



Supreme Court of British Columbia

2006 Annual Report

The Supreme Court of British Columbia
800 Smithe Street
Vancouver, BC V6Z 2E1
www.courts.gov.bc.ca

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JUSTICES 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 Lander*
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 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 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 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 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 Kelleher
The Honourable Mr. Justice Bernard
The Honourable Mr. Justice Ehrcke
The Honourable Mr. Justice Johnston
The Honourable Mr. Justice Brine
The Honourable Mr. Justice Silverman
The Honourable Madam Justice Fisher
The Honourable Madam Justice Arnold-Bailey
The Honourable Madam Justice Gropper
The Honourable Madam Justice Russell
The Honourable Mr. Justice N. H. Smith
The Honourable Mr. Justice Groves
The Honourable Mr. Justice Leask
The Honourable Mr. Justice Myers
The Honourable Madam Justice Bruce
The Honourable Mr. Justice Smart
The Honourable Madam Justice Dickson

** Indicates Supernumerary*

MASTERS OF THE SUPREME COURT

Master A. Donaldson
Master W. McCallum
Master A. Patterson
Master N. Bolton

Master R. Barber
Master D. Tokarek
Master M. Bishop
Master D. Baker

Master S. Scarth
Master H. Hyslop
Master P. Keighley
Master I. W. Caldwell

Master G. Taylor
Master B. Young

REGISTRARS OF THE SUPREME COURT

William McCallum
Kathryn Sainty
Murray Blok
Carolyn Bouck

Master and Registrar of the Supreme Court
District Registrar (New Westminster)
District Registrar (Vancouver)
District Registrar (Victoria)

JUDICIAL STAFF

Office of the Chief Justice and Associate Chief Justice

Linda Larson	Executive Assistant to the Chief Justice
Lois McLean	Executive Assistant to the Associate Chief Justice
Jill Leacock	Law Officer
Heidi McBride	Law Officer

Judicial Administration

Alix Campbell	Director
Margaret Neuhaus	Manager of Support Services
Colin Sharwood	Manager of Information Technology and Finance

Tammy McCullough	Secretary
Yvonne Samek	Secretary
Michelle Sam	Secretary

Dawn Levert	Manager, Provincial Registrar's Program
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Judicial Administrative Assistants

Vancouver	Adrien Amadeo, Monelle Clements, Sharon Dunn, Tannes Gentner, Bonnie Healy, Felipa Ibarrola, Joanne Ivans, Wanda Lam, Beverlee Lea, Pat Lloyd, Evelyn Mathesius, Linda Peter, Stella Phillip, Samantha Servis, Carin VanderLaan, Rita Wikkerink, Wanda Wilk, Mary Williams, Gail Woods, Stephanie Wyer
Chilliwack	Laura Burgess
Cranbrook	Jeanne Brock
Kamloops	Jane Raggatt, Beckie Allen
Kelowna	Lana Pardue, Sharon LeBlanc
Nanaimo	Pat McKeeman, Patricia Robison
Nelson	Kathie Pereverzoff
New Westminster	Margaret Henderson, Raji Johal, Carrie Mathesius, Brenda McPhee, Brenda Vawda
Prince George	Susan Johns
Prince Rupert	Norma Heke
Victoria	Karen Gurney, Cherry Luscombe, Victoria Osborne-Hughes

Trial Coordination

Cindy Friesen	Manager, Trial Coordination
Krystal Mason	Assistant to Manager, Trial Coordination

Vancouver

Sue Smolen	Civil Trial Coordinator
Mary Ellen Pearce	Criminal Trial Coordinator

Allison Donnelly	Assistant Trial Coordinator
Kim Gunn	Assistant Trial Coordinator
Christine Hutton	Assistant Trial Coordinator
Rhona Ogston	Assistant Trial Coordinator
Carmen Pascuzzi	Assistant Trial Coordinator
Annie Hecimovic	Acting Assistant Trial Coordinator

Laura Hill Acting Assistant Trial Coordinator
Cary Ann Moore Data Entry Clerk
Sasha Milenkovic Data Entry Clerk

Kamloops, Revelstoke, Salmon Arm

Dave McCoy Trial Coordinator

Kelowna, Nelson, Penticton, Rossland, Vernon

Barb Turik Trial Coordinator
Janine Benson Assistant Trial Coordinator

Nanaimo, Campbell River, Courtney, Port Alberni, Powell River

Cheryl Turner Trial Coordinator
Michelle Schley Assistant Trial Coordinator

New Westminster, Chilliwack

Tanya Andres Trial Coordinator
Irene McLeod Assistant Trial Coordinator
Debbie Soroka Assistant Trial Coordinator
Leanne Griffith Acting Assistant Trial Coordinator

Smithers

Sharon Portsch Trial Coordinator

Prince George, Dawson Creek, Fort St. John, Quesnel, Williams Lake

Pamela Wallin Trial Coordinator
Kelly Parmar Acting Assistant Trial Coordinator

Prince Rupert, Terrace

Crystal Foerster Trial Coordinator

Victoria

Dianne Lezetc Trial Coordinator
Tania Linkes Assistant Trial Coordinator
Denise Bigelow Assistant Trial Coordinator
Sandra Smith Acting Assistant Trial Coordinator

Judges Library

Diane Lemieux Librarian
Carmen De Olazaval Annotator
Angela Allwood Library Technician

Judgment Office

Heidi Hoefner Judgment Clerk

Supreme Court Ushers

Donna Cox
Gerry Cumming
Lynne Muckalt
Lyle Bolton

IT Services (provided by Microserve Business Computer Services)

Mark Hujanen
Karen Hujanen
Yasmin Kassam
David Chow
Andre Drewitt
Eddie Chan
Simon Kim

Service Delivery Manager
IT Operations
Service Delivery Analyst
Help Desk Lead Technician
Help Desk Lead Technician
Help Desk Technician
Help Desk Technician

Project Management Office

Bob Braganza

Manager

IT Consultant

Steve Blanchard

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, 85 full-time and 17 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 registrar hearings and decide on pre-trial motions and procedural orders.

CHANGES IN THE COURT'S COMPLEMENT

Appointments

In 2006, the Court welcomed three new judges and one new master:

The Honourable Madam Justice Catherine E. Bruce was appointed to the Supreme Court at New Westminster on September 14, 2006. Madam Justice Bruce replaces Mr. Justice Wong who elected to become a supernumerary judge. At the time of her appointment, Madam Justice Bruce was a Judge of the Provincial Court of British Columbia having been appointed to that court in 1998. Madam Justice Bruce received her law degree from the University of British Columbia in 1976 and was called to the Bar of British Columbia in 1977. Madam Justice Bruce obtained a Masters of Law from the London School of Economics in 1978. Prior to her appointment to the Provincial Court, Madam Justice Bruce practised in the area of labour law with the Canadian Air Line Flight Attendants' Association and with Braidwood, McKenzie. Madam Justice Bruce was a Vice-Chair of the Labour Relations Board of British Columbia from 1981-1987 and had a private labour arbitration and mediation practice from 1990 until her appointment to the Provincial Court.

The Honourable Mr. Justice William B. Smart was appointed to the Supreme Court at Vancouver on December 15, 2006. Mr. Justice Smart was appointed to fill a vacancy created by the sudden death of Mr. Justice J.D. Taylor. Mr. Justice Smart received a Bachelor of Laws from the University of British Columbia in 1975 after representing Canada at the Pan American Games, the Commonwealth Games and the Olympics. Mr. Justice Smart was called to the Bar of British Columbia in 1976. After completing articles, Mr. Justice Smart practised with the Attorney General and with Doust Smith. In 1988 he started his own firm which eventually became Smart, Williams and later Smart Harris & Martland. Mr. Justice Smart was appointed Queen's Counsel in 1996. Throughout his career, Mr. Justice Smart practised in the areas of criminal law (both for the Crown and for the defence) and administrative law. Mr. Justice Smart was a frequent lecturer, a Fellow of the American College of Trial Lawyers and a member of the International Society of Barristers.

The Honourable Madam Justice Gail M. Dickson was appointed to the Supreme Court at Vancouver on December 15, 2006. Madam Justice Dickson replaces Mr. Justice T.P. Warren who elected to become a supernumerary judge. Madam Justice Dickson received her law degree from the University of Saskatchewan in 1981 and was admitted to the Bar of British Columbia in 1982 and the Bar of Saskatchewan in 1984. Madam Justice Dickson practised with the Crown in British Columbia and Legal Aid in Saskatchewan. In 1989 Madam Justice Dickson obtained a Masters of

Law from Cambridge University and after practising in England returned to Vancouver. Madam Justice Dickson was appointed Queen's Counsel in 1998. At the time of her appointment, Madam Justice Dickson was a partner at Dickson Murray practising in the area of civil litigation and a member of the Attorney General's Rules Revision Committee. Madam Justice Dickson was a frequent lecturer on civil litigation matters and a Fellow of the American College of Trial Lawyers.

Master Barbara Young was appointed Master of the Supreme Court in Kelowna on December 6, 2006. Master Young received her law degree from the University of Calgary in 1985 and was admitted to the Bar of British Columbia in 1986. Prior to her appointment Master Young practised in the areas of family law, estate litigation, mediation, personal injury and Workers' Compensation appeals. Master Young became a certified family mediator in 1996, was admitted to the child protection mediation roster in 2003 and was appointed Queen's Counsel in 2006.

Retirements

In 2006, four judges and one master retired from the Court:

The Honourable Mr. Justice John C. Bouck was born in 1931. Mr. Justice Bouck received his law degree from the University of British Columbia in 1955 and was called to the Bar of British Columbia in 1956. He was appointed to the Supreme Court of British Columbia in 1974. At the time of his appointment, Mr. Justice Bouck was a partner at Bouck, Edwards Kenney & Bray practising in the area of civil and corporate litigation. Mr. Justice Bouck elected to become a supernumerary judge in 1996 and retired on May 9, 2006 having reached the mandatory retirement age.

The Honourable Mr. Justice Dermot D. Owen Flood was born in 1931. Mr. Justice Owen Flood received his law degree from Trinity College in Dublin. Mr. Justice Owen Flood immigrated to Canada in 1956 and was called to the Bar of Alberta that same year. He was called to the Bar of British Columbia in 1964. He was appointed to the County Court of Vancouver Island in 1987 and was appointed to the Supreme Court in 1990. Mr. Justice Owen Flood elected to become a supernumerary judge in 2001 and retired on September 17, 2006 having reached the mandatory retirement age.

The Honourable Mr. Justice Frederick A. Melvin was born in 1936. Mr. Justice Melvin received his law degree from the University of British Columbia in 1961 and was called to the Bar of British Columbia in 1962. Mr. Justice Melvin was appointed to the Provincial Court of British Columbia in 1976. In 1978 Mr. Justice Melvin was appointed to the Country Court of Vancouver Island. In 1990, Mr. Justice Melvin

was appointed to the Supreme Court. Mr. Justice Melvin elected to become a supernumerary judge in 2002 and retired on November 1, 2006.

The Honourable Mr. Justice George Lamperson was born in 1934 in Düsseldorf, Germany. After immigrating to Canada in 1949, Mr. Justice Lamperson received his law degree from the University of British Columbia in 1961 and was called to the Bar of British Columbia in 1962. Mr. Justice Lamperson was appointed to the Provincial Court in 1974 and elevated to the County Court in 1982. In 1990, Mr. Justice Lamperson was appointed to the Supreme Court. Prior to his appointment to the bench, Mr. Justice Lamperson practised in Kamloops at Millward, Robinson & Company (now known as Morelli Chertkow) where he had a general law practice with a particular focus on municipal law. Mr. Justice Lamperson elected to become a supernumerary judge in 1999 and retired on December 30, 2006.

Master Alan Patterson was born in 1936. Master Patterson received his law degree from the University of British Columbia in 1963 and was called to the Bar of British Columbia in 1964. Master Patterson was appointed Registrar of the Supreme Court in 1986 and a Master of the Supreme Court in 1989. At the time of his appointment as Registrar, Master Patterson practised in Victoria where he had a general law practice with a particular focus on solicitor's matters. Master Patterson retired on December 31, 2006.

REPORT OF THE CHIEF JUSTICE

The Annual Report provides me with the opportunity to review the work and activities of our Court in 2006. As in previous years, 2006 saw the introduction of a number of new initiatives in respect of the administration and work of the Court. As well, many of our earlier initiatives and projects were continued.

The principal motivation for these initiatives continues to be the ongoing and increasing concern of our court that resolving disputes by engaging the court process is beyond the economic reach of many litigants and that continued access to our court to resolve disputes and to have rights adjudicated is becoming restricted to an ever smaller group of individuals and corporations. As shown in the Court Information (*Appendix A, Figure 1*), the number of civil lawsuits filed in our Court continued the decline that started in 2001. This trend continues to be a concern for the Court. Our Court remains committed to considering and pursuing reform initiatives that will ensure that parties wishing to use the court system to resolve disputes can do so in a timely and cost effective manner.

Civil Justice Reform

In 2006, I continued to be involved with the Justice Review Task Force as the co-chair of the Civil Justice Reform Working Group with Deputy Attorney General Allan Seckel, Q.C. The Civil Justice Reform working group released its final report entitled *Effective and Affordable Civil Justice* in November 2006. The vision for the civil justice system is one which assists people in obtaining just solutions to legal problems quickly and affordably. One of the principles that informs the vision and underpins the recommendations contained in the Report is proportionality: the amount of process used should be proportional to the value, complexity and importance of the case. The Report contains three major recommendations:

- Create a central hub to provide legal information, advice, guidance and other services that people can use to solve their own legal problems.
- Require parties to personally attend a case planning conference before actively engaging the system beyond initiating or responding to a claim.
- Create new Supreme Court Rules which are expressly based on the overriding objective that all proceedings are dealt with justly and pursuant to the principles of proportionality; limit available discovery procedures, limit the use of experts in accordance with the principle of proportionality, streamline motion practice; empower the judiciary to make orders to streamline the trial process.

A working group is in the process of drafting new Rules of Court which will be circulated for public comment and review. Other work is ongoing to develop the civil information hubs.

Electronic Evidence Practice Direction

The Electronic Evidence Practice Direction was issued on July 1, 2006. This Practice Direction was developed through a series of workshops facilitated by Sandra Potter. The workshop participants included members of the bar, representatives of court services and the public. The Practice Direction addresses the use of technology for the preparation, management and presentation in court of electronic evidence. It is intended to encourage parties to begin discussions about the management and exchange of information at an early stage in litigation in order to avoid the waste of money and time that occurs when parties need to manipulate incompatible data before being able to use it. The Practice Direction establishes a default standard for the exchange of electronic information which the parties can amend to suit the particular circumstances of a case. I am grateful to the bar for their active participation in the development of and their continued support for this Practice Direction. The bar reports that counsel are starting discussions about the management of electronic evidence at an early stage in litigation. This was the intent of the Practice Direction and it should help to reduce the cost of litigation. Three other jurisdictions in Canada are currently working on similar Practice Directions and they will likely be in place by the end of the year. Some minor changes will likely be made to our Practice Direction so that we can maximize the consistency between the Electronic Evidence Practice Directions across Canada.

Court Services Online, Electronic Searches and Electronic Filing

Court Services continues to implement the electronic searching and filing initiative known as Court Services Online. In 2006, members of the public were able to conduct electronic searches for civil court record information. In addition, work continued on a pilot project which enabled registered users in seven registries to file documents electronically. In 2006, the reports from users have continued to be positive. Court Services continued to work on the technical infrastructure to support this initiative as well as training registry staff to process electronically filed documents. For 2007, Court Services will be working on developing an implementation plan which will see the eventual expansion of the e-filing initiative throughout the province.

Access Policies

The increasing use of technology continues to make it possible to significantly reduce the costs and barriers associated with accessing court records. However, technology also requires us to consider the proper balance between easing access to court records and the privacy interests of those who use our court. In 2006, the

court continued to address these issues. The court adopted an Electronic Access Policy. It was modelled on the Model Policy for Access to Court Records which was adopted by the Canadian Judicial Council. By adopting the Electronic Access Policy, our Court continues to be at the forefront of dealing directly and in a principled manner with the balance between the principle of open courts and personal privacy. Looking ahead to 2007, the Court will be working on other access policies including a Public Access Policy and a Digital Audio Recording Access Policy.

Public Affairs

- *Publication Ban Pilot Project*

In 2006, we continued to work with the media to assist with its important role of accurately informing the public about proceedings before the court. The Publication Ban Pilot Project which was implemented in 2005 in respect of criminal matters in Vancouver continued in 2006. This Project provides timely information about discretionary publication bans in criminal proceedings in Vancouver. An evaluation undertaken in the fall of 2006 showed that the Project has been well received by the bar, the media and its counsel and the public. Media counsel have observed that applications for publication bans under the Project tend to be narrower in scope. As a result of the positive evaluation and the success of this pilot project, we intend to expand the Project to include all registries across the province.

- *Journalist Accreditation Process*

The Public Affairs Committee chaired by Mr. Justice Williamson has revised the Accreditation Process for Journalists which allows accredited journalists to bring recording devices into the Supreme Court's courtrooms for the purpose of verifying their notes. The revised process creates a three year accreditation term. At the end of the term, those journalists wishing to continue to bring recording devices into the courtroom must renew their accreditation.

2006 Practice Directions

In addition to the Electronic Evidence Practice Direction, the Court issued a number of other Practice Directions designed to improve our Court's service to the public:

- **Notice of Sealing Orders:** The Court implemented a procedure for providing information about files in which sealing orders are made in order to make it easier to determine that a sealing order had been made, the scope of the sealing order and a contact person from whom additional information about the sealing order could be sought.

- **Model Insolvency Orders:** The Model Initial Order was developed by the British Columbia Model Insolvency Order Committee whose membership included members of our Court and representatives of the insolvency bar and the trustee community. The purpose of the Model Initial Order is to help the parties focus on the particular issues in dispute and to enable the Court to deal with applications for initial orders under the *Companies' Creditors Arrangement Act* in an efficient and effective manner.
- **National Class Actions:** The Court implemented a procedure to facilitate the exchange of information about multi-jurisdictional class proceedings. This new procedure was recommended by the Uniform Law Conference of Canada and approved by the Canadian Judicial Council. Similar practice directions have been issued in Ontario and Quebec and are being studied in other provinces.

Judicial Case Conferences

As noted by the Family Law Committee in its report (p. 27) Rule 60E of the *Rules of Court* which established the Judicial Case Conferences has become a permanent rule. Judicial Case Conferences are held in almost all family law proceedings at the outset and before the parties can file applications for interim relief. Rule 60E was introduced in 2002 as a pilot project and had the objective of assisting parties in resolving family law disputes in a more just, timely and cost effective manner. Since their introduction, JCCs have reduced the number of contested interlocutory applications and have become an important tool in the settlement of issues on an interim and a permanent basis, in reducing the likelihood of trial and in narrowing the issues where matters proceed to trial. In addition, the family bar has reported that JCCs have reduced the cost of family law litigation. In most registries across the province, JCCs can be scheduled as soon as parties have exchanged the required financial information and supporting documents.

I would like to thank the members of the Family Law Committee and the Rules Revision Committee (past and present) for their participation in the development and evaluation of Rule 60E, the judges and masters of our Court for conducting JCCs across the province, the members of the bar for guiding their clients through the JCC process and the family litigants for their participation in the JCCs. The contributions of all of these people have effected a fundamental change in the manner in which family law proceedings are conducted in British Columbia and on the outcomes achieved by people engaged in family law proceedings.

B.C. Supreme Court Self-Help Centre

The Court continued to support the important work of the B.C. Supreme Court Self Help Centre including the preparation and development of information materials

available in the Self Help Centre and the development of videos explaining certain procedures such as appearing in Chambers, etc. The funding for the Centre was continued for 2006 and it is hoped the successful model of the Centre will be expanded and be made available to self represented litigants throughout the province.

Court Information

While Criminal, Family and other filings have remained constant, there is a continuing (albeit slowing) decline in the number of Civil Filings (*Appendix A, Figure 1*). This is of great concern to the Court and spurs the civil justice reform initiatives that the Court is undertaking.

In 2006, the Court scheduled 5135 civil (including family) trials and 1652 civil (including family) long chambers matters in Vancouver (*Appendix A, Figure 3*). With respect to trials, 1999 was the last year in which the same number of trials were scheduled. With respect to long chambers matters, the 2006 numbers represent a large increase from previous years. The increase in the number of trials scheduled comes at the same time as the bumping of matters has become virtually non-existent in Vancouver and, as can be seen from *Figure 8*, in most other registries. The Court will watch the scheduling rates with interest to determine whether this is the beginning of a trend or a blip on the otherwise stable scheduling numbers seen from 2000 to 2005.

With respect to trials which were bumped, of the 1132 civil and criminal trials scheduled to proceed, 17 were bumped (*Appendix A, Figure 8*). Of the bumped trials, the majority were rescheduled within 2-3 months of the original hearing date. Of those that have not been rescheduled, some have settled, some have been scheduled at a later date due to a significant increase in the estimated length of the trial and some have not been rescheduled because the parties have not sought a new trial date. The trial bump rate in New Westminster which exceeds that of other registries is due in large measure to a lengthy criminal proceeding and the physical renovations required to be completed at the courthouse prior to the commencement of the trial.

The “Backlog Fiction”

There persists a belief that our court is struggling under a backlog of cases that is preventing litigants from having their cases heard in a timely way. It just isn't so. With respect to long chambers matters, of the 930 that were heard in Vancouver, 12 were bumped (*Appendix A, Figure 5*). This experience mirrors that of the trial bumping rates: the Court rarely bumps scheduled matters. Of the long chambers matters that were bumped, the majority were rescheduled within 1-2 months of the original hearing date.

The Court has eliminated the lengthy backlog of cases which used to mean that parties were routinely advised that they would have to wait 18 months for a trial date or, even worse, on the day their trial was scheduled, would be told that a judge was not available and that their trial would have to be “bumped” over to a later date.

Trial dates can be obtained in our court as soon as the pleadings are closed. Trial dates are now readily available across the province, and, in our experience, often sooner than counsel or the litigants can be ready for trial. In most registries, as of the end of the 2006, a party wanting to schedule a trial with an estimated length of 5 days or less could obtain a trial date within 5-6 months for a civil (including family) matter; an in custody accused could obtain a date for a criminal trial within 4 months; and an out of custody accused could obtain a date for a criminal trial within 6-8 months. These numbers illustrate that for the majority of the parties coming before the Court, it is possible to obtain timely trial dates in a relatively short period of time. The bumping rates also indicate that once a date is obtained for a trial or a long chambers matter, it is extremely unlikely that it will not go ahead.

In an effort to dispel the myth of the “backlog fiction”, the Court began posting trial scheduling information on its website on May 1, 2006. This information is available for family, civil and criminal trials for each registry of the Court and is updated quarterly to ensure accuracy. This information about the time required to book trials of varying lengths at various locations is published to ensure that accurate trial scheduling information is readily available to the profession and to the public.

Looking Forward to 2007

In looking forward to 2007, the Court continues to be involved in initiatives designed to improve access to the justice system. We are working on the implementation of the recommendations contained in the Report of the Civil Justice Reform Working Group.

A number of the members of our Court will be involved in the pilot of the Judicial Module which is the third and final component of Court Services Online. It will enable judges to electronically deal with certain materials that are filed electronically including the electronic approval of orders.

Finally, we are working on a redesign of our website. It is hoped that the redesign will improve the ability of the website’s users (lawyers, litigants, media, students, etc.) to quickly find the information they are looking for.

Conclusion

In closing, I wish to thank the staff employed by Judicial Administration and the staff and managers employed by Court Services. Without their support and dedication,

the work of our Court would not be possible. I also wish to express my gratitude and thanks to all of my colleagues, the judges and masters of our Court. They continue to provide me with their generous support and invaluable advice to assist in the administration of the Court.

COURT COMMITTEE REPORTS

Members of the Supreme Court participate on a number of committees which assist the Chief Justice and the Associate Chief Justice with the work and administration of the Court.

The internal committees include the Civil Law Committee, the Courthouse Facilities Committee, the Criminal Law Committee, the Education Committee, the Family Law Committee, the Law Clerks Committee and the Public Affairs Committee.

There are also a number of committees that operate jointly with members of the Court of Appeal including the Joint Court Technology Committee and the Library Committee.

Finally, there are committees which include internal and external members. The Judicial Access Working Committee includes Judicial Administration staff from the Court of Appeal, the Supreme Court and the Provincial Court as well as Court Services Branch employees. The Rules Revision Committee which is a committee of the Attorney General includes judges and masters of the Court as well as representatives from Court Services, legislative drafting counsel and the private bar.

JUDICIAL ACCESS POLICY WORKING COMMITTEE

Members: *Jennifer Jordan, Registrar, Court of Appeal (Chair)*
Alix Campbell, Director Judicial Administration, Superior Courts
Virginia Day, Director, Business Development and
Change Management, Court Services
Meg Gaily, Law Officer, Court of Appeal
Heidi McBride, Law Officer, Supreme Court
Mike Smith, Director Judicial Administration, Provincial Court
Gene Jamieson, Legal Officer, Provincial Court
Kathryn Thomson, Legal Policy Consultant

Mandate of the Committee

The Committee is a joint committee consisting of judicial representatives from all three courts and Court Services members. The Committee develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies relating to access to court records, specifically in electronic format. The Chief Justices and Chief Judge are consulted before a policy is adopted. In addition to policy work, the Committee also reviews access applications for those seeking bulk access to court record information.

Work of the Committee

In 2006 work of this Committee revolved around issues relating to Digital Audio Recording (DARS), continuing discussions about access to criminal record information, and consolidation of the various access policies. The Committee began the work of preparing an access policy which will address access to DARS including the judiciary, Court Services staff, parties, media, members of the public and transcription contractors.

The Committee approved the Electronic Access Policy which is based on the Model Electronic Access Policy. The Model Electronic Access Policy was approved by the Canadian Judicial Council after being developed by the Judicial Technology Advisory Committee (a subcommittee of the Canadian Judicial Council). In addition, the Committee received, considered and granted a number of applications from a variety of government agencies and departments for access to court records for the purpose of fulfilling their statutory mandates.

Looking Forward to 2007

In addition to considering applications for access to court records, the Committee will continue to work on the Public Access Policy and the DARS Access Policy. The Committee will also continue to work on the development of an Access Policy Manual which is designed to assist Court Services staff in accessing and understanding the Electronic Access Policy and other access policies.

JOINT COURTS TECHNOLOGY COMMITTEE

Members: Mr. Justice Groberman (Chair)
Mr. Justice Masuhara (Vice-Chair)
Madam Justice Levine
Madam Justice Boyd
Mr. Justice Tysoe
Jennifer Jordan, Registrar, B.C. Court of Appeal
Alix Campbell, Director, Judicial Administration
Colin Sharwood, Manager, Information Technology
Cindy Friesen, Manager, Trial Coordination
Heidi McBride, Law Officer, Supreme Court (Secretary)

The Committee discussed a number of issues and projects at its meetings including hardware and software replacements and improvements; judicial access to DARS; Court Services Online and the development of the Judicial Module; the Electronic Evidence Practice Direction; and the security of the SCJ.

Court Services Online

The Committee discussed the e-filing pilot project which is being piloted in 7 registries including Vancouver and is being used by a select number of law firms and registry agents. The CSO Management Team reported to the Committee that the feedback from pilot participants is good. The final component of Court Services Online is the development of the Judicial Module. Tysoe, Groberman and Myers JJ. and their JAAs have been testing the Judicial Module which will enable judges to deal with electronically filed documents and to approve and digitally sign electronically submitted orders. It is anticipated that the Judicial Module will be piloted in Vancouver in the spring of 2007. Tysoe, Groberman and Myers JJ. and their JAAs will be the initial pilot participants and as experience with the Judicial Module is gained, the pilot will be expanded to include other judges, masters and JAAs.

Digital Audio Recordings

The replacement of analog recorders with digital audio recorders ("DARS") continued throughout the province in 2006. This project is being managed by Court Services. A number of work processes and infrastructure issues which arose during implementation delayed the provincial roll out of DARS; however, it is anticipated that DARS will be completely implemented by the spring of 2007.

Electronic Evidence Practice Direction

The Committee discussed the Electronic Evidence Practice Direction which was issued on July 1, 2006. The Electronic Evidence Practice Direction was developed through a series of workshops facilitated by Sandra Potter which involved lawyers, litigation support professionals and Court Services employees. Since the implementation of the Electronic Evidence Practice Direction, a number of presentations on the Electronic Evidence Practice Direction have been made by various members of the Committee at the Pacific Legal Technology Conference, to the CBA Civil Litigation subsection and to individual law firms and legal support staff.

IT Services

As a result of an open bid process, Microserve was again the successful proponent. A contract was negotiated with Microserve for a term of one year with an option to renew each year for seven years.

Hardware & Software Upgrades and Changes

During 2006, laptops have replaced most of the desktop PCs in Vancouver and a loaner pool of laptops has been made available to visiting judges. In addition, changes have been made to software and hardware to improve the security and speed of the SCJ network.

CIVIL LAW COMMITTEE

Members: Mr. Justice Bauman (Chair)
Madam Justice Gray (Vice-Chair)
Madam Justice Dorgan
Madam Justice Dillon
Mr. Justice Davies
Mr. Justice McEwan
Mr. Justice Macaulay
Mr. Justice Goepel
Mr. Justice Kelleher
Mr. Justice Brine
Jill Leacock, Law Officer (Secretary)

The Civil Law Committee continues to periodically publish the Civil Law Memos which discuss decisions of note from the Court of Appeal and the Supreme Court of Canada.

In 2006, the Committee began an in-depth review of pre-trial conferences and case management within the Court. The objective of the review will be to develop a “best practices” model and approach to case management. The Committee will continue its work on this project in 2007.

The Chair of the Committee is also participating with representatives of the Criminal Law Committee and the Public Affairs Committee in a project to develop a protocol for media access to exhibits.

COURTHOUSE FACILITIES COMMITTEE

Members: *Mr. Justice Macaulay (Chair)*
Mr. Justice Ralph
Mr. Justice McEwan
Madam Justice Bennett
Mr. Justice Grist
Mr. Justice Barrow
Mr. Justice Williams
Alix Campbell, Director of Judicial Administration
Jill Leacock, Law Officer (Secretary)

The Courthouse Facilities Committee was constituted this year as a standing committee. The composition of the committee is intended to reflect regional representation. The purpose of the committee is to facilitate consultation between Court Services and the judiciary in relation to planning and construction of new courthouse facilities or the renovation and alteration of existing facilities. The committee will also provide liaison between Court Services and the judiciary respecting issues of security or access to justice in relation to courthouse facilities, or other issues of concern.

In addition, the committee will advise the Chief Justice in relation to developing priorities for short and long term capital spending projects. An initial project of the committee was to canvass members of the court in relation to priorities for capital expenditure. Following upon that, a subcommittee was struck to identify model processes and facilities for juries and panels, and to measure existing courthouses against this model.

CRIMINAL LAW COMMITTEE

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

This year has come with two regretted retirements from the Committee, as Stewart J. and Josephson J. elect to take supernumerary status. Both have made significant contributions to the Committee over a lengthy period and the Committee is and will remain deeply grateful for their contributions.

One of the Committee's most immediately useful functions is to keep members of the Court apprised of new decisions of the SCC and BCCA relating to criminal law, evidence, and procedure. Stewart J. has borne this burden for the Committee over the course of living memory, but understandably announced his "retirement" from this task with his election to take supernumerary status. Bennett J. has generously agreed to take over this task. Her memos are unlikely to be as colourful as Stewart J.'s, but they promise to be every bit as well-informed and helpful.

As a result of this shuffling of chairs, H. Holmes J. will take up Bennett J.'s former duty of keeping members of the Court informed of legislative developments in the criminal law area.

Also in the educational sphere, the Committee assisted the Education Committee by facilitating and providing speakers for programs (relating to sentencing and to search and seizure) at the Court's two conferences.

Late in the year the Committee established a Working Group composed of some members of this Committee (H. Holmes J., MacKenzie J., Bennett J., Cullen J.) and Barrow J. to review the May 2006 report of the Ontario Superior Court of Justice, called *New Approaches to Criminal Trials*. This report addresses the problems of unduly lengthy or delayed criminal trials in Ontario and recommends additional Rules of Court (which are now in force in Ontario) to establish procedures and other requirements to govern pre-trial applications. The Working Group is studying the report and is considering whether any of the report's recommendations (or variations of them) may be suitable for implementation by this Court.

The Committee also discussed a number of other issues including publication of *voir dire* rulings before the end of judge alone trials and public access to criminal files.

EDUCATION COMMITTEE REPORT

Members: Mr. Justice Davies (Chair)
Madam Justice Beames (Vice-Chair)
Mr. Justice Romilly (Vice-Chair)
Madam Justice Satanove
Madam Justice Bennett
Madam Justice Neilson
Mr. Justice Cullen
Madam Justice Ross
Mr. Justice Slade
Mr. Justice Goepel
Mr. Justice Groberman
Mr. Justice Kelleher
Mr. Justice Groves
Master Baker
Jill Leacock, Law Officer (Secretary)
Heidi McBride, Law Officer (Secretary)

The mandate of the Education Committee is to assist members of the court to stay informed about developments in the law and to organize regular educational conferences addressing topics of interest. In 2006, two very successful educational conferences were held. The May conference was held in Victoria; the November conference in Vancouver.

In addition to the two conferences, the Committee also organizes informal education sessions which take place bi-monthly during the noon recess. Judges outside Vancouver attend these sessions via teleconference. Several such sessions were held in 2006.

There were two changes to the membership of the Committee in 2006. Mr. Justice Sigurdson completed his service as the only ex-officio member of the Committee. The Committee is grateful to Mr. Justice Sigurdson for his contributions to the Committee and to the educational programs provided to the Court. Mr. Justice Barrow resigned from the Committee in 2006. The Committee is grateful for his valuable contributions. Unlike in previous years, no new members joined the Committee in 2006.

The National Judicial Institute continues to provide tremendous support to the Education Committee by way of organizational, planning and logistical assistance for the Court's educational conferences. The Committee is most appreciative of this support.

FAMILY LAW COMMITTEE

Members: Mr. Justice Joyce (Chair)
Master Donaldson (Vice Chair)
Mr. Justice Preston
Mr. Justice Cole
Madam Justice Beames
Madam Justice Loo
Mr. Justice Ralph
Mr. Justice Chamberlist
Mr. Justice Barrow
Master Scarth
Jill Leacock, Law Officer (Secretary)

The Committee's recommendation that Rule 60E (Judicial Case Conferences) become a permanent rule was implemented by changes to the *Rules of Court* which took effect on July 1, 2006.

During the year, the availability of Duty Counsel has been of assistance to members of the public with Supreme Court matters at the Vancouver courthouse. It is hoped that this program will be expanded. In addition, self represented litigants in family law cases have also been able to obtain legal information at the Supreme Court Self Help Centre which opened in April 2005.

The Committee continues to provide members of the Court with memoranda of topical issues in family law, and with reports of significant family law cases. The Committee also contributed to the November Conference by presenting the Family Law Update. The topics covered included child support, spousal support, custody and Judicial Case Conferences.

Cole J. and Martinson J. attended the Family Law Judges' Conference in November. The topics discussed included spousal support, mobility issues, etc. Cole J. reported that there was a great deal of interest in Judicial Case Conferences which were made permanent feature of the *Rules of Court effective July 1, 2006*. Cole J. also noted that the opportunity to meet and discuss current issues in family law with judges from other jurisdictions was interesting, informative and useful.

LAW CLERK COMMITTEE

Members: Mr. Justice Curtis (Chair)
Madam Justice Dillon
Mr. Justice Pitfield
Mr. Justice Barrow
Jill Leacock, Law Officer (Secretary)
Heidi McBride, Law Officer (Secretary)

Each year the Supreme Court hires law school graduates who have not yet been called to serve as law clerks to the judges of the Supreme Court. The clerks serve for 12 month terms commencing in September. In September 2006, eighteen law clerks began their clerkships. Of these, fourteen were located in Vancouver, two in New Westminster and two in Victoria. Each law clerk is assigned to a complement of five to seven judges.

Of the eighteen law clerks who commenced their clerkships with the Supreme Court in September 2006, four are graduates of the University of British Columbia, seven are graduates of the University of Victoria, two are graduates of the University of Toronto, two are graduates of Dalhousie University and the remaining clerks graduated from the University of Alberta, the University of Saskatchewan and the University of Manitoba.

For the 2006/07 term, the Supreme Court law clerks are:

Vancouver

Mark Colavecchia
Michael Dew
David Gedge
Jennifer Gold
Beth Hepburn
Laura Landy
Jennifer Marles
Ramneek Padda
Cristiano Papile
Andrew Pilliar
Anthony Price
Madeline Sinclair
Shaunagh Stikeman
Laura Track

New Westminster

Andrea Frisby
Chris Hunt

Victoria

Stephen Chapman
Maria Colley

In January 2006, Meg Gaily, Law Officer of the Court of Appeal and Jill Leacock, Law Officer of the Supreme Court received 87 applications for the 29 law clerk positions at the Court of Appeal and the Supreme Court for the 2007/08 term. After reviewing the applications, the Law Officers interviewed 69 candidates during a three week period in February 2006 and developed a short list of candidates who

were then interviewed by the judges on the Law Clerk Committees. After the second round of interviews, the Committee selected 18 candidates who will commence clerkships in September 2007.

In terms of recruitment activities undertaken in 2006 which are in relation to the 2008/09 clerkship term, in September 2006, notices were sent to law schools across the country advising of the details of the clerkship program. In addition, information about the clerking program was posted on the Court's website. In November 2006, several judges, current clerks and the Law Officers from the Supreme Court and the Court of Appeal attended the Faculties of Law at the University of British Columbia and the University of Victoria to speak to law students about the clerking program and the benefits of clerking. Both of these events were well attended.

In September 2006, the salary of the law clerks was increased to approximately \$44,500 per annum. The salary previously paid to the law clerks was substantially lower than that which was paid to students who article at firms in Vancouver. As a result of this increase, the salary paid to law clerks is now equivalent to that which is paid to students who article at the Ministry of the Attorney General.

The Committee members wish to thank Ms. Gaily, Ms. Leacock and Ms. McBride for their assistance during the year. The Committee also extends its gratitude to the law clerks who continue the fine tradition of providing much valued assistance to the judges and masters of the Court. Although the Committee is certain that the law clerks gain much from their experience at the Court, the Committee is firmly of the view that the members of the Court benefit greatly from the presence of the law clerks.

LIBRARY COMMITTEE REPORT

Members: Madam Justice Newbury (Chair)
Mr. Justice Hood
Madam Justice Humphries
Madam Justice D. Smith
Ms. Alix Campbell, Director of Judicial Administration
Ms. Diane Lemieux, Librarian

Never stagnant, the Judges' Library has continued in its quest over the past year to maintain a balance between implementing technological changes and preserving the history and proven practices of the past.

One of the most creative changes made this year was the addition of the library catalogue to the Court's Intranet site. The new Inmagic library application and its associated software, DBTextworks & Web Publisher Pro, were moved into production in late summer. Thanks to the combined efforts of our library staff, a technical consultant from the local Inmagic software partner, and our own information technology group, our judiciary and staff now have desktop access to the online version of the library catalogue.

With the emergence of a new version of Quicklaw this past summer, our staff provided on-site training sessions to all new law clerks, judicial administrative assistants and various judicial staff during the month of September. A "law at lunch" seminar was conducted in October as well for the Superior Court Judges interested in learning more about the new LexisNexis internet version of Quicklaw. As the classic and browser version of Quicklaw will eventually be phased out by the end of the year, it was a necessary measure that we hope will prove to be a useful, time-saving tool similar to its predecessor.

Library staff also continued to cull, revamp and organize judicial library materials at two courthouse locations this past year, and intend to do so at other Supreme Court locations in the next little while. In Kamloops, we did a major re-organization of materials in late August. Law reports were re-arranged, obsolete and unused items were removed, and a general clean-up resulted in the creation of shelf space for a few more years of continued growth. A similar clean-up was done at the New Westminster courthouse, and we hope that the discarding of outdated editions from the collection will free up much needed space to keep the smaller library up-to-date and current. We will continue to hold historical editions in Vancouver and Victoria.

Usage and cost continue to be factors our committee considers in deciding on whether to renew our ongoing subscriptions. In order to avoid complete cancellations of some loose-leaf services, in some instances we have changed to purchasing new contents once a year. Although there have been no major cancellations of any law reports this year, we will continue to monitor feedback attained from library committee meetings, user surveys, and patterns in circulation. We consider many factors in deciding on new materials for the Judges' Library, but

first and foremost is the goal to make sure that the materials which we provide are current but also cost-effective.

Most recently, consumer demand and a trend towards automation has affected the way our judgments are distributed to various legal publishers. With the electronic availability of the Supreme Court and Court of Appeal decisions on the Courts' website 24 hours after the time of release, the urgency of providing paper copies diminished dramatically. While the change to electronic distribution was welcomed by publishers, the result on our end was not only a tighter control and streamlining of the release of judgments, but also a reduction of paper and associated mailing costs. In this era of environmental concern that is a good thing.

*Madam Justice M.V. Newbury, Chair,
Judges' Library
February 14, 2007*

PUBLIC AFFAIRS COMMITTEE

Members: Mr. Justice Williamson (Chair)
Mr. Justice Blair
Mr. Justice Groves
Madam Justice Wedge
Chief Justice Brenner (Ex Officio)
Jill Leacock, Law Officer (Secretary)
Heidi McBride, Law Officer (Secretary)

The Committee has continued its work liaising with journalists, court clerks and other non-judicial groups such as the Law Courts Education Society.

The Committee revised the accreditation process for journalists wishing to be exempted from the rule which prohibits the use of recording devices in the courtroom. The accreditation is now limited to three years, and must be renewed thereafter.

The Publication Ban Notification Pilot Project successfully completed its one year term in October, 2006. An evaluation of the pilot was undertaken involving surveying accredited journalists and individuals who had registered with the Publication Ban Notification Pilot Project to receive notification of applications for publication bans. The feedback was unanimously positive and a recommendation was made to the Chief Justice that the project not only be continued, but that it be expanded to eventually cover the entire province. The Chief Justice has accepted the Committee's recommendation and steps are now being taken, in conjunction with Court Services, to implement the recommendation.

The Committee again met with journalists in an effort to ensure the flow of communication between the Court and the media. As a result of concerns raised by the media with respect to access to trial exhibits, a working group with representatives of this Committee, the Civil Law Committee and the Criminal Law Committee has been struck to develop a consistent policy regarding access to trial exhibits. The goal of the working group is to facilitate public access to exhibits without limiting the trial judge's control of a proceeding.

The Chief Justice, Mr. Justice Williamson, as Chair of the Committee and the Law Officers have continued to deal with various requests from the media and Mr. Justice Williamson has met informally from time to time with journalists. The Committee also fields requests and queries from individual judges on media issues. Finally, members of the Committee have met informally with Court Clerks and other Court Services staff to discuss various matters arising from the roles of the Judge and the Clerk, including technological changes in the courtroom.

RULES REVISION COMMITTEE

Members: Mr. Justice Macaulay (Chair)
Madam Justice Dillon
Mr. Justice Bauman
Madam Justice Garson
Mr. Justice Joyce
Master McCallum
Master Baker
Mr. Peter Behie
Ms. Nancy Cameron, Q.C.
Ms. Gail Dickson, Q.C.
Mr. Ken Downing, Legislative Counsel
Mr. J.E. (Ted) Gouge, Q.C.
Mr. J. Kenneth McEwan, Q.C.
Ms. Jan Rossley (Ex Officio)
Ms. Jill Leacock, Law Officer, Supreme Court (Secretary)

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, after consultation with the Chief Justice and the Chair. The Committee includes judges, masters, a representative of Court Services, legislative 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 centres of the province.

The Committee meets regularly in person and by teleconference throughout the year to discuss proposals for rule changes. The Committee initiates much of its own work but, the judiciary, the profession and the Ministry of the Attorney General also report problems with existing rules or, sometimes, propose changes.

The Committee consults widely with members of the private bar, professional organizations such as the Trial Lawyers Association or Canadian Bar Association Subsections as well as some institutional litigants, such as ICBC, as a matter of policy, before recommending significant change. By doing this, we hope to ensure that proposed amendments to the Rules are evaluated in the broadest context. The Chair wishes to take this opportunity to thank the members of the private bar on the Committee who have so generously volunteered their time and commitment as well as the generous contribution by interested lawyers and others who have provided us with invaluable assistance during the consultative process.

Because the work of the Committee is quasi-legislative in nature, the Committee does not circulate its minutes nor inform the judiciary, members of the bar or the public of the details of any recommended rule changes before they are enacted.

After the Committee makes recommendations to the Attorney General regarding proposed amendments, the Attorney General consults with the Chief Justice as is required by the *Court Rules Act*, before presenting the amendments to Cabinet. With the exception of some stand-alone amendments, proposed rule amendments are presented to Cabinet in a package each spring. Upon Cabinet approval, the amendments are enacted by Order-in-Council and are usually 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 the court's 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

Nancy Cameron, Q.C. resigned from the Committee in 2006 after three years' valued service. Madam Justice Dickson joined the Committee as a practitioner member in December 2005 and resigned upon her appointment to the Court in December 2006. Jan Rossley succeeded Bill Grandage as *ex officio* member of the Committee from the Ministry of the Attorney General.

III. Amendments passed in 2006

Some of the more significant rule amendments passed in 2006 are described below.

(a) Tariff Changes

In 2006, substantial changes to the Appendix B, Party and Party Costs Tariff which had been recommended by the Committee were brought into force, with an effective date of January 1, 2007. The changes implemented flowed from a review conducted by the Committee over the preceding three years. The amendments to Appendix B will result in significant increase in costs recovery from that formerly available. Under the amended Appendix B, costs recovery will likely approach 30-35% of actual legal expenses. Under the substantive amendments to Appendix B, three new Scales – A, B, and C – will replace Scales 1-5; new unit values of \$60.00, \$110.00 and \$170.00 will apply to matters of little, ordinary and more than ordinary difficulty; a number of specific items of work that can attract costs are added; and the court is authorized to order that units be valued at 1.5 times the value that would ordinarily apply where, as a result of unusual circumstances, an unadjusted award of costs would produce a grossly inadequate or unjust result. Disparity between actual expense and recoverable unadjusted costs will not be a sufficient reason, alone, to support an adjustment.

(b) Rule 60E: Family Law Proceeding – Judicial Case Conferences

Rule 60E was first introduced as a pilot project in 2002. Following a period of review and evaluation, the rule was amended in 2006 to make it a permanent rule, and to incorporate changes recommended in the consultation process.

(c) Rule 68: Expedited Litigation

Rule 68, the Expedited Litigation Pilot Project Rule came into force on September 1, 2005 as a two year pilot project operating in four registries: Vancouver, Victoria, Prince George and Nelson. Throughout 2006, the Committee continued to receive feedback from the profession and the judiciary concerning Rule 68, and continued to monitor the use being made of the rule. The evaluation process will continue throughout the pilot period.

(d) Rule 66: (29.2)

Another amendment in 2006 was the addition of (29.2) to Rule 66 to overcome contrary case law, so as to provide that applicable taxes are recoverable as a costs component in fast track action.

(e) Form 64

Form 64 was amended in 2006 to substitute Rule 37 for the reference to Rule 37(22) and (37) to avail offerors of all of the advantages of Rule 37.

IV. Other work of the Committee

Other work that occupied the Committee in 2006 or issues currently under consideration include:

- The discoverability of insurance policies under Rule 26;
- The test for production of documents under Rule 26;
- Development of a rule for the bringing of stated cases in Supreme Court;
- Consideration of Rule 19 and allegations in pleadings made without reasonable grounds; and
- Review of aspects of Rule 37A relating to timing of jury notices.

V. Report of the Civil Justice Reform Working Group (“CJRWG”)

In November 2006, the Committee received the Report of the Civil Justice Reform Working Group which recommends legislative change to civil practice, including the implementation of new civil and family rules. In late 2006, the Committee began consideration of the CJRWG’s Report and recommendations.

The Committee welcomes comments 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.

APPENDIX A – COURT INFORMATION

The charts, graphs and tables in this section provide statistical information regarding the filings in the Supreme Court in respect of new proceedings, trials and long chambers applications.

New Filings in B.C. Supreme Court from 1997-2006

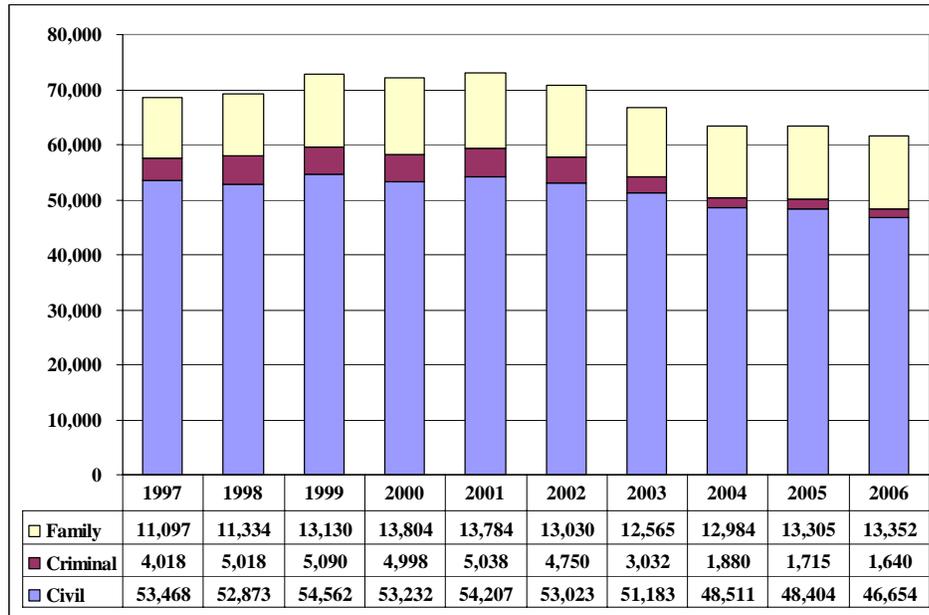


Figure 1

The “Civil” category includes all general civil cases such as motor vehicle, bodily injury, debt collection, breach of contract, foreclosures, adoptions, bankruptcies, and *Business Corporations Act* matters. Prior to September 1, 1998, *Family Relations Act* proceedings are included in the “Civil” category and *Divorce Act* proceedings are included in the “Family” category. After September 1, 1998, *Divorce Act* and *Family Relations Act* proceedings are included in the “Family” category.

With respect to “Criminal” filings it should be noted that amendments to the *Offence Act* which took effect on July 1, 2003 resulted in applications to extend the time for filing an appeal of deemed convictions for traffic and by-law offences being removed from the Supreme Court. This accounts in large part for the decline in the total number of criminal filings beginning in 2003.

New Filings by Category in B.C. Supreme Court in 2006

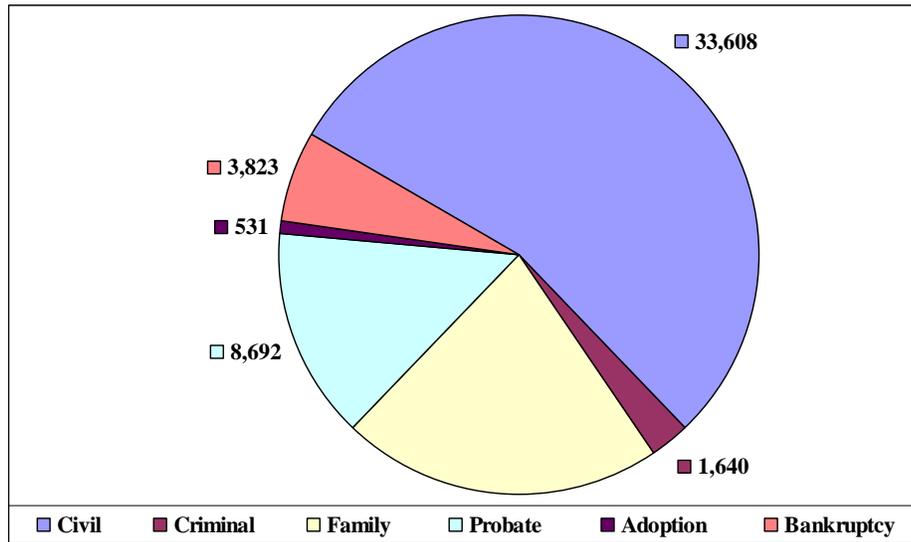


Figure 2

Figure 2 provides greater detail regarding the categories of new filings received by the Supreme Court in 2006. Again, the “Family” category includes *Divorce Act* and *Family Relations Act* proceedings.

Trials and Long Chambers Scheduled in Vancouver from 1997-2006

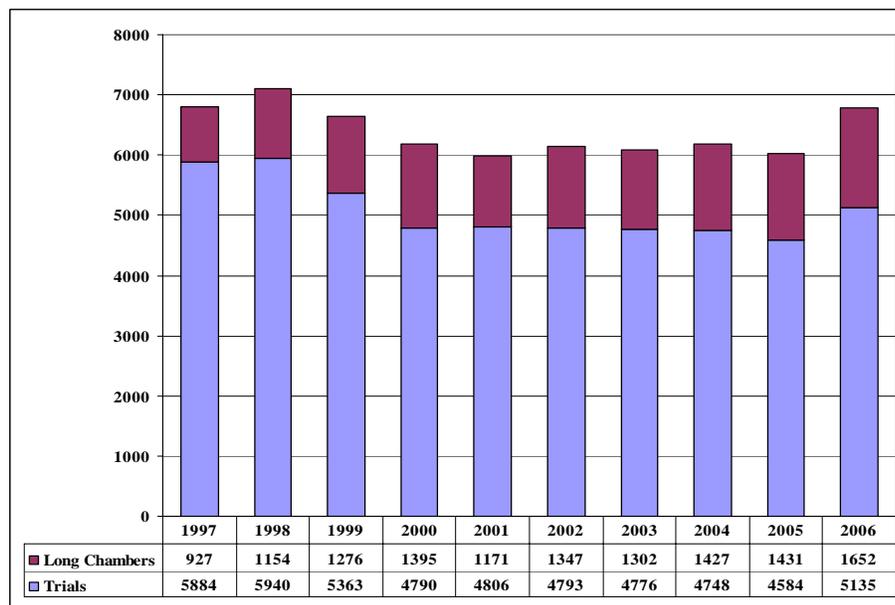


Figure 3

Figure 3 shows the number of civil (including family) trials and long chambers applications (applications with time estimates in excess of 2 hours) scheduled in Vancouver from 1997 to 2006.

Trials Heard and Bumped in Vancouver from 1997 to 2006

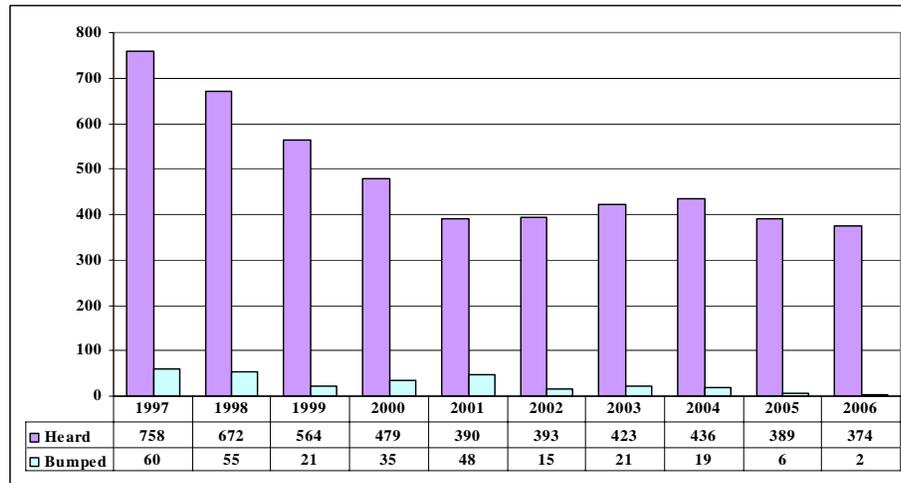


Figure 4

Figure 4 shows the number of civil (including family) and criminal trials heard and bumped in Vancouver from 1997 to 2006.

Long Chambers Application Heard and Bumped in Vancouver from 1997-2006

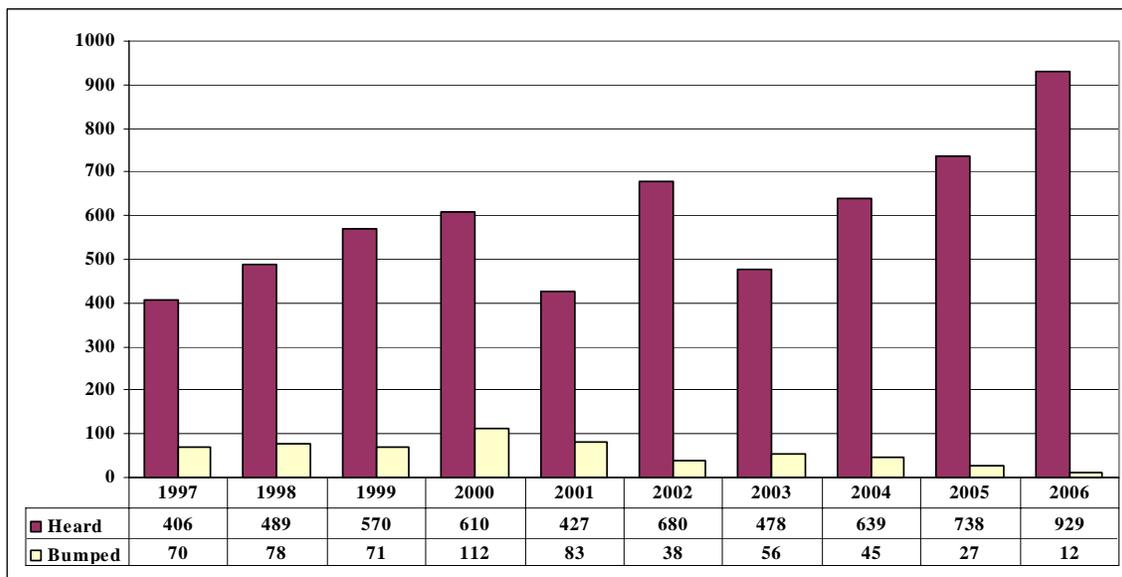


Figure 5

Figure 5 shows the number of civil (including family) long chambers applications heard and bumped in Vancouver from 1997 to 2006.

Trials Heard By Location in 2006

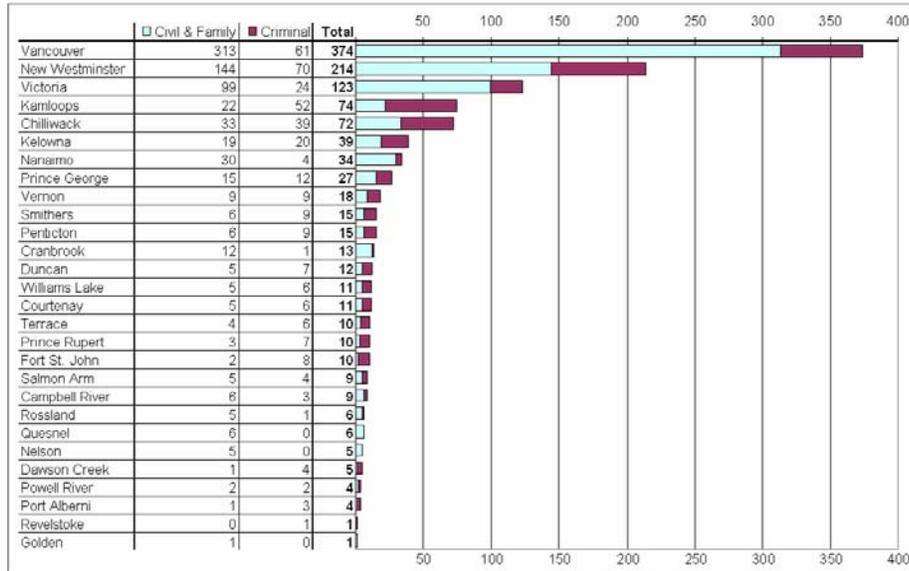


Figure 6

Figure 6 shows the number of civil (including family) and criminal trials heard by location (in descending order) in 2006.

Trials Heard By Location in 2006

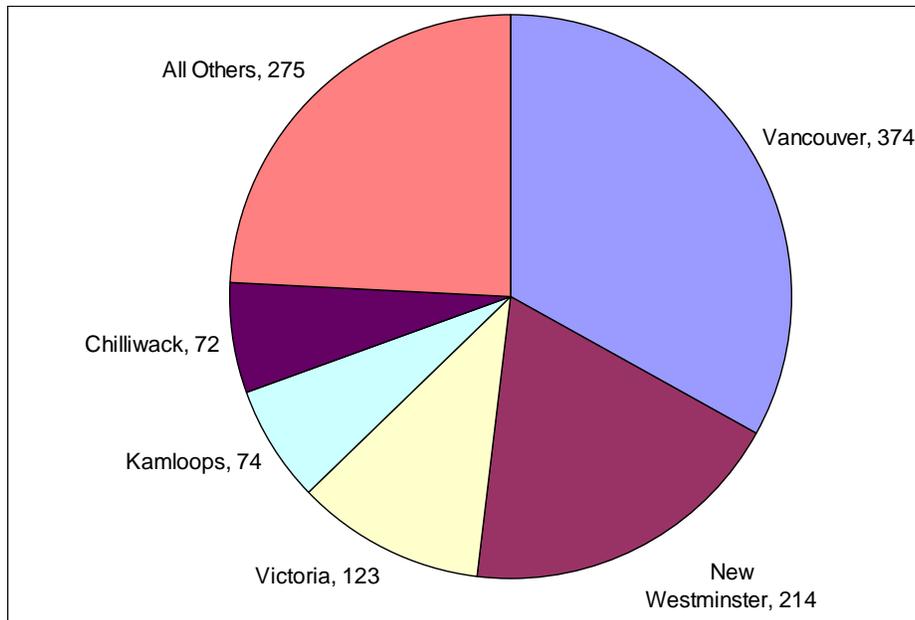


Figure 7

Figure 7 is an alternate representation of the data in Figure 6.

Trials Heard and Bumped by Location in 2006

	Heard in 2006			Bumped in 2006		
	Civil & Family	Criminal	Total	Civil & Family	Criminal	Total
Campbell River	6	3	9	1		1
Chilliwack	33	39	72	2		2
Courtenay	5	6	11			
Cranbrook	12	1	13			
Dawson Creek	1	4	5			
Duncan	5	7	12			
Fort St. John	2	8	10			
Golden	1		1			
Kamloops	22	52	74			
Kelowna	19	20	39			
Nanaimo	30	4	34	1		1
Nelson	5		5			
New Westminster	144	70	214	11		11
Penticton	6	9	15			
Port Alberni	1	3	4			
Powell River	2	2	4			
Prince George	15	12	27			
Prince Rupert	3	7	10			
Quesnel	6		6			
Revelstoke		1	1			
Roseland	5	1	6			
Salmon Arm	5	4	9			
Smithers	6	9	15			
Terrace	4	6	10			
Vancouver	313	61	374	2		2
Vernon	9	9	18			
Victoria	99	24	123			
Williams Lake	5	6	11			
TOTAL			1132			17

Figure 8

Figure 8 shows the number of civil (including family) and criminal trials conducted in each location and the number of scheduled trials which were bumped. A trial is classified as being bumped if it is not commenced or rescheduled within one week of the originally scheduled hearing date.