosophy from the University of Calgary and was a member of the first graduating class of the law faculty at the University of Victoria in 1978. Prior to enrolling in law school, he was a visiting professor in philosophy at the University of Toronto and the University of Victoria. Mr. Justice Ehrcke clerked at the British Columbia Court of Appeal during his articling year and was called to the bar in 1980. He practiced for a short time at what was then the firm of Schrum, Liddle before joining the Ministry of the Attorney General Criminal Justice Branch as a prosecutor in 1981. Since 1987 and at the time of his appointment, he was an appellate counsel with the Ministry. Mr. Justice Ehrcke was a member of the Credentials Committee of the Law Society of British Columbia where he had been active for many years. He has lectured on various topics in criminal and constitutional law at the University of Victoria, University of British Columbia and for the Continuing Legal Education Society of British Columbia. Mr. Justice Ehrcke is the author and co-author of several legal publications including the British Columbia Annual Criminal Practice.

The Honourable Master Hope Hyslop was appointed to the Supreme Court in Kamloops on March 21, 2003. She replaces Master Joel Groves who transferred to Vancouver in 2003. After obtaining a B.A. from the University of Fredericton, Master Hyslop earned her LL.B. from the University of British Columbia in 1966. She articulated with the Kamloops firm of Fulton & Company and with the exception of one year of practice in Vancouver, spent the rest of her litigation practice in Kamloops. During this year, Master Hyslop developed a reputation as one of the Interior's most well respected family law litigators. Throughout her career Master Hyslop generously shared her time and experience by presenting at CLE

conferences, sitting as a member on the Supreme Court Rules Revision Committee and participating in the CBA Family Law Subsection.

MANAGEMENT INFORMATION

The four charts in this section provide statistical information regarding the number of filings received in Supreme Court on a yearly basis as well as information on the quarterly volume of chambers applications heard and scheduled in Vancouver and New Westminster.

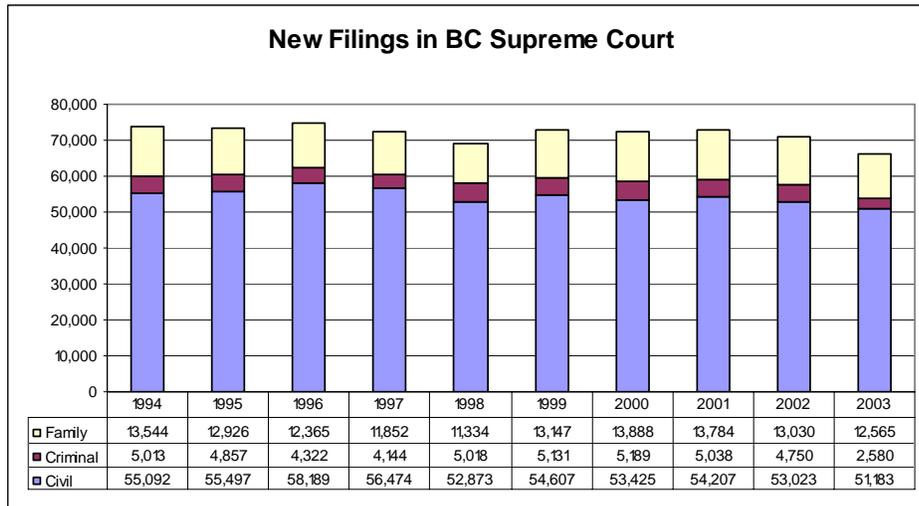


Figure 1*

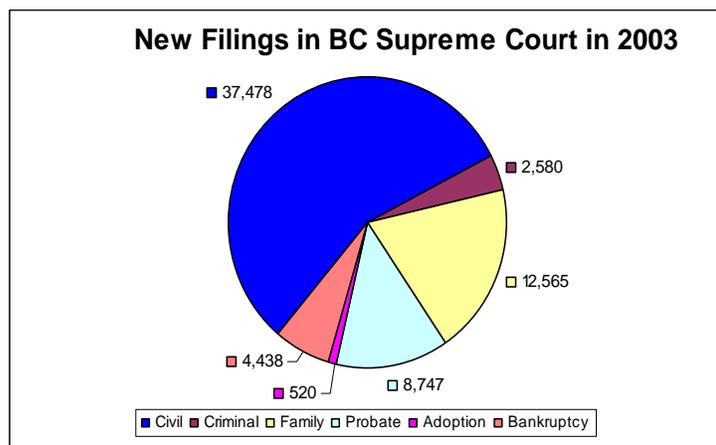


Figure 2*

* 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 *Family Relations Act* filings.

*Figure 2 shows greater detail regarding the types of new filings received by the Supreme Court in 2003.

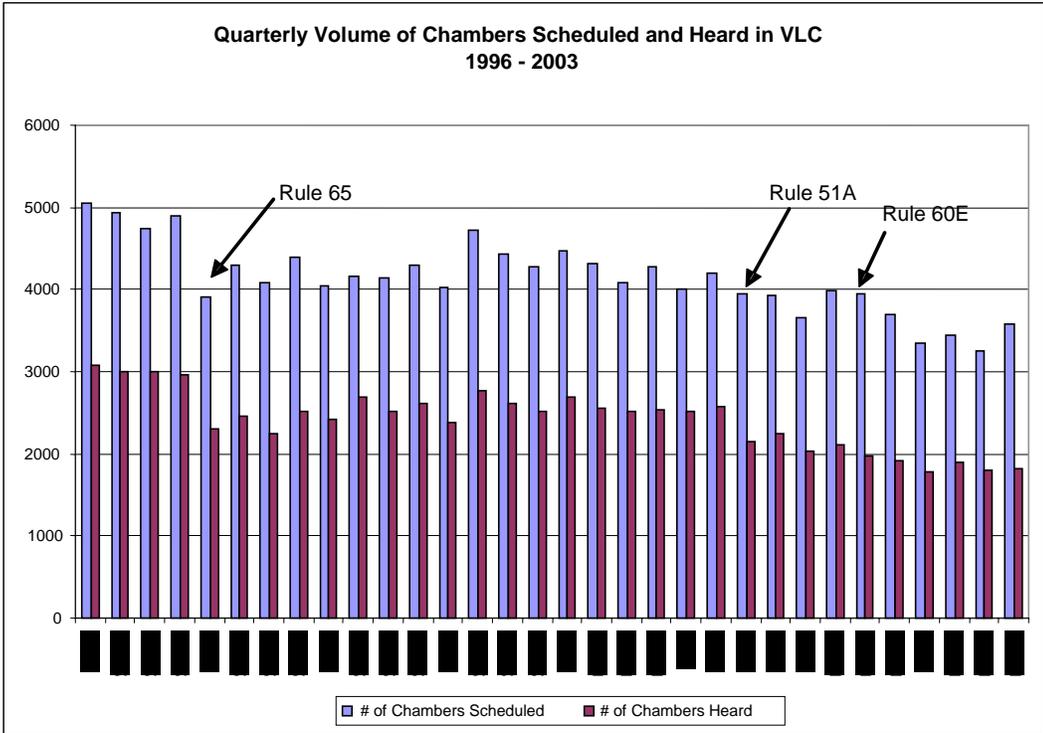


Figure 3*

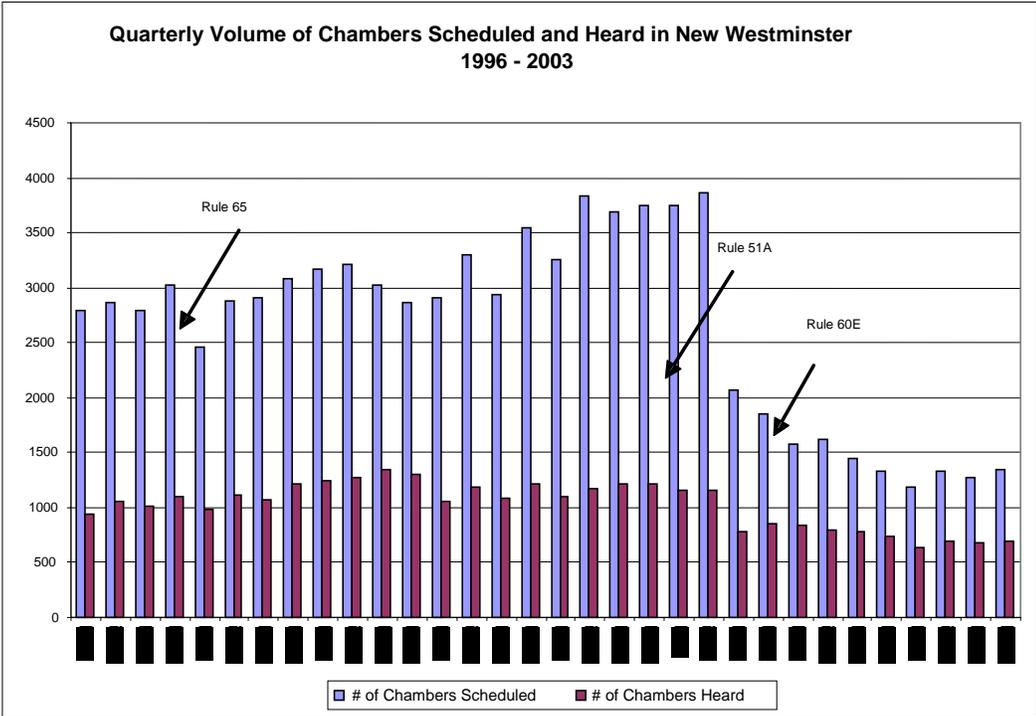


Figure 4*

* Figure 3 shows the quarterly volume of chambers applications scheduled and heard (under two hours in duration) in Vancouver from 1996 to the first quarter of 2004. 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 scheduled and heard (under two hours in duration) in New Westminster for the same time period.

Criminal Law Committee

Members: Madam Justice Holmes (Chair)
Madam Justice Bennett (Vice Chair)
Mr. Justice Cullen
Mr. Justice Josephson
Madam Justice Koenigsberg
Madam Justice MacKenzie
Mr. Justice Romilly
Mr. Justice Stewart
Madam Justice Stromberg-Stein
Mr. Justice Williams

Several of the matters of current interest to the committee follow from statutory or common law developments in criminal procedure that affect the pre-trial applications that judges hear, court registries' record-keeping and other administrative processes.

One such matter is the complex and evolving area of wiretap authorizations and review. A working group, chaired by Cullen J., is developing materials to assist judges hearing authorization applications, and is helping the court's Education Committee plan a comprehensive educational programme on wiretap applications and reviews of authorizations, for the court's May, 2004 conference. Procedural issues, such as whether non-emergency wiretap applications should be tape-recorded, are also under the working group's consideration.

Also under review is the procedure for the determination of whether solicitor-client privilege attaches to materials seized by warrant. The committee will consider whether procedural guidelines for the hearing of these applications would assist a more orderly and expeditious process, without creating needless burdens for counsel.

Applications for the production of confidential records in sexual offence cases lead to practical issues for court registries, such as how an appropriate record is to be created and maintained for the purposes of any appeal. A working group led by Bennett J. will consider such administrative issues along with the need for educational materials to assist judges hearing the applications for production.

These initiatives fall within the committee's larger and ongoing concern to improve the effectiveness of the pre-trial process and therefore the efficiency of criminal trials, while also maintaining trial fairness.

"Holmes, J."

Joint Courts Technology Committee

Members: *The Honourable Mr. Justice Tysoe (Chair)*
The Honourable Mr. Justice Pitfield
The Honourable Madam Justice Boyd
Alix Campbell, Director, Judicial Administration
Jennifer Jordan, Registrar, B.C. Court of Appeal
Judith Hoffman, Supreme Court Law Officer
Cindy Friesen, Manager, Trial Coordination

The mandate of the Technology 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 Committee meets generally once a month. The following topics were discussed at the meetings over the past year.

The Committee welcomed Judith Hoffman and Cindy Friesen as new members of the Committee. It was felt that as representatives of other judicial users they could make valuable contributions.

Court of Appeal WebCATS

Replacement of the Court of Appeal Tracking system with a new web-based case tracking system called WebCATS was completed in 2003.

Supreme Court Trial Scheduling System (SCSS)

Work has begun on replacing the Supreme Court Scheduling system. The same company developing WebCATS is doing the trial scheduling system. A steering Committee has been created with Mr. Justice Tysoe as chair. The implementation for the scheduling system is planned for spring 2004.

Electronic Filing

CSOnline is currently being developed by Court Services. The Committee attended a demonstration of the proposed electronic search facility and were favourably impressed. Electronic filing will be developed after the electronic search capabilities on the new case tracking systems in the Supreme Court and Court of Appeal. Eventually, counsel or a member of the public will be able to do basic searches on civil files to find out case details such as next hearing date and the results of the hearings. It is anticipated that electronic search will be implemented for the Supreme Court in the spring of 2004. Electronic filing is being scheduled for implementation in the fall of 2005. In the meantime, e-filing rules are being developed for all courts.

Internet/Intranet Design

The Courts' Website and the intranet have been redesigned and were deployed in February, 2004. The redesign allows the IT staff to take advantage of current technology to update the site automatically. The design of the site will resemble the current design of WebCATS and Supreme Court Scheduling System. In addition, the site will adopt some of the government standards for websites. There is a working committee involved in reviewing the design and content.

Report from IT Services

In late spring all of the servers were replaced and upgraded with the current software. This is part of the Transition Project undertaken by IT Services. All courtrooms have been wired to the judicial network so a judge may take a laptop into the courtroom and be connected to the network. Cables are to be provided by Court Services. The current focus of the IT group is on customer satisfaction. The Committee agreed that IT Services has been performing admirably to date. Mark Hujanen, the manager of IT Services, is looking forward to undertaking some more long term projects such as external access for judges (VPN and Citrix) as well as security upgrades and the monitoring of the servers and network for performance.

Bulk Access Agreements

There are currently several bulk access agreements between Court Services and private companies who access current Supreme Court civil new files. A flat fee is charged for the access. With the advent of electronic filing, there will be an increased demand for electronic access to court information. The Committee has been asked to consider an amendment to the Electronic Access Policy (which was approved by all three courts in 2002) to include access to bulk material. The Supreme Court Executive Committee and the Court of Appeal Planning Committee are also being asked to look at the proposed amendment.

Links to the Courts' Website

There have been a few requests to the webmaster to add links to specific websites on to the Courts Website. The Committee decided to adopt a policy forbidding any links from the courts' website to any commercial site.

Judgment Templates

New judgment templates for the Supreme Court and Court of Appeal were approved by the Committee. The revised templates take into account the revisions to the document "Canadian Guide to the Uniform Preparation of Judgments." The guide was approved in 2002 by the Canadian Judicial Council.

Security Blueprint

A draft "Blueprint for the Security of Judicial Information" was circulated in the summer of 2003 for feedback. The report was reviewed by Tysoe, J., Steve Blanchard and Mark Hujanen and the comments were then forwarded to Martin Felsky, a member of the Security Sub-Committee of the Judges' Technology Advisory Committee. Comments were favourable to the blueprint although there was some concern expressed about the mandatory language of the report. The Blueprint is currently on the Canadian Judicial Council website for consultation purposes (www.cjc-ccm.gc.ca).

Security of E-mail Transmissions

The Committee discussed the security of e-mail transmissions within the courts' network. It was brought to the Committee's attention that e-mails sent from court locations outside of the lower mainland relied on the B.C. government's network which did not have the same firewall protection as did the courts in Vancouver. The IT department implemented encryption of e-mails on all judicial computers as a response to the problem.

Acceptable Use Policy

The Judges' Technology Advisory Committee of the Canadian Judicial Council has prepared an "Acceptable Use Policy" for judges and judicial staff. This policy has been reviewed by the Committee and will be approved, with a few changes, before it is sent to the full court meetings for adoption by the judges.

DivorceMate Software Program

This program was purchased for Supreme Court judges and installed for use on the network. It was brought to the Committee's attention that DivorceMate was using this purchase as a marketing device in literature that boasted "the BC judiciary have ...embraced the program." The Director of Judicial Administration wrote to the company and asked for a retraction of the statement, which was accomplished.

Computer Use by Juries

A judge allowed a member of a jury to take notes on his laptop, provided that all notes taken during the trial or deliberations were eliminated from the computer once the jury left the courthouse. The Committee will be asking the Supreme Court Executive Committee whether there is a need for a policy on the use of laptops by jurors.

"Tysoe, J."

Public Affairs Committee

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

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

In the past year, with the retirement of Lloyd McKenzie in March of 2003, members of the committee have played an increased role in answering media requests, building upon the foundation left by the indefatigable Lloyd. Most such requests come through Linda Larson, the Chief Justice's executive assistant (or sometimes Lois McLean). She is able to deal with many requests which involve spelling of a Judge's name, how long he or she has been on the bench, practice directions and so forth. Queries of a legal nature are referred to Judith Hoffman. Where necessary, there is a referral to the Chief Justice or Williamson J. Over the past year there have been close to 100 requests. To date, this arrangement seems to be functioning well.

As was noted in the committee's report last year, the committee is cognizant of the tension resulting from the different roles of the media and the courts. Nevertheless, the committee continues to assist the media where appropriate, aiming at a higher level of accuracy. The committee has met with working courthouse journalists twice over the past year, and the Chief Justice and Chair have met with individual journalists from time to time.

The committee has continued to work with the Sheriffs on the administration of the recording device policy, permitting accredited journalists to record court proceedings for the purpose of verifying the accuracy of their reports. As of March, 77 journalists throughout the province have become accredited. This year, a new process utilizing photo identification cards has been implemented.

The committee has continued to assist the Law Courts Education Society, particularly with respect to the Persian dinner in November, and school liaison programs. Bi-annual informal lunches with the court clerks continue.

“Williamson, J.”

Family Law Committee

***Members: Mr. Justice Joyce (Co-Chair)
Master Donaldson (Co-Chair)
Mr. Justice Cole
Mr. Justice Chamberlist
Mr. Justice Ralph
Mr. Justice Preston
Master Patterson
Ms J. Hoffman***

In November 2003 Madam Justice Martinson elected to resign from the Family Law Committee, resulting in the appointment of a new chair and co-chair. The Committee is indebted to Madam Justice Martinson for all her hard work, guidance and dedication during her time on the Committee.

During the past year the Committee's attention has been focused on the Judicial Case Conference Pilot Project, which passed its first anniversary on July 1, 2003. The Committee continues to receive positive informal feedback with respect to the effectiveness of the program.

Taking into account the experience to date and in consultation with the Committee, in November 2003 the Chief Justice made the following mid-course changes in the manner in which the pilot project was operating:

- (a) the assignment of judges and masters to the JCC rota was reduced from 6 months to 3;
- (b) in Vancouver, family chambers and civil chambers were combined; and
- (c) a decision was made to "overbook" JCC's to avoid down time with the proviso that judges or masters not currently assigned to the program would be assigned as necessary to ensure that JCC's did not have to be adjourned.

With the assistance of Dr. Mu, the court's Information Analyst, the sub-committee that has been struck to evaluate the project is in the process of assembling and analyzing empirical data with regard to the effectiveness of the pilot project. The sub-committee will also be collecting and analyzing subjective information from judges, masters, lawyers and, hopefully, litigants who have been involved in the Judicial Case Conference Program.

It is anticipated the Committee's report on the evaluation of the program will not be completed until after the two year period currently fixed by Rule 60E for the pilot project. Consequently, with the agreement of the Committee, the Chief Justice has requested the Attorney General's Rules Revision Committee to seek an extension of the pilot project until July 2005.

"Joyce, J."

Education Committee

Members: Mr. Justice Sigurdson (Chair)
Madam Justice Beames
Mr. Justice Barrow
Mr. Justice Cullen
Madam Justice Loo
Madam Justice Martinson
Madam Justice Neilson
Mr. Justice Goepel
Mr. Justice Slade
Madam Justice Satanove
Madam Justice L. Smith
Mr. Justice Williamson
Master Baker
Master Groves
Judith Hoffman (Law Officer)

The mandate of the Education Committee is to assist members of the court to keep informed of the constant developments in the law and to organize regular educational conferences that cover areas of interest to the members of the court. In 2003, our court held three educational conferences which included joint sessions with the Provincial Court and the Court of Appeal. The joint sessions were particularly successful and consideration is being given to holding joint conferences on a more regular basis. The Committee has been at work to plan two educational conferences for 2004. The Committee also organizes more informal sessions which take place bimonthly during the noon recess. Judges outside Vancouver attend these sessions via teleconference.

The Education Committee continues to receive tremendous support from the National Judicial Institute in the way of organizational, planning and logistical assistance for our conferences and we are most grateful for their efforts.

In 2003, Mr. Justice Fraser Wilson resigned from the Education Committee and his position as Co-Chair. We are grateful to Mr. Justice Wilson for his contributions and in particular, his most recent efforts in organizing our very successful joint educational conference with the Provincial Court.

"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. Gouge, Q.C.
 Mr. N. Smith, Q.C.
 Mr. J. K. McEwan
 Ms. J. Hoffman (Law Officer) – Secretary
 Mr. Bill Grandage (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. 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 2003, the composition of our Committee remained relatively stable. In early 2003, Mr. Richard Rondeau retired from his position as Regional Director of Court Services. Mr. Bill Grandage has taken up this position and attends our meetings as an ex officio member to represent the views of Court Services.

III. Work of the Committee in 2003

Some of the more significant issues that the Committee worked on in 2003 included the following:

(a) Tariff Review

In June 2003 the Committee released a discussion paper on the Tariff of Costs with the purpose of engaging a wide variety of stakeholders in a dialogue about proposed revisions to the Tariff of Costs. We received a number of very thoughtful submissions from lawyers, members of the public, institutions and professional organizations. The Committee is currently reviewing the submissions received and will be considering potential amendments in the coming months.

(b) Fax and Electronic Filing

In July 2003, the Fax Filing Pilot rule came into force which allows most Supreme Court documents to be delivered by fax for the purposes of filing. Fourteen registries are participating in the pilot. In the fall of 2003, Court Services advised the Committee that work was underway to pilot an electronic search and filing service and asked it to consider what rule amendments were required to allow parties to file court documents electronically through an internet portal. Since the fall of 2003, a joint courts committee made up of representatives of the Provincial and Supreme Courts, the Court of Appeal and Court Services have been meeting to draft rules for an e-filing pilot project. It is anticipated that a new electronic filing rule will be in place by no later than September 2004 which will allow for the refinement of the technical architecture of the system as well as the design of pilot testing which will commence in 2005.

Some of the more substantial rule amendments passed in 2003 included the following:

Rule 14(6) – This amendment allows the court to make directions to allow a party to take certain steps in a 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.

Rule 37A – This amendment preserves the ability of a party to make a written offer of settlement in any circumstance in which a formal offer to settle under Rule 37 is not available.

Rule 67 (Fax Filing) - 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.

Some rule amendments considered in 2003 and expected to be enacted in 2004 include:

Rule 60(41.1) – This amendment allows for public access to limited electronic court docket information in family files which is currently available from public access terminals in registries and will eventually become available over the Internet through the Electronic Access service which will be piloted by Court Services during 2004.

Rule 60E – The Judicial Case Conference Rule will be extended to July 2, 2005.

Rule 67(10) – The Fax Filing Pilot Project will be extended to July 2, 2005

Schedule 1 of Appendix C – The rule with respect to applications for indigent status will be amended to state that the court may grant an indigency order for an entire proceeding, specific parts or steps in the proceeding or for a specified period of time. The amendment also makes it clear that the court may vary or rescind any indigency order made.

IV. Other Matters Currently Under Consideration

Some of the more significant matters currently under active consideration by the Committee include:

- Test for Production of Documents under Rule 26(1)
- Prescribed form of accounts in estate matters
- Timing of Jury Notices
- Supreme Court E-filing Rules

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 Clerks Committee

***Members: Madam Justice Humphries, Chair
Mr. Justice Curtis
Madam Justice Kirkpatrick
Mr. Justice Shabbits
Ms. Judith Hoffman, Law Officer***

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 2003, 17 law clerks began their clerkships with the Supreme Court. Of these, 13 are located in Vancouver, 2 in New Westminster and 2 in Victoria. Each law clerk is assigned to a compliment of 5 to 7 judges.

By way of recruitment activities, notices were sent to law schools across the country advising of the details of the clerkship program in September 2003. The recruitment information included on the courts' website was also expanded. In November 2003, several judges, current clerks and the Law Officers from the Supreme Court and the Court of Appeal attended the Faculties of Law at UBC and UVic Law to speak to law students about the law clerk program and the benefits of clerking. These events were very well attended.

In January 2003, Meg Gaily, Law Officer to the Court of Appeal, and Judith Hoffman, Law Officer to the Supreme Court, received 90 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 2003. Of these candidates, the Supreme Court Law Clerk Committee interviewed 33 and selected 17 candidates for the law clerk positions for the 2004-2005 term.

Of the 17 law clerks who commenced their terms with the Supreme Court in September 2003, 10 are graduates of UBC Law School, 4 are graduates of the UVic Law School, and 3 are from Dalhousie University, the University of Manitoba and the University of New Brunswick respectively.

For the term commencing September 2003, the law clerks for the Court are:

Arpal Dosanjh	Kelley Bryan
Fiona Mendoza	Jennifer Walker
Karolina Hoffmann	Amy Davison
Jordanna Cytrynbaum	Henry Leung
Mark Bussanich	Kevin Contzen
Natasha Bone	Edwin Chan
Joseph Saulnier	Peter Schmidt
David Bennett	Jeanie Lanine
Ramona Roberts	

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. Diane Lemieux, Librarian

The theme for 2003 was one of adjustment and change. With many of the technological advances over the last few years and some personnel changes, the timing was right for a complete look at the library services provided for the members of the judiciary. In order to help us plan, a survey was sent out at the end of September to all judges and masters to establish what their user preferences and library needs currently are and what we could expect them to be in the foreseeable future. The results of the survey were somewhat varied, but not surprising. They will help us decipher what the pace of change should be and where the library should be heading. We reached the following conclusions:

- Subscriptions should continue for annual hard bound volumes to federal and provincial statutes.
- Subscriptions should continue to the annual hard bound copies of the Rules of Court.
- Subscriptions to the various case law reporters should continue, with the cost of upkeep continually checked against the cost of on-line subscriptions where available.
- Subscriptions to case law digests should continue.
- Annotation of case law reports should continue for the time being.

Networking with other law libraries through memberships with CALL (Canadian Association of Law Libraries) and VALL (Vancouver Association of Law Libraries) continues our ability to access legal information resources and services from other law library members coast to coast. As well, registration with the National Library of Canada now allows us access to inter-library loan services with other libraries across Canada.

An upgrade to the library's software program, DBTextworks was purchased in December, which will enable us to enhance our research capabilities and streamline operations. A programme of regular weeding, repair and binding to improve functionality, condition and accessibility of the collection has continued with additional involvement in the New Westminster Judges' Library.

The library continues the administration of the Superior Courts Quicklaw account for the purpose of passwords and training for law clerks and judicial staff. Enhancement and maintenance of the library pages in our in-house 'Intranet' site keep our links to the Internet resourceful and up-to-date. Suggestions to include links to in-house conference papers and course materials have begun and will continue to be implemented in the new year.

The year 2003 would not be complete without the mention of the retirement of Anne Rector last spring. Anne will be fondly remembered for years to come by many of the judges and law clerks who partook of her assistance during the last 28 years. Anne worked not only in

the current courthouse located at 800 Smithe St. but also at the grand "Old" courthouse location (now the Art Gallery on Georgia St.). We wish her a long and happy retirement.

"Newbury, J. A."

JUDICIAL ACCESS POLICY WORKING COMMITTEE

Members:

Jennifer Jordan, Registrar, Court of Appeal (Chair)

Alix Campbell, Director Judicial Administration, Superior Courts

Meg Gaily, Law Officer, Court of Appeal

Judith Hoffman, Law Officer, Supreme Court

Gene Jamieson, Legal Officer, Provincial Court

Mike Smith, Director Judicial Administration, Provincial Court

Kathryn Thomson, Legal Policy Consultant

Virginia Day, Director, Business Development and Change Management, Court Services

Mandate of the Committee

With the introduction of electronic case tracking systems in the courts of British Columbia, and the future plan to introduce electronic filing, it was necessary to consider the development of policies relating to access to court record information by the public and other interested parties. Since the judiciary create policies governing access to this information while Court Services is charged with the collection and storage of this information, a joint committee was contemplated which would bring together all three levels of courts. The Committee is a working group which develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies. The Chief Justices and Chief Judge are then consulted before a policy is adopted.

Work of the Committee

In 2002 the Chief Justices, Chief Judge, the Deputy Minister and Assistant Deputy Minister approved the Electronic Access Policy. This is a policy governing access to an electronic system which ensures that the proper level of judicial control over civil court information and processes is maintained. The Policy is considered a work in progress and it is anticipated that as issues develop the policy will be amended in order to accommodate particular issues. This draft policy, managed by the Access Policy Working Committee, is intended to form the basis for the development and maintenance of an electronic access policy governing an electronic court services system.

Since access is such a large issue in the courts, the Committee will also be charged with considering all access to court records generally, without limiting the policy development to electronic access.

In 2003 the Committee, which meets monthly, was involved in several requests relating to access to court record information. The Committee also reviews proposals relating to specific topics which need further investigation in the electronic world. What follows is a small list of items considered:

- Bulk and special access (commercial access) to electronic court records

- Status of court records under the *Freedom of Information and Protection of Privacy Act*
- Traffic Tickets – disclosure of personal information
- Consultation regarding access to court records in administering the *Unclaimed Property Act*
- Court Services Online, including E-Search of court records
- Policy respecting access to criminal records where pardons have been issued
- Electronic signatures in employment standards decisions
- Schedule for retention of Court record information
- Access to criminal record information
- Whether Chambers Lists are “records in a court file” for the purposes of the Privacy Legislation
- Formalizing the application procedure for access to the various court systems

Many of the issues which arise in the electronic environment relate to the tension between the openness of the court process and the desire for the protection of private information of those involved in the court process. Reference to the complexity of the issues may be found in the excellent discussion paper issued by the Canadian Judicial Council entitled “Open Courts, Electronic Access to Court Records, and Privacy” May, 2003 (http://www.cjc-ccm.gc.ca/english/news_releases/2003_09_04.htm) The discussion paper was prepared by the Council's Judges Technology Advisory Committee, whose mandate includes examining the effective use of technology in Canada's courts. The paper surveys the rapid move across North America to electronic filing and electronic retrieval of court records and docket information, and examines significant policy and practical issues which “e-access” presents for courts and others.

“Jennifer Jordan”

JOINT COURT E-FILING RULES COMMITTEE

Members:

Mr. Justice Macaulay (Supreme Court), Chair

Mr. Justice Mackenzie (Court of Appeal)

Judge Gill (Provincial Court)

Judge Cohen (Provincial Court)

Ken Downing, Senior Legislative Counsel

Ken McEwan, Member of the Bar

Meg Gaily, Law Officer Court of Appeal

Judith Hoffman, Law Officer Supreme Court

Gene Jamieson, Law Officer Provincial Court

Jennifer Jordan, Registrar Court of Appeal

Kathryn Thomson, Court Services Consultant

Late in 2003, the Joint E-Filing Rules Committee was formed drawing members from the three levels of court; a bar representative and senior legislative counsel (both of whom are members of the Supreme Court Rules Committee); the law officers from the three courts; the Court of Appeal Registrar and the Court Services consultant, both of whom sit on the Court Services Online Management Committee.

The electronic filing of documents is planned for implementation in September 2005. The Pilot Project is expected to run in the spring of 2005. In order to prepare for this new procedure, the various rules committees of the courts were approached and asked to participate in this joint planning procedure. The mandate of the Committee is to prepare draft rules which each member can then take back to their respective rules committees and make whatever changes are necessary for their individual courts.

The Committee expressly agreed that issues of access and privacy are beyond the scope of the mandate of this Committee. These are obviously issues which need to be addressed, but this work should be left to the Judicial Access Policy Working Committee and the policy Committees for each of the courts.

Various issues were identified and discussed before legislative counsel could begin drafting. An example of the issues discussed follows:

- Who can file electronically
- Timing and effect of e-filing
- Format of documents
- Which documents can be electronically filed
- Payment of fees
- Signatures
- Electronic service
- Original documents
- Affidavits and exhibits
- Amendments to the BC Evidence Act

"Macaulay, J."