



# LAW SOCIETY

Newfoundland & Labrador

**2019-2020 Annual Report**

The Law Society of Newfoundland and Labrador

Annual Report 2019-2020

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June 2019- June 2020

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# BENCHERS

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## Officers

President: Ian S. Patey

Vice-President: Ann F. Martin

## Elective Benchers

### Eastern District:

Lauren J. Chafe

Joan M.B. Dawson (*until 26 September 2019*)

Gladys H. Dunne

John J. Hogan, QC

Valerie A. Hynes

Leanne M. O’Leary

Suzanne M. Orsborn

Scott Worsfold

Rodney J. Zdebiak

### Central District:

Renee L. F. Appleby

Desmond K. Jagger-Parsons

### Western District:

Brenda P. Duffy, QC

James E. Merrigan, QC

### Labrador District:

Adrienne S. Edmunds

## Appointed Benchers

Linda Harnett

Glenda Reid

Ross Elliott

Allan Skanes

## Honorary Benchers

Lewis B. Andrews, QC

Donald E. Anthony, QC

Kenneth L. Baggs, QC

Jeffrey P. Benson, QC

Augustine F. Bruce, QC

R. Paul Burgess, QC

Morgan C. Cooper

V. Randell J. Earle, QC

J. David B. Eaton, QC

Barry G. Fleming, QC

J. Vernon French, QC

Brian F. Furey, QC

Sheila H. Greene, QC

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The Hon. W. Goodridge  
The Hon. Chief Justice D. Green  
The Hon. Gloria Harding  
Thomas R. Kendell, QC  
R. Barry Learmonth, QC  
Susan M. LeDrew, QC  
Dana K. Lenehan, QC  
Augustus G. Lilly, QC  
Dennis C. MacKay, QC  
Paul M. McDonald  
The Hon. George L. Murphy  
Irene S. Muzychka, QC  
Stephanie L. Newell, QC  
The Hon. Glen L.C. Noel  
M. Francis O'Dea, QC  
Ernest G. Reid, QC  
John F. Roil, QC  
The Hon. Robert Wells  
Marina C. Whitten, QC

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## TREASURERS/PRESIDENTS OF THE LAW SOCIETY

## SECRETARIES/VICE-PRESIDENTS OF THE LAW SOCIETY

*1834-1845 Records of the Society were destroyed in the Great Fire of June 9, 1846*

1834 Bryan Robinson  
1841 Hon. Wm. B. Row, QC  
1846 Hon. Wm. B. Row, QC  
1849 Bryan Robinson, QC  
1852 E. M. Archibald  
1855 F. B. T. Carter  
1866 Wm V. Whiteway  
1869 Robert J. Pinsent, QC  
1870 Wm. V. Whiteway  
1879 Robert J. Pinsent, QC  
1881 J. I. Little, QC  
1885 Robert J. Kent, QC  
1893 Sir Wm. V. Whiteway, KCMG, QC  
1908 Sir James S Winter  
1911 Daniel J. Greene, KC  
1912 Donald Morison, KC  
1919 J. A. Clift, KC  
1923 P. J. Summers, KC  
1927 W. R. Howley, KC  
1941 C. O'N Conroy, KC  
1947 John G. Higgins, QC  
1958 R..S. Furlong, QC  
1959 G. M. Stirling, CM, QC  
1971 R. W. Bartlett, QC  
1974 Donald A. Mercer, QC  
1977 Robert Wells, QC  
1981 Francis P. Fowler, QC  
1982 Ernest G. Reid, QC  
1983 Thomas J. O'Reilly, QC  
1984 M. Francis O'Dea, QC  
1985 Peter W. Strong, QC

1834 E. M. Archibald  
1841 E. M. Archibald  
1846 E. M. Archibald  
1847 H. W. Hoyles  
1849 F. B. T. Carter  
1855 George Hogsett  
1856 Henry A. Clift  
1869 M. W. Walbank  
1866 Robert J. Pinsent  
1869 M. W. Walbank  
1877 T. J. Keough, QC  
1879 Prescott Emerson, QC  
1879 Prescott Emerson, QC  
1885 Prescott Emerson, QC  
1889 A. J. W. McNeily, QC  
1895 D. M. Browning  
1914 C. O'N Conroy  
1916 C. H. Emerson, KC  
1919 Rt Hon. Sir Wm. Lloyd  
1937 J. G. Higgins, QC  
1947 J. A. Barron, QC  
1958 G. M. Stirling, CM, QC  
1959 T. Alex Hickman, QC  
1967 D. A. Mercer, QC  
1974 Noel Goodridge, QC  
1976 Francis P. Fowler, QC  
1981 Ernest G. Reid, QC  
1982 Thomas J. O'Reilly, QC  
1983 M. Francis O'Dea, QC  
1984 Peter W. Strong, QC  
1985 David L. Russell, QC

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**TREASURERS/PRESIDENTS**

1986 David L. Russell, QC  
1986 G. David Martin, QC  
1987 J. Vernon French, QC  
1988 Lewis B. Andrews, QC  
1989 John F. Roil, QC  
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1991 R. Barry Learmonth, QC  
1992 Thomas R. Kendell, QC  
1993 Augustus G. Lilly, QC  
1994 V. Randell J. Earle, QC  
1995 Reginald H. Brown, QC  
1996 Dana K. Lenehan, QC  
1997 Gloria Harding  
1998 J. David B. Eaton, QC  
1999 Dennis C. MacKay, QC  
2000 Robert M. Sinclair, QC  
2001 Jeffrey P. Benson, QC  
2002 William H. Goodridge, QC  
2003 Stephanie L. Newell, QC  
2004 Brian F. Furey, QC  
2005 Edward M. Hearn, QC  
2006 Paul M. McDonald  
2007 Marina C. Whitten, QC  
2008 Sheila H. Greene, QC  
2009 Irene S. Muzychka, QC  
2010 Glen L.C. Noel, QC  
2011 Augustine F. Bruce, QC  
2012 Morgan C. Cooper  
2013 George L. Murphy, QC  
2014 Kenneth L. Baggs, QC  
2015 Susan M. LeDrew, QC  
2016 Barry G. Fleming, QC  
2017 R. Paul Burgess, QC  
2018 Donald E. Anthony QC  
2019 Ian S. Patey

**SECRETARIES/VICE-PRESIDENTS**

1986 G. David Martin, QC  
1986 J. Vernon French, QC  
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1994 Reginald H. Brown, QC  
1995 Dana K. Lenehan, QC  
1996 Gloria Harding  
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2004 Edward M. Hearn, QC  
2005 Paul M. McDonald  
2006 Marina C. Whitten, QC  
2007 Sheila H. Greene, QC  
2008 Irene S. Muzychka, QC  
2009 Glen L.C. Noel, QC  
2010 Augustine F. Bruce, QC  
2011 Morgan C. Cooper  
2012 George L. Murphy, QC  
2013 Kenneth L. Baggs, QC  
2014 Susan M. LeDrew, QC  
2015 Barry G. Fleming, QC  
2016 R. Paul Burgess, QC  
2017 Donald E. Anthony, QC  
2018 Ian S. Patey  
2019 Ann F. Martin



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## LAW SOCIETY STAFF

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<b>Executive Director:</b>	Brenda B. Grimes, QC	
<b>General Counsel/Deputy Executive Director:</b>	Aimee N. Rowe	
<b>Director of Legal Education:</b>	Christian J. Hurley	
<b>Director of Professional Responsibility:</b>	Lori S. Chafe	
<b>Director of Practice Management:</b>	Angela M. Whitehead	
<b>Law Librarian:</b>	Jenny E. Thornhill	
<b>Accountant:</b>	Richard T. Yabsley	
<b>Insurance and Risk Manager:</b>	Janice K. Ringrose	
<b>Professional Responsibility Administrator:</b>	Pamela A. Marks	
<b>Administrative Assistants:</b>	Anne P. Cross	<i>(Professional Responsibility)</i>
	Lisa E. Kennedy	<i>(Custodianship)</i>
	Erin C. Rowe	<i>(Executive)</i>
	S. Renee Whalen	<i>(Office)</i>
	Regina M. Whitty	<i>(Office – from 16 December 2019)</i>
	Andrea E. L. Mercer	<i>(Education)</i>
<b>Library Technician</b>	Leah A. Griffiths	
<b>Maintenance:</b>	Keith J. Burke	

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## MEMBERSHIP

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Lawyers were first regulated in Newfoundland under a Royal Charter of 1826; the Law Society was incorporated on July 1, 1834.

The Barristers and Solicitors Roll, as of April 17, 2020, records that 1911 members have been called to the Bar since 1826.

Membership Statistics as of June 2020:

Practising (Insured):	578
Practising (Uninsured):	214
Non-Practising:	241
Life:	47
<b>TOTAL</b>	<b>1080</b>

The total membership figures for the years since Confederation with Canada are as follows:

<b>1950 - 66</b>	<b>1951 - 64</b>	<b>1952 - 66</b>	<b>1998 - 706</b>	<b>2014 - 983</b>
<b>1953 - 69</b>	<b>1954 - 72</b>	<b>1955 - 75</b>	<b>1999 - 728</b>	<b>2015 - 997</b>
<b>1956 - 73</b>	<b>1957 - 76</b>	<b>1958 - 76</b>	<b>2000 - 750</b>	<b>2016 - 1018</b>
<b>1959 - 77</b>	<b>1960 - 81</b>	<b>1961 - 83</b>	<b>2001 - 767</b>	<b>2017 - 1032</b>
<b>1962 - 86</b>	<b>1963 - 86</b>	<b>1964 - 86</b>	<b>2002 - 772</b>	<b>2018 - 1054</b>
<b>1965 - 86</b>	<b>1966 - 86</b>	<b>1967 - 89</b>	<b>2003 - 798</b>	<b>2019 - 1077</b>
<b>1968 - 106</b>	<b>1969 - 110</b>	<b>1970 - 124</b>	<b>2004 - 808</b>	<b>2020 - 1080</b>
<b>1971 - 129</b>	<b>1972 - 129</b>	<b>1973 - 145</b>	<b>2005 - 832</b>	
<b>1974 - 153</b>	<b>1975 - 179</b>	<b>1976 - 189</b>	<b>2006 - 858</b>	
<b>1977 - 203</b>	<b>1978 - 237</b>	<b>1979 - 261</b>	<b>2007 - 870</b>	
<b>1980 - 281</b>	<b>1981 - 316</b>	<b>1982 - 333</b>	<b>2008 - 904</b>	
<b>1983 - 351</b>	<b>1984 - 371</b>	<b>1985 - 378</b>	<b>2009 - 923</b>	
<b>1986 - 394</b>	<b>1987 - 408</b>	<b>1988 - 435</b>	<b>2010 - 931</b>	
<b>1989 - 445</b>	<b>1990 - 477</b>	<b>1991 - 514</b>	<b>2011 - 948</b>	
<b>1992 - 560</b>	<b>1993 - 588</b>	<b>1994 - 617</b>	<b>2012 - 931</b>	
<b>1995 - 635</b>	<b>1996 - 669</b>	<b>1997 - 683</b>	<b>2013 - 937</b>	

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Thirteen lawyers were called to Bar of Newfoundland and Labrador on June 21, 2019

Roll#

1868	Emilie S. Rowe	1875	Patrick G. Reed
1869	Sam A. Clark	1876	Maria E. Clift
1870	Elizabeth M. Matheson	1877	Gregory Noseworthy
1871	Aaron F. Morrow	1878	Navdeep Kaur
1872	Aaron G. Mosher	1879	Jill N. Quilty
1873	Nikita B. Sheaves	1880	Andrew L. John
1874	Emily C. Ryan		

Nine lawyers were called to Bar of Newfoundland and Labrador on October 11, 2019

Roll #

1881	Kara A. Harrington	1886	Matthew Y. Jacobs
1882	Robert R. Escott	1887	Wayne A. Bacchus
1883	Cynthia K. P. Lau	1888	Jamie F. MacGillivray
1884	Victor J. Ryan	1889	Scott M. Hughes
1885	Mathew K. MacIsaac		

Eighteen lawyers were called to the Bar of Newfoundland and Labrador on February 14, 2020

Roll#

1890	Neala J. Kielley	1899	Meghan R. Foley
1891	Mikhaela A. Hearn	1900	Kolin P. Kennedy
1892	Andrea A. Neil	1901	Michaela P. Brophy
1893	Tyler W. Knox	1902	Christopher D. Goodridge
1894	Stephen G. Brien	1903	Sarah M. Byrne
1895	Morgan E. Chafe	1904	Adam N. Foote
1896	Caroline A Molloy	1905	Tanisha D. L. Connolly
1897	Ryan E. B. Parsons	1906	Mitchell D. King
1898	Rebecca L. Munden	1907	Brandon C. Walzak


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Five lawyers were called to the Bar of Newfoundland and Labrador on April 17, 2020


Roll#

1908 Ryan M. B. Butler  
1909 Alannah J. Dawson  
1910 Kevin J. Maher  
1911 Patrick J. Cahill  
1912 Senwung F. Y. Luk

The Benchers note with regret the death of the following members and former members during the period from June 2019 to June 2020:


—  —  
**Roland Carl Snelgrove, QC,**  
called April 12, 1978, Roll #444


—  —  
**John Francis Dawson,**  
called December 15, 1983, Roll #608


—  —  
**William John Baker,**  
called December 14, 1979, Roll #477

—  —  
**Thomas Joseph O'Reilly, QC,**  
called February 26, 1968, Roll #277

—  —  
**Francis Paul Fowler, QC,**  
called February 23, 1967, Roll #271

—  —  
**John Carnell Crosbie, P.C., O.C., O.N.L., QC,**  
called October 16, 1957, Roll #241

—  —  
**Kenneth Warren Jerrett,**  
called April 14, 1997, Roll #1025

—  —  
**George David Selwyn Martin, QC,**  
called December 11, 1968, Roll #287

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# LAW SOCIETY COMMITTEES

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## STATUTORY COMMITTEES

### EXECUTIVE COMMITTEE

Ian S. Patey, *President*

Ann F. Martin, *Vice-President*

Donald E. Anthony, QC, *Past President*

Renee L. F. Appleby

Suzanne M. Orsborn

Brenda B. Grimes, QC, *ex officio*

Aimee N. Rowe, *ex officio*

### COMPLAINTS AUTHORIZATION COMMITTEE

Renee L. F. Appleby, *Chair*

Gladys H. Dunne, *Vice-Chair*

Linda Harnett, *Appointed Benchers*

Lori S. Chafe, *ex officio*

#### **Alternate Members**

John J. Hogan, QC

Marina C. Whitten, QC

Allan Skanes, *Appointed Benchers*

Ross Elliott, *Appointed Benchers*

### DISCIPLINARY PANEL

#### **Law Society Members**

David Eaton, QC, *Chair*

Glenda C. Best, QC

David G. Conway

Michael H. Duffy

Philip J. Buckingham

Erin L. Delaney

Marcus A. Evans, QC

Trudy L. Button

Robert J. Dillon

Peter G. Fitzgerald

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Gregory J. French	Olga R. McWilliam Benson	<b>Appointed Representatives</b>
Brian R. Gatien	Todd S. Newhook	Aubrey Dawe
Mark J. Griffin	Jacqueline A. M. Penney, QC	Lydia Dutton
Robert J. Hickey	Elaine M. Reid	Craig Ennis
Christina R. Kennedy	Neil R. Smith	Dwayne Hopkins
Tannis L. King	G. Todd Stanley, QC	Kent Nash
Barry C. Lake	Lisa M. Stead	Raymond Rose
Raelene L. Lee	Darren C. Stratton	Peter Seviour
Chantelle MacDonald Newhook, QC	Andrew J. Wadden	Brittany Tibbo
Kimberly J. Mackay	Philip G. Warren, QC	Sharon Warren
		Cindy Whitten

## EDUCATION COMMITTEE

Leanne M. O’Leary, *Chair*

Barbara A. Barker	Andrew J. Wadden
Glenda C. Best, QC	Ann F. Martin, ex officio
J. David B. Eaton, QC	Christian J. Hurley, ex officio
Suzanne M. Orsborn	

## BAR ADMISSION COMMITTEE

J. David B. Eaton, QC, *Chair*

Sandra M. Burke, QC	Lynne D. Butler
Gregory M. Smith, QC	Darren C. Stratton
Padraig J. Mohan	Stacey L. O’Dea
Stephen F. Penney	Christian J. Hurley, <i>ex officio</i>
Beth M. W. McGrath	

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## STANDING COMMITTEES

### ACCOUNTS AND FINANCE COMMITTEE

Renee L.F. Appleby, *Chair*

Douglas W. Wright

Brenda B. Grimes, QC, *ex officio*

Glenda Reid

Richard T. Yabsley, *ex officio*

### LIBRARY COMMITTEE

Glenda Reid, *Chair*

Geoffrey Aylward, QC (by invitation)

Kyle R. Rees

Peter N. Browne, QC

Gregory J. French

Rebecca A. Redmond MacLean, QC

Jenny Thornhill, *ex officio*

### HONOURS AND AWARDS

Linda D. Harnett, *Chair*

Rebecca A. Redmond MacLean, QC

Ian C. Wallace

Marcus A. Evans, QC

Christian J. Hurley, *ex officio*

Christopher R. Quigley

### INSURANCE COMMITTEE

Rodney J. Zdebiak, *Chair*

Gary L. Baird, *Adjuster*

Marina C. Whitten, QC

Valerie A. Hynes

Rebecca A. Redmond MacLean, QC

Thomas J. Johnson, QC

Janice K. Ringrose, *ex officio*

Stephen J. May, QC

Brenda B. Grimes, QC, *ex officio*

### CLAIMS REVIEW COMMITTEE (CLIA REQUIREMENT)

Janice K. Ringrose, *Chair*

Thomas J. Johnson, QC, *Counsel*

Andrew J. Wadden, *Alternate Counsel*

Gary L. Baird

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## SS DAISY LEGAL HISTORY COMMITTEE

The Honourable Judge John L. Joy, *Chair*

Christopher P. Curran, QC, *Co-Chair (until December 2019)*

Melvin Baker

Donald K. Powell

The Honourable J. Derek Green

Anna M. Wadden

Robert P. Pittman, QC

Robin R. R. Reid

The Honourable Judge Milton R. Reid

James E. Merrigan, QC, *Bencher Liaison*

Donald A. MacBeath, QC

Christian J. Hurley, *ex officio*

Janet Henley, QC

## REAL ESTATE COMMITTEE

Brenda P. Duffy, QC, *Chair*

Lisa M. Daly

Trevor A. Stagg

Blair G. Downey

Graham A. Wells, QC

Barry C. Lake

## ACCESS TO JUSTICE COMMITTEE

Lauren J. Chafe, *Chair*

Adrienne S. Edmunds

Glenda Reid

Jennifer L. Mercer, QC

Christian J. Hurley, *ex officio*

Ross Elliott

## INDIGENOUS EDUCATION AND ACTION COMMITTEE

Violet Ford, *Chair (Interim)*

Adrienne Edmunds, *Bencher Liaison*

Desmond Jagger-Parsons

Barbara Barker (Chair until February 2020)

Jerry Wetzel

Denise Spencer

Christian J. Hurley, *ex officio*

Colleen Hanrahan



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## EQUITY AND DIVERSITY COMMITTEE

Scott Worsfold, *Chair*

Lori Savory

Desmond Jagger-Parsons

Sheila Devine

Michael Ladha

Kimberley McLennan

Tanya O'Neil

Rebecca Phillipps

Aimee N. Rowe, *ex officio*

Elizabeth Zarpa

## CODE OF PROFESSIONAL CONDUCT REVIEW COMMITTEE

Linda Harnett, *Chair*

Ann F. Martin

Lori S. Chafe, *ex officio*

Rodney J. Zdebiak

## AD HOC COMMITTEES

### RULES REVISION COMMITTEE

Suzanne M. Orsborn, *Chair*

Andrea L. Murphy McGrath

Douglas W. Wright

Shawn I. Patten

Allan Skanes

Lorna A. Proudfoot, QC

Aimee N. Rowe, *ex officio*

Ruth E. Trask

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# PRESIDENT'S ANNUAL REPORT

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## Ian S. Patey

It is my privilege to present this report for 2019-2020 which summarizes some of the significant events, accomplishments and activities of the Law Society during my term.

### **Call to Bar for New Lawyers**

One of the more pleasant tasks a President of the Law Society carries out is participating in the various ceremonies and celebrations of the Law Society, including the Call to Bar ceremonies. Four (4) of these took place from June 2019 to May 2020 which resulted in the admission of 45 new lawyers to our Bar. This year, for the first time in the history of the Call to Bar ceremonies in this province, on 17 April 2020 we held the Call to Bar Ceremony via video conference; a first, not just for this Province, but for all of Canada.

While the practice of law is exciting and rewarding, it also brings with it much responsibility. It is important that all members of the Law Society continue to provide guidance and support to our new colleagues as they move forward on their chosen career path.

### **Judges**

Another notable ceremonial occasion is when a member of the Law Society makes the transition from the Bar to the Bench upon being appointed as a judge. Although this appointment marks the end of that person's membership in the Law Society, it is still an occasion to be recognized and celebrated by the members of the Law Society as it highlights the esteem in which this former member is held. I was honoured to attend and give remarks at the Swearing-In ceremonies of Judge Rolf Pritchard, who was sworn in as Judge of the Provincial Court of Newfoundland and Labrador (Happy Valley-Goose Bay); and Justice Glen Noel, who was appointed as a Justice of the Supreme Court of Newfoundland and Labrador (Gander). I also attended and gave remarks at the Opening of the Fall Session of the Court and Introduction of The Honourable Justice Glen L. C. Noel at the Supreme Court of Newfoundland and Labrador, Judicial Centre

of Gander on 24 October 2019 and the Opening of the Fall Session of the Court and Introduction of The Honourable Justice Katherine O'Brien at the Supreme Court of Newfoundland and Labrador Judicial Centre of Grand Bank on 12 September 2019.

### **New Queen's Counsel**

I attended the Swearing-In of Queen's Counsel on 12 March 2020. Members appointed were: Donald Anthony, Brenda Duffy, John Hogan, Chantelle MacDonald Newhook, Shayne McDonald, Jacqueline Penney, Gregory Smith, Pamela Taylor, Tina Walsh and Philip Warren.

This is a well-deserved honour and recognition for the members appointed and I was happy to attend on Benchers' behalf and to congratulate our new Queen's Counsel at the reception hosted by the Law Society following the ceremony.

### **Former Judges and Members**

Along with joyful occasions, it is important to acknowledge sorrowful ones as well. Benchers, Law Society staff and members were saddened to learn of the untimely passing of members and former members, Roland Carl Snelgrove, QC, William John Baker, Francis Paul Fowler, QC, Kenneth Warren Jerrett, John Carnell Crosbie, P.C., O.C., O.N.L., Q.C., Thomas Joseph O'Reilly, QC, George David Selwyn Martin, QC and John Francis Dawson.

These individuals will be greatly missed by family, friends and colleagues.

### **The Work of the Law Society:**

#### **Benchers, the Executive Committee and Law Society Professional Staff**

As the governing body of the Law Society, the Benchers have the authority to regulate the practice of law and the legal profession in the public interest. The Benchers are 17 elected members of the Law Society and four lay members appointed by a Committee

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chaired by the Chief Justice of the Trial Division of the Supreme Court of Newfoundland and Labrador.

Members of our bar are often unaware of the work that is done behind the scenes by Benchers. Being a Bencher requires dedication, engagement and a significant commitment of time but it is also a very rewarding experience. In the course of regulating in the public interest, Benchers deal with many interesting issues and make decisions which can have a fundamental impact on individual members, the profession and the public. Members are encouraged to take the time to get involved in the Law Society, whether by running for election as a Bencher or by volunteering for one of the Committees.

Benchers, in conjunction with the various committees have important roles to play in policy development and legislative change, all with the objective of protecting the public interest. In order to successfully carry out these roles, significant reliance must be placed on the information, guidance and advice provided by the Law Society's senior professional staff under the leadership of the Executive Director, Brenda B. Grimes, QC.

The Law Society's professional and administrative staff are diligent in advising, informing and supporting Benchers and the Executive Committee in furtherance of our protection of the public interest mandate. Benchers look forward to continuing to work in collaboration with them in the continued discharge of our responsibilities as a Law Society, and the successful regulation of the practice of law and the legal profession in the public interest.

#### **Notable Positive Initiatives/Results Achieved this Year**

Benchers and Law Society staff work hard to ensure that the Law Society is operating effectively and efficiently. Members can be confident that our Law Society is well placed to carry out its public protection mandate. Some examples of positive initiatives/results include:

1. While maintaining compliance with the restrictions mandated by the Chief Medical Officer during the Covid-19 pandemic, the regular business of the Law Society has continued, primarily remotely, due to recent investments in technological infrastructure;

2. Financial Performance – in contrast to 2018, 2019 was a banner year in the financial markets. As a result, our investment returns significantly exceeded budget with Investment Income of \$1,309,985 reported in our December 31, 2019 Audited Financial Statements. This was the main contributor to the surplus recognized in the Law Society (\$10,392) and the Lawyers' Insurance Programme (\$1,609,809). The Insurance Programme operating results were further enhanced by lower than expected insurance claims costs for the second year in a row. It should be noted that the Assurance Fund's reported deficit of \$87,705 was the result of a retro assessment of \$104,799 for 2019 required CLIA as a result of the claims experience of one of the reciprocal jurisdictions.

This year's net earnings of \$1,362,794 further enhance our already strong financial standing and well positions the Law Society to withstand the expected negative outfall from this year's COVID-19 pandemic;

3. Benchers participated in governance training and strategic planning sessions which were both informative and beneficial for the ongoing leadership of the Law Society;
4. Benchers approved the use of funds from the Strategic Initiatives Restricted Surplus Fund to provide PLIAN with funding in the amount of \$100,000.00 per year for the next three years, subject to continued good financial stewardship;
5. From 16 – 18 October 2019 the Law Society of Newfoundland and Labrador hosted the Federation of Law Societies of Canada's Annual Conference;
6. Benchers held their Convocation on 10 February 2020 in Corner Brook where the Law Society also held a Continuing Legal Education Seminar and reception;
7. On February 11, 2020, the President and Law Society management staff, together with Denise Spencer, a member of the Indigenous Education Action Committee, attended an introductory meeting with Chief Brendan Mitchell and Band Manager Keith Goulding of the Qalipu First

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Nation at their offices in Corner Brook. It was an excellent opportunity to learn about each other and how we might build a relationship and ultimately collaborate on projects in furtherance of the TRC Calls to Action. We hope to continue with these collaborative meetings with the Qalipu and to schedule meetings with other First Nations in the near future;

8. On 17 April, 2020 the Law Society President took part in the first virtual Call to the Bar ceremony in the country. This was an historically significant ceremony and served as a demonstration of the capacity of the General Division to function remotely;
9. Ongoing review of policies and processes to ensure relevance;
10. Ongoing monitoring of our infrastructure requirements to ensure that the integrity and safety of Law Society information is protected and that we can effectively receive and deliver information;
11. Ongoing oversight of management - Benchers continue to receive necessary information on key operations and programs on a regular basis.

### **Committee Work**

The work of Law Society staff and Benchers is often augmented by the work done by its various committees, many of whom have included summaries of their activities elsewhere in this Annual Report. The committees assist in a wide range of areas including education, accounts and finance, the library, discipline and professional conduct, admissions, insurance, Indigenous education and equity and diversity. The work of all committees is always challenging and often time consuming but it is invaluable to the success and effective operation of the Law Society. The dedication of these committee members must be recognized.

### **Federation of Law Societies of Canada**

Canada's fourteen provincial and territorial law societies govern over 100,000 lawyers and 3,500 Québec notaries in the public interest. The Federation of Law Societies of Canada is their national coordinating body.

As a member of the Federation of Law Societies of

Canada, the Law Society has access to a broader range of resources to assist it in carrying out its mandate. Matters of national importance which are discussed at the Federation level quite often lead to the creation of and implementation of common policies in each jurisdiction. This commonality helps in the adoption of uniform best practices and provides for a larger pool of precedent on which to draw when interpreting matters locally. It also ensures that mobility between provinces is more seamless. All of this is of benefit to the profession and protects the public interest.

The Federation continues to engage in strategic planning in order to ensure that it is equipped to meet the needs of all jurisdictions in Canada and the public we serve and continues to endorse the following strategic objectives: 1) be a knowledge leader and effectively share information and facilitate collaboration; 2) identify and promote best practices in professional regulation; and 3) demonstrate excellence in governance and service delivery.

We derive much value from the Federation in many ways. Notable among these is the collaboration among staff from each Law Society (which is invaluable in terms of identification of issues and sharing of best practices) and the Federation's intervention in a number of Supreme Court of Canada cases the results of which had (or could have had) a significant impact on our members.

As noted above the Federation's Annual Conference was held in St. John's, NL in October, 2019 where the focus was on the practice of well-being and exploring the role of legal regulators. The conference was a success and we were proud to showcase our unique and welcoming province to those who attending from across the country.

### **Law Foundation**

We are fortunate and grateful once again to have the financial support of the Law Foundation of Newfoundland and Labrador for law libraries. For the calendar and fiscal year ending 31 December 2019, the Foundation granted \$16,500.00 to law libraries in the province. This funding is allocated among the Law Society library in St. John's, and the libraries in Corner Brook and Gander which are managed by the Department of Justice and Public Safety.

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The Governors of the Law Foundation are F. Geoffrey Aylward, QC, Chair, D. Gordon Woodland, QC, Justin S.C. Mellor, Regan O'Dea, Dr. Judit Lovas, M. Gerald Wetzel and Sheri Wicks. Virginia English is the Foundation's Executive Director. On behalf of Benchers and the Law Society, I would like to extend sincere thanks to the Law Foundation and its Board of Governors for its continued support, which is crucial to maintaining and upgrading the library resources so essential to the profession and the public.

### **Our Volunteers**

The dedication of numerous members and non-members who contribute, on a volunteer basis, to the important work of the Law Society does not go unnoticed. Whether they are contributing at the Benchers' level, on one of the Law Society's committees or in other ways, our volunteers strengthen our professional community, thus enhancing and advancing the integrity, credibility and future of the profession. On behalf of Benchers and the Law Society, thank you for all of your hard work and commitment.

### **Law Society Staff**

The dedicated group of employees, led by Brenda B. Grimes, QC, do incredible work and should be recognized for the enormous amount of effort they put into everything they do to fulfill the Law Society's mandate to regulate the legal profession and the practice of law in the public interest.

Throughout the course of the Covid-19 pandemic, the public continues to need the services of the legal profession. Without reservation I can say that Brenda B. Grimes, QC has demonstrated on a daily basis her skills as a leader and as point person on the pandemic response by the Law Society. This, coupled with the incredible efforts of Aimee Rowe, Christian Hurley, Lori Chafe, Angie Whitehead, Jenny Thornhill, and the whole staff, has enabled the Law Society to coordinate with the Department of Justice and Public Safety, the Courts and all stakeholders and continue to meet our mandate. We have a great team of professional staff at the Law Society who have embraced their new working environments and continue to get the work done. I cannot thank all of the dedicated staff of the Law Society enough for the extraordinary efforts they

have made, particularly during these trying times.

### **Conclusion**

The circumstances surrounding the COVID-19 pandemic have become the focus of everyone's attention over the past number of months. Like most members, consistent with public health advisories and government directives related to social distancing, the Law Society transitioned to remote work to enable general operations to continue. As this unprecedented event evolved (and continues to evolve), there were many late night conference calls with the Minister of Justice and Public Safety and his staff. Throughout, Law Society staff have worked tirelessly, in consultation with the Department of Justice and Public Safety, the Courts and their counterparts at law societies across the country, to have a coordinated response to issues as they arose and continue to arise. Given the pressing circumstances presented by the pandemic, we are all becoming accustomed to this new way of operating.

While these remain difficult circumstances in which we find ourselves serving the public, rest assured that these last few months, and the coming months, will make all of us better at what we do, for the benefit of those for whom we do it.

Stay safe everyone.



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## VICE-PRESIDENT'S ANNUAL REPORT

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### Ann F. Martin

The *Law Society Act, 1999* (the *Act*) prescribes the Vice-President's role in the disciplinary process. The Vice-President receives reports from the Director of Professional Responsibility and submits allegations to the Complaints Authorization Committee (the "Committee"). The Committee is a statutory committee consisting of at least three Benchers, at least one of whom is an appointed Bencher. The Committee screens allegations of conduct deserving of sanction. Conduct deserving of sanction is defined in section 41 of the *Act* to include professional misconduct, failure to maintain the standards of practice, conduct unbecoming a member of the Society, and acting in breach of the *Act*, the Law Society Rules or the Code of Professional Conduct.

The Vice-President, with the consent of the parties, may attempt to resolve an allegation or may refer the allegation to alternate dispute resolution. Where the allegation is not satisfactorily resolved by the Vice-President or through alternate dispute resolution, the Vice-President shall refer the allegation to the Committee.

The initial assessment of an allegation is subject to the third party allegation policy. A third party allegation is one received from a non-client or lawyer opposed in interest to a client of the solicitor against whom the allegation is made. Following a review of the allegation on the basis of specific factors, the Vice-President has discretion to defer the investigation pending the final determination of a proceeding or decline to investigate the allegation. When an investigation is deferred, the Vice-President requests, from the respondent, a consent and a waiver of delay. When an investigation is declined, the complainant is advised that outstanding issues, if any, may be re-filed with the Law Society subsequent to the final determination of the proceeding.

The powers of the Committee are prescribed by section 45 of the *Act* and include the authority to conduct investigation, conduct a practice review and require

the members appearance before the Committee. The investigations and reviews are conducted through the Director of Professional Responsibility's office. Following its final consideration of an allegation, the Committee will either dismiss the allegation or, where they are of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint. When an allegation is dismissed by the Committee, the complainant has a statutory right of appeal to the Supreme Court General Division.

Once the allegation is considered to constitute a complaint, the Committee may counsel or caution the respondent; may instruct the Vice-President to file the Complaint and refer it to the Disciplinary Panel; may make an application for appointment of a Custodian of the members practice; and may suspend or restrict the respondents licence to practice.

The Disciplinary Panel, appointed pursuant to section 42 of the *Act*, is comprised of Law Society members and lay representatives. For the purpose of dealing with Complaints referred, and applications made, to the Disciplinary Panel, the Chairperson appoints an Adjudication Tribunal to hear the matter. Each Adjudication Tribunal consists of two members and one lay representative. The Adjudication Tribunal is independent of the Law Society and derives its authority from the *Act* and in particular sections 46 through 51 thereof. The Society and the respondent have a statutory right of appeal of a decision or order of an Adjudication Tribunal, to the Supreme Court General Division.

During the current reporting period, there were 13 matters for which the Committee opined that there were reasonable grounds to believe that the respondent has engaged in conduct deserving of sanction. These allegations constituted a complaint. For 2 of these matters, the Committee issued a letter of counsel. For 3 of these matters, the Committee

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issued a letter of caution. For 8 of these matters, the Committee instructed the Vice-President to file the Complaint and refer it to the Disciplinary Panel.

During the current reporting period, 2 Adjudication Tribunals filed decisions wherein the members were found guilty of conduct deserving of sanction. One matter resulted in the member being permitted to surrender his licence to practice law. One matter resulted in a suspension. There are two ongoing matters before an Adjudication Tribunal. Further, the Society is engaged in litigation, before the Supreme Court General Division, for four Adjudication Tribunal decisions from prior reporting years.

Hundreds of hours of volunteer time are contributed on an annual basis by members of the Complaints Authorization Committee and by members of the Disciplinary Panel. The Society could not function without the dedication and volunteer time of these individuals. Their contribution is significant and greatly appreciated.

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## EDUCATION COMMITTEE REPORT

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### Leanne O’Leary, Chair

The Education Committee is responsible for educational issues which arise concerning members and prospective members of the Law Society. The Committee deals with all applications for admission and re-admission to practice, which applications generally involve an assessment of academic credentials, currency of legal knowledge, fitness to practice and good character elements. The Education Committee deals with requests throughout the year from members and prospective members relating to the requirements in the Law Society Act, 1999 and the Law Society Rules on educational and admissions issues.

As such, the Education Committee considers applications from:

- law students regarding admission as a Student-at-Law;
- applications from members of other Law Societies who wish to practice in Newfoundland and Labrador on a temporary basis under the National Mobility Agreement;
- applications from members of other Law Societies who wish to transfer to Newfoundland and Labrador on a permanent basis pursuant to the National Mobility Agreement; and
- applications from non-practicing or former members of the Law Society who wish to reinstate their status to practicing membership.

In all of these cases, the Committee must ensure that the applicant has met the required standards, educational and otherwise.

Each year the Education Committee also reviews and approves the marks from the Bar Admission Course examinations and directs, when required, the writing of supplementary examinations or the completion of further educational requirements before a Student-at-Law is eligible to be called to the Newfoundland and Labrador Bar.

From May 2019-April 2020, the Education Committee:

- i. admitted 16 new applicants as Students-at-Law;
- ii. recommended to Benchers that 22 students, having met the requirements of a Student-at-Law, be called to the Bar in Newfoundland and Labrador;
- iii. approved the application of 8 transfer candidates to be called to the Bar of Newfoundland and Labrador under the National Mobility Agreement; and
- iv. approved a change from non-practicing to practicing status for 9 Law Society members.



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# BAR ADMISSION COURSE COMMITTEE REPORT

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## David Eaton, QC, Chair

The Law Society requires all Students-at-Law to attend at the Bar Admission Course and successfully complete the Bar Admission Course Examinations as part of the Law Society's licensing requirements.

The 2019 Bar Admission Course began on September 30, 2019 and continued until November 15, 2019. The Bar Admission Course involves in-class teaching, generally scheduled from 9:00 am – 5:00 pm daily, and the Course runs for a period of seven (7) weeks in total. Daily attendance at the Bar Admission Course is mandatory for all Students-at-Law. There are approximately 200 scheduled hours of instruction in the Bar Admission Course, delivered through lectures, seminars and workshops. There were 94 volunteer instructors involved in the 2019 Bar Admission Course.

There were 25 students enrolled in the 2019 Bar Admission Course. Students attending the Course are articling in a variety of legal environments. Approximately three quarters of students are articling with a firm in private practice, with approximately one quarter articling in a public sector placement, for example with the NL Legal Aid Commission, the Crown Attorney's Office or the Department of Justice (Civil Division). While the majority of students are articling in the St. John's metropolitan area, this year's Course also had representation of students articling throughout the Province, for example in Port aux Basques, Corner Brook, and Happy Valley Goose Bay.

To pass the Bar Admission Course, students must pass 6 Bar Admission Course licensing examinations in the following areas: Family Law, Commercial Law, Civil Procedure, Criminal Law, Administrative Law and Real Estate/Wills. Each of the six licensing examinations exams are 3 1/2 hours long and focus on the lectures and in-class presentations, the Bar Admission Course materials and the approximately 80 provincial and federal statutes and regulations covered in the Course.

As was done for the first time in 2018, the 2019 Bar Admission Course provided the students with the option to write their licensing examinations either by hand or electronically using Examplify, a software program

developed by ExamSoft. This new technology greatly reduces the administrative and environmental cost associated with administering paper-based examinations and allows for a more thorough analysis of the students' performance in their assessments. Of the 25 students in the 2019 Bar Admission Course, 24 elected to write their examinations electronically.

The goal of the Bar Admission Course is to give new lawyers a comprehensive overview of Newfoundland and Labrador and Canadian law and procedure, and transfer to them the necessary information to ensure entry level competence in the profession. The Course is intensive, practical and relevant to what a new lawyer will see in practice.

What follows is an overview, providing further particulars on each section of the Course:

### **The Law Society of Newfoundland and Labrador:**

Topics include the role of the Law Society and Benchers, the resources available through the Law Society Library, the Law Society Trust Accounting requirements and professional conduct and client complaints, the Law Society's professional liability insurance program, risk management, and how to avoid professional negligence claims.

### **Civil Procedure:**

Topics include limitations of actions, fatal accidents, survival of actions, commencing proceedings, service, defences, counterclaims, third party proceedings, default judgments, amendments, interpleader, summary trial, expedited trial, discovery and disclosure of evidence, setting down for trial, the Judgment Enforcement Act, civil appeals, costs and alternative dispute resolution mechanisms.

### **Family Law:**

Topics include divorce proceedings, parenting (custody and access), child and spousal support, matrimonial property, provincial family legislation, pensions, court procedures, child protection, support enforcement and tax implications of family law.

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**Corporate/Commercial Law:**

Topics include incorporation and organizing a business, registration issues, corporate procedures, corporate finance, the Personal Property Security Act, security opinions, purchase and sale of a business/ shares (including related tax issues), commercial insolvency, commercial arbitration, and a panel discussion regarding the role of in-house counsel.

**Criminal Law and Procedure:**

Topics include court structure, presumptions and burdens, classification of offences, pre-arrest, arrest, charge, first appearances, judicial interim release, disclosure, elections and re-elections, solicitor/client matters, preliminary inquiries, pre-trial matters, Charter applications, trial by judge alone, jury trials, the sentencing process, types of sentences, criminal appeals, young offenders, evidentiary matters, voir dres, search and seizure and defences, specialty criminal courts, victim services, as well as a session discussing specific common offences.

**Administrative Law:**

Topics include privacy law, municipal law, the Human Rights Commission, Workplace NL, the professional discipline process, statutory appeals, judicial review and other prerogative orders, and advocacy before administrative tribunals.

**Real Estate:**

Topics include the registry system and land tenure, the real estate transaction, the mortgage, condominiums, professional responsibility in real estate issues, title insurance, survey/location certificates, taxation issues, crown lands, quieting of titles, possessory title, residential tenancies and title searches. There is also a real estate transaction workshop where students work through an actual real estate file from beginning to end.

**Wills and Estates:**

Topics include testamentary capacity, estate planning, will drafting, and the administration/probate of estates.

**Labour and Employment:**

Topics include the statutory framework of employment law, wrongful and constructive dismissal, the Labour Relations Board, and labour arbitration.

**Indigenous Cultural Competency:**

This section, introduced in 2018, includes a presentation to students on the topic of indigenous cultural competency. This year, a blanket exercise was incorporated in which students and Law Society staff were invited to participate.

**Practice Skills, Practice Management and Ethics:**

Topics include written advocacy, oral advocacy, interviewing clients, networking and the marketing of legal services, starting a new law firm, as well as mental health and work/life balance. There is a judicial panel made up of judges from all levels of court in Newfoundland and Labrador wherein students are walked through courtroom mechanics and provided with advocacy tips. There is a separate section on ethics and the Code of Professional Conduct, in which students complete a written assignment and discuss a selection of these assignments in class.

Law Society members or prospective members interested in obtaining further information about the Bar Admission Course should contact Mr. Christian J. Hurley at (709) 722-4898 or by email at [churley@lsnl.ca](mailto:churley@lsnl.ca).

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## CONTINUING LEGAL EDUCATION COMMITTEE REPORT

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The Law Society of Newfoundland and Labrador administers a mandatory continuing legal education program in an effort to ensure the competency and continued development of its members.

In 2019, an amendment was made to Law Society Rule 6.20 that implemented a late fee for members failing to comply with the Mandatory CLE Requirements.

Pursuant to the revised Rule 6.20, **a member who fails to file their Annual CLE Report, in compliance with the Mandatory CLE Requirements, on or before the required deadline will be assessed a \$500 late fee (plus applicable taxes)** and shall be referred to the Vice-President who may take further action as described therein.

The Law Society offers continuing legal education seminars to members of the Newfoundland and Labrador Bar on a variety of topics. Examples of recent and upcoming programs include:

- Amendments to Parts XV, XVI, and V of the Law Society Rules
- Changes to the Automobile Insurance Regime and Applicable Limitations Principles
- Diversity and Inclusion: An Overview and Implications for the Workplace
- Labour and Employment: 2019 Year in Review
- How to Better Manage Your Workload: Time, Task, and Technology Management for Legal Professionals
- Social Media and Electronic Evidence in Court: What's New and What You Need to Know!
- Gain the Edge! Negotiating to Get What You Want - cancelled due to Covid-19, but hoping to reschedule
- Wills and Estates Refresher (2020) – cancelled due to Covid-19, but hoping to reschedule
- Business Continuity For Law Offices in the Face of Coronavirus
- Family Law Update (2020)

Lawyers in Newfoundland and Labrador continue to be very interested in continuing legal education and they continue to support our programming by their excellent levels of attendance, positive feedback and suggestions for future programs.

We appreciate our many volunteer lawyers, judges and other professionals who give their time and talents, as presenters at our seminars, to enhance the knowledge and professional standards of other practitioners. The Law Society greatly appreciates these contributions and we are continuously impressed with the excellence and enthusiasm of our presenters.

Members with questions or program suggestions should contact Mr. Christian J. Hurley at (709) 722-4898 or by email at [churley@lsnl.ca](mailto:churley@lsnl.ca).

# INSURANCE COMMITTEE REPORT

## Rodney Zdebiak, Chair

Under its Terms of Reference, the Insurance Committee is responsible for ensuring that the Lawyers' Insurance Programme is effectively administered and financially stable. It is also responsible to provide the best coverage to members and to protect the public as effectively as possible. The Committee provides oversight to our participation as a subscriber to the Canadian Lawyers Insurance Association (CLIA). Through this affiliation with CLIA, the Insurance Committee is able to provide lawyers in this province with:

- a reliable and permanent source of insurance
- stable premiums in the mandatory insurance layer;
- reasonably priced and effective excess insurance with excess limits of \$1m to \$9m;
- premium rates that reflect the loss experience of Canadian lawyers

The Committee continues to benefit from the hard work and guidance of our Claims Review Committee consisting of Janice Ringrose, Tom Johnson QC, and Gary Baird. Our past years claims history continues to be on par with previous years as we maintain a strong, stable financial position. The premium setting policy at the foundation of our premium setting process continues to provide stability. From 2012-2019, we maintained the same insurance premium of \$1655. For 2020, the insurance premium was reduced to \$1600.

Since joining CLIA in 2005, the Claims Review Committee has opened 962 files. Missed deadlines, poor office procedures, and time management errors are grouped together under Systems/Procedures/Administration as the number one cause of insurance claims and amount to 50% of claim files. The predominant two areas of law where we find these causes of loss are in Real Estate (46%) and Civil Litigation (37%) files.

### 2005-2019 Statistical Chart

962 Claims	CAUSE OF LOSS	CAUSE OF LOSS
	481 - Systems/Procedures/Administration 315 - Communication 23 - Delegation/Supervision 109 - Law, failure to know or apply 20 - Conflict 3 - Fee dispute 4 - Fraud 7 - Other <hr/> 962	445 - Real Estate 357 - Civil Litigation 34 - Estate Planning/Admin 38 - Commercial 25 - Corporate 8 - Criminal 27 - Matrimonial & Family 2 - Employment & Labour 4 - Administrative/Boards/Tribunals 2 - Arbitration 7 - Admiralty 4 - Tax 1 - Mediation 5 - Intellectual Property 1 - Bankruptcy/Insolvency/Receivership 2 - Other <hr/> 962

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In order to manage the risk and reduce or eliminate the number of claim files, the Insurance Committee has implemented a number of loss prevention initiatives including a mentoring program for lawyers, a loss prevention self-assessment checklist, risk assessment visits, loss prevention bulletins, and fraud alerts. We continue to update the insurance and risk management section of our website and we do annual presentations at the Bar Admission Course.

The Insurance Committee also continues to provide Member wellness and employee assistance services through its provider Homewood Health. Some interesting statistics from our Professional Assistance Program show:

- Annual service utilization is 13.77%, which is a slight increase over last year's utilization (13.45%)
- There was a small increase in male utilization this past year (38.5% vs 35.8% last year)
- Member utilization continues to hold steady at 87.5%

- Counselling is the most requested service with 95.8% of utilization. Slightly higher than last year which was 91.6%
- Psychological is the most common counselling service provided (58.7%)
- Top presenting issues continue to be Anxiety (16.1%), Marital/Relationship – Couple (16.1%) and Stress (12.9%)
- A total of 20 members utilized the online CBT treatment program last year
- 60.2% of counselling requests were face to face.
- 2 online courses were taken – Respect in the Workplace and Taking Control of Stress

The Insurance Committee benefits greatly from the generosity of our members who devote significant time and effort to the success of the Lawyers' Insurance Program.

Further information on the activities of the Insurance Committee may be found at <https://lsnl.ca/lawyers-students/insurance/>

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## LIBRARY COMMITTEE REPORT

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### Glenda Reid, Chair

The Law Library Committee (Committee) is a standing committee consisting of Benchers and Members whose mandate is to make recommendations to the Law Librarian to ensure that the Law Library collection and services continue to meet the ever-changing needs of the Members of the Law Society and the practice of law in Newfoundland and Labrador. This advisory group aids the Law Librarian in order to ensure the Law Library can provide resources: (1) for Members in order for them to maintain professional competencies, and (2) promote access to justice for the general public. The Committee also advises on policy development for the Law Library. These policies are then brought forward for approval by the Benchers.

The Law Library Committee met twice during 2019-2020 (September 24, 2019 and December 10, 2019). In accordance with the 2019-2020 workplan, the Committee focused its work this year on supporting lawyer competence through Library access by

reviewing the current *Library Use & Access Policy*. The Committee Members reviewed the aspects of the *Use & Access Policy* to ensure alignment and consistency with the rules and legislation of the Law Society. The policy was updated providing clarification to borrowing privileges and after-hours access.

The Law Library provided reference services to both members of the Law Society and members of the public. During the year, the Library fielded 439 questions (Figure 1); checked out 1144 items from circulation (Figure 2); added 110 new publications and conducted 21 tours of the Library.

The Committee welcomed new members Linda Harnett and Peter Browne this year. Continuing committee members include Kyle Rees, Rebecca Redmond-MacLean, Gregory French, and Jenny Thornhill, Law Librarian (*ex officio*). A new Chairperson will be appointed for 2020-2021.

Figure 1: Annual Summary of Questions/Inquiries

### Questions | 439 Total

#### Type

Basic	420
Tour	13
Complex	6

#### Duration

0-15 minutes	346
60+ minutes	42
15-30 minutes	37
30-60 minutes	14

#### Asked by

In town	312
Out of town	109
Public	18

#### Format

Email	318
Phone	63
In-person	58

#### Location

Emailed	289
Library Materials	73
Scanned & Emailed	44
Library staff	33

#### Tagged with

Quicklaw	117
Westlaw	97
O'Brien's	24
Law Society	21
Heinonline	16
ICLR	9
CanLII	6
google	6
Proview	2
LexisNexisIntl	2
Govt	1

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Figure 2: Circulation - # of items checked out by month:

Year and Month	# of Times Checked Out
2019/01	123
2019/02	108
2019/03	111
2019/04	81
2019/05	99
2019/06	86
2019/07	76
2019/08	92
2019/09	88
2019/10	109
2019/11	101
2019/12	70
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Total Times Checked Out:	1,144



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## HONOURS AND AWARDS COMMITTEE REPORT

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### Linda Harnett, Chair

The Honours and Awards Committee, as mandated by the Committee's Terms of Reference, makes recommendations to Benchers regarding a number of Law Society honours and awards.

#### Law Society Honours

The Degree of **Doctor of Laws**, *honoris causa*, is the highest honour that the Law Society can confer. It recognizes outstanding achievements by distinguished members of the profession or of the judiciary. Recipients are known for conducting themselves according to the highest ideals of the legal profession. The honour is bestowed upon those who have demonstrated outstanding service to the legal profession or to the administration of justice through contributions that improve the justice system and enhance the practice of law. The 2020 recipient of the Degree of Doctor of Laws, *honoris causa*, is Thomas J. O'Reilly, Q.C. (posthumously).

The **Gordon M. Stirling Distinguished Service Award** recognizes substantial contributions to the Law Society, the legal profession or the administration of justice. It is given to members and former members of the Law Society and of the judiciary who, in addition to professional service, make a significant contribution to the public or to the community. The honour was not bestowed in 2020.

The **Jean Bruneau, OC, Certificate of Merit**, is granted to lay persons who have made a substantial contribution to the Law Society through years of service on Benchers or in some other capacity that requires significant contributions of time and effort, or a substantial contribution to the legal profession or the administration of justice. The honour was not bestowed in 2020.

#### Law Society Awards

The Honours and Awards Committee determines the recipients of Law Society awards for Articled Students-At-Law.

The **Hunt Award** is presented to the Student-At-Law

who receives the highest overall average mark in the Law Society of Newfoundland and Labrador's Bar Admission Course. The recipient of the Hunt Award for the 2019 Bar Admission Course is Sarah Byrne. Sarah served Articles of Clerkship at the firm Stewart McKelvey and her principal was Susan Norman. Sarah was called to the Newfoundland and Labrador Bar on February 14, 2020, and is currently employed as an Associate with Stewart McKelvey in St. John's.

The **Legal Aid NL Family Law Award** is presented to the Student-At-Law achieving the highest mark in the Family Law Examination of the Bar Admission Course. The recipient of the 2019 Legal Aid NL Family Law Award is Andrea Neil. Andrea served Articles of Clerkship at the firm McInnes Cooper and her principal was David Eaton, QC. Andrea was called to the Newfoundland and Labrador Bar on February 14, 2020, and is currently employed as an Associate with the St. John's office of McInnes Cooper.

The **Spracklin Award** is presented to the Student-At-Law achieving the highest mark in the Real Estate/Wills Examination of the Bar Admission Course. There were two joint recipients of the 2019 Spracklin Award: Meghan Foley and Ryan Parsons. Meghan Foley served Articles of Clerkship at the firm Roebbothan McKay & Marshall and her principal was Colin Feltham. Meghan was called to the Newfoundland and Labrador Bar on February 14, 2020, at which time she commenced practice with Roebbothan McKay & Marshall. Ryan Parsons served Articles of Clerkship at the firm Cox & Palmer and his principal was Shawn Kavanagh. Ryan was called to the Newfoundland and Labrador Bar on February 14, 2020, at which time he commenced practice with Cox & Palmer.

The **Provincial Court Judges' Association Award** is presented to the Student-At-Law achieving the highest mark in the Criminal Law Examination of the Bar Admission Course. There were two joint recipients of this award: Adam Foote and Brandon Walzak. Adam Foote served Articles of Clerkship at Legal Aid NL in



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the St. John's office and his principal was C. Brodie Gallant. Adam was called to the Newfoundland and Labrador Bar on February 14, 2020, and is currently employed as an Associate with Legal Aid NL. Brandon Walzak served Articles of Clerkship at Legal Aid NL in the Stephenville office and his principal was Julia Smart. Brandon was called to the Newfoundland and Labrador Bar on February 14, 2020, and is currently employed with the City of St. John's.

The **William J. Browne Scholarship** is presented to a Student-At-Law who has submitted the winning research essay on a legal issue of current public concern. There was no recipient for the William J. Browne Scholarship for 2020.

The **Maxwell J. Pratt Scholarship** is based on academic performance and is presented to a Student-At-Law who is a graduate of Memorial University of Newfoundland and a student at Dalhousie Law School. The 2020 recipient of the Maxwell J. Pratt Scholarship is Marc Lewis, who is currently serving Articles of Clerkship at the firm McInnes Cooper.

#### **Establishment of a New Bar Admission Course Award**

At its 06 April 2020 convocation, Benchers of the Law Society of Newfoundland and Labrador approved the establishment of the O'Reilly Award in honour of the late Thomas J. O'Reilly, Q.C. The award will be presented to the Student-At-Law achieving the highest mark in the Civil Practice and Procedure Examination of the Bar Admission Course. The inaugural award will be presented to a Student-At-Law enrolled in the 2020 Bar Admission Course and will be presented annually thereafter.

#### **Life Membership**

The Honours and Awards Committee makes recommendations to Benchers regarding the awarding of Life Membership. Four members or former members of the profession were granted Life Membership in 2019-2020:

Edward P. Noonan, Q.C.  
Kenneth L. Baggs, Q.C.  
Phyllis E. Weir  
Lewis B. Andrews, Q.C.

In addition to considering applications for Life Membership and nominations and submissions for Law Society honours and awards, the Honours and Awards Committee undertakes a periodic review of existing criteria and guidelines for Life Membership and for Law Society honours and awards. The Committee makes recommendations for change to the Executive Committee of the Law Society and to Benchers. At the 10 February 2020 convocation, Benchers approved amendments to Life Membership Rule 2.18. The Committee will further submit a recommendation to Benchers for revisions to the documents provided to members, relating to Life Membership.

A review of the Guidelines and Criteria for the Degree of Doctor of Laws, *honoris causa*, is underway; recommendations for amendments will be provided to Benchers within the calendar year.

The Committee has engaged in discussions regarding the establishment of a new Law Society award. Having consulted with the Executive Committee of the Law Society, Law Society staff and others, the Committee is in the preliminary stage of identifying the objectives and criteria for an award. A proposal for consideration by the Executive Committee and Benchers will be submitted in the coming months.

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## SS DAISY LEGAL HISTORY COMMITTEE REPORT

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### John Joy, Chair

The Committee met on February 22, 2019, April 25, 2019, October 10, 2019 and January 30, 2020 during the 2019 calendar year and to date in 2020.

The Committee intends to meet four times during the reporting period: mid-September and mid-November 2020 and mid-January and mid-March 2021. Subject to COVID-19 federal and provincial government orders and recommendations, and Law Society protocols, the committee will meet at the offices of the Law Society of Newfoundland and Labrador or via ZOOM or other Internet platforms.

#### **Book Publishing.**

##### **2019.**

The Committee officially launched three books in December, 2019:

- (1) E.M. Archibald, *Digest of the Laws of Newfoundland*;
- (2) Christopher P. Curran (ed.), *The Southern Circuit Court of Ferryland: The Documentary Record 1826-1872*; and
- (3) Melvin Baker, Jerry Bannister and Christopher P. Curran, *Essays on the Legal History of Newfoundland and Labrador Before Confederation*.

##### **2020.**

The Committee has three publishing projects currently underway, concerning which the research, writing and editing was well underway during the 2019-2020 Law Society fiscal year. We have plans for a multiple-book launching date, sometime in November 2020, in time for the Christmas sales season:

- (1) Christopher Curran and Melvin Baker are making considerable progress with a reprint of the very rare book Louis Amadeus Anspach, *A Summary of the Laws of Commerce and Navigation, Adapted to the Present State, Government and Trade of the Island of Newfoundland* (London, 1809) with an interpretative and contextual introduction, index and additional features to enhance the reading experience. This

book was the major legal text that lawyers and judges relied on for more than 100 years. It will be a sterling addition to our legal classics imprint;

- (2) E. Doyle Wells (ed.), *Sworn Before Me: The Journals of Magistrate Thomas E. Wells, 1909-1914, Little Bay, Notre Dame Bay, Newfoundland and Labrador* represents an important step in the continuum of the work the committee has done with *The Journals of George Simms, J.P.* and the *Records of The Labrador Court, 1826-1833*, and particularly *A Ferryland Merchant-Magistrate: The Journal and Cases of Robert Carter, Esq. J.P. 1832-1840 [Volume I] and 1841-1852 [Volume II]*. Anna Wadden and John Joy are assisting with the revision of the introduction to provide the necessary context for this new book. They are also providing advice about footnotes, endnotes, annotations and other features of this book. Doyle Wells has done an incredible amount of work on his grandfather's manuscript, which makes the additional efforts from Daisy Committee members all the more worthwhile; and

- (3) J. Derek Green, Christopher Curran and John Joy are assembling the 1950 Newfoundland and Labrador Law Reports. The Newfoundland Law Reports series begins in 1817 and presently concludes in 1949. Following that date only about half of the written decisions for this province appear in the Maritime Law Reports, the Dominion Law Reports, and specialized report series. It is not until the advent of the Newfoundland and Prince Edward Island Law Reports that our written legal decisions received again reasonable representation in Canadian report series. The 1950 Newfoundland and Labrador law reports project is a pilot project. The editors have already identified all cases decided in 1950 which began in 1948-1950, tracked which cases already appear in other report series, are developing headnotes for all the cases and annotations for those warranting further comment, and will create case, statute and subject indices for this volume; and

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(4) Our printer has just finished second editions of our earlier books, *Barrels to Benches: The Foundations of English Law on Newfoundland's West Coast* and *The Faces of Justice on Newfoundland's Northeast Coast*. Chris Curran has prepared additional short prefaces to both books. These new editions came about because we needed to replenish our inventory of these books, and this gave us the opportunity to enhance them both with names and places indices. Such indices are essential elements for this type of book to enable efficient researching of their contents.

#### **Plans for 2021.**

We are also working on a number of publications for 2021 including:

(1) Christopher Curran will be editing the written decisions of Chief Justice Richard Routh and Jonathan Odgen, covering the period 1798-1803. He and Melvin Baker have found and examined remarkably well-preserved folio copies of these judgments at The Rooms. They cry out for our attention. Our published Newfoundland Law Reports only start in 1817. These early decisions are a veritable treasure trove of early Newfoundland and Labrador legal practice and judicial reasoning. Chris will be providing his usual erudite introduction to this work, as well indices and other features;

(2) We will publish a new edition of John Reeves, *History of the Government of Newfoundland and Labrador*, which was originally published in 1793. It is an extremely rare book. Although there was a small reprint run in the 1960s, copies of even that version are hard to find. Chris Curran will write an introduction to this next addition to our legal classics series;

(3) We will also be working on the 1951 Newfoundland and Labrador Law Reports making use of the lessons we are learning now with the 1950 Law Reports pilot project, and the prototypes we are developing for this continuing work; and

(4) The committee has already collected a series of memorial addresses that J. Derek Green has written following the death of certain prominent judges and lawyers. We plan to combine these with similar memorial addresses from J. Alex Hickman, David C. Day, Q.C. and others. This is a genre of writing that approximates the role of the public orator in

introducing candidates for honorary degrees, as exemplified by George Story, *Selected University Orations* (St. John's, NL: Creative Printers & Publishers Ltd., 1984). These memorial addresses, on the one hand, honour the deceased, but, on the other hand, also contain reflections on the law and considerable wit and erudition.

#### **General Matters.**

The committee has also enjoyed the benefit of welcoming new members in the persons of Janet Henley, Donald Powell, Robin Reid and Anna Wadden, and the membership of long-standing members such as Christopher Curran, Melvin Baker, John Joy, J. Derek Green, Robert Pittman, Christian Hurley, Donald MacBeath and James Merrigan (Benchers' representative).

Leah Griffiths, library technician, has provided significant organizational services including the preparation of copies of historical Benchers' Minutes, the organization of the S.S. Daisy Legal History Committee's files at the Law Society, a running inventory of our publications that are available for sale and distribution, and logistical services for our meetings and activities.

We continue to express interest in advancing the oral history project through the preparation of essays based, in part, on the interviews of judges and lawyers completed some time ago. We are determined to conduct additional interviews and arrange for their transcription. We intend to open a discussion with The Rooms in anticipation of lodging all of our recordings and transcripts of interviews with the provincial archives.

We have had some contact with The Rooms through assisting with the lodging of J. Alex Hickman papers in the possession of the committee, and the potential donation of a valuable journal on the Grand Banks court from the early part of the 20th century. We have also had some informal discussions about offering committee members' services to assist The Rooms with the cataloging, organization, description, and the availability of court records to researchers without unwarranted restrictions on privacy or other grounds. The Rooms has a vast, if incomplete, collection of court records, and will welcome any assistance the S.S. Daisy Legal History Committee can provide.

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## ACCESS TO JUSTICE COMMITTEE REPORT

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### Lauren Chafe, Chair

The Access to Justice Committee (the “Committee”) was formed to represent the Law Society on the Newfoundland and Labrador Access to Justice Steering Committee (the “Steering Committee”). The Committee’s mandate is: to provide leadership to a cohesive and collaborative approach for initiatives intended to improve access to the civil and family justice systems in Newfoundland and Labrador; to provide, as appropriate, a forum for engaging the public and public sector participants on issues related to access to justice. To share information, monitor and co-ordinate work undertaken, and educate the public about efforts of the committee and working groups; to promote innovation in all aspects of the delivery of civil and family justice service; to gather feedback from various stakeholders on initiatives being implemented in the various sectors of civil and family justice services to ensure that we are meeting the needs of the targeted audience

The Committee’s responsibilities include: identifying access to justice initiatives relevant to the role of the Society to regulate in the public interest; advising and recommending to Benchers access to justice initiatives relevant to the role of the Society; engaging Members on access to justice initiatives relevant to the role of the Society; engaging the public on access to justice initiatives relevant to the role of the Society; promoting and facilitating access to justice initiatives relevant to the role of the Society; and supporting the Steering Committee in attaining its objectives.

The Law Society continues to support access initiatives for the public, including contributions to CanLII, an online legal resource funded by all Law Societies in Canada available to the public without charge, and dedicating a section of its website to the public, including links to important resources. In 2019 the Law Society provided a commitment of \$100,000 per year, for the next three years, to the Public Legal Information Association of Newfoundland and Labrador to assist it in furtherance of access to justice.

The Chair of the Committee sits as a member of the Steering Committee, which was formed in 2014 out of recommendations from the report of the Action Committee on Access to Justice in Civil and Family Matters. The committee is comprised of members from fourteen justice stakeholder groups including: Department of Justice and Public Safety, Court of Appeal of Newfoundland and Labrador, Supreme Court of Newfoundland and Labrador General and Family Divisions, Provincial Court of Newfoundland and Labrador, Newfoundland and Labrador Legal Aid Commission, Law Society of Newfoundland and Labrador, Canadian Bar Association – Newfoundland and Labrador Branch, Public Legal Information Association of Newfoundland and Labrador, Provincial Advisory Council on the Status of Women, Newfoundland and Labrador Human Rights Commission, Newfoundland and Labrador English School District, Adult Corrections, and Francophone Justice Network of Newfoundland and Labrador (**Réseau Justice en français de Terre-Neuve-et-Labrador**) as well as an individual member.

The Steering Committee, *inter alia*, provides leadership on initiatives intended to improve access to the civil and family justice systems in the Province, including engaging the public on issues related to access to justice and promoting innovation in all aspects of the delivery of civil and family justice services.

The Steering Committee members continue to collaborate to organize the volunteer run Legal Clinics below:

#### **Small Claims Legal Assistance Clinic**

Established in 2016, the Small Claims Legal Assistance Clinic is held once a month and to date has assisted over 100 clients. The clinic offers individual appointments with a volunteer lawyer or articling student who can provide self-represented litigants with summary legal advice and suggestions for next steps on Small Claims Court matters.

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### **Court of Appeal Legal Assistance Clinic**

In June 2016, the Court of Appeal of Newfoundland and Labrador launched the Court of Appeal Legal Assistance Clinic, a project intended to promote access to justice and legal education. The clinic is held once a month and offers free legal assistance to people who do not have a lawyer and are seeking advice about their appeal.

### **Gathering Place Legal Clinic**

In the summer of 2017, the Gathering Place Legal Clinic was established. The clinic generally run monthly at the Gathering Place where volunteer lawyers, articling students and law students meet with clients to discuss matters related to a wide range of issues including small claims/civil litigation, housing/residential tenancies, wills and estates, family law,

criminal law, and issues with accessing benefits. The Gathering Place is a service centre and non-profit organization offering a range of programs and services to persons aged 25 or older who are homeless, live in less than desirable housing conditions, unemployed, or who do not have adequate social supports in their lives.

The other clinics held in the past year were in partnership with NL public libraries, including a wills/estates clinic at the AC Hunter Library and general clinics held at the libraries in Gander and Grand Falls-Windsor.

It is the hope of the Steering Committee to re-establish the Choices for Youth and Access to Justice Clinics in the coming year.



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## ACCOUNTS AND FINANCE COMMITTEE REPORT

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### Renee Appleby, Chair

The Accounts and Finance Committee is established pursuant to Rule 2.16(3) and supports Benchers in the governance of the Law Society by monitoring significant financial planning management and reporting matters of the Law Society and serving as the Law Society's Audit Committee. Members of the Committee are Renee Appleby, Chair, Doug Wright, Elected Bencher, and Glenda Reid, Lay Bencher. The Executive Director and the Law Society Accountant attend all meetings of the Committee as representatives of the management team.

The mandate of the Accounts and Finance Committee is to:

- Make recommendations to the Benchers on the selection of financial advisors for the Law Society;
- Regularly meet with the financial advisors of the Law Society to assess the performance of its financial assets;
- Report generally on the performance of the Law Society's financial assets to Benchers;
- Regularly monitor and assess the performance of the Law Society's financial advisors and, when necessary, make recommendations to Benchers for a change of financial advisors;
- Serve as the Audit Committee to:
  - i. Review the audit tender process;
  - ii. Recommend the appointment of an auditing firm to Benchers;
  - iii. Meet with external auditors to ensure that:
    - a. The Law Society has implemented appropriate systems to identify, monitor and mitigate significant financial risk;
    - b. The appropriate systems of internal control, which ensure compliance with Law Society policies and procedures, are in place and operate effectively;
    - c. The Law Society's annual financial

statements are fairly represented in accordance with generally accepted accounting principles;

- d. Any matter which the external auditors wish to bring to Benchers has been given adequate attention; and
- e. The external audit function has been effectively carried out.

The Accounts and Finance Committee presented its Work Plan for 2019-2020 at the September 27, 2019 Convocation which detailed the upcoming activities for the Committee. The Committee held meetings with the Law Society financial advisor, Keith Butler of CIBC Wood Gundy on October 10, 2019, December 16, 2019 and February 7, 2020. During these meetings, the Committee was presented with detailed reports on asset performance, market overview and recommendations for changes to the investment portfolio.

With respect to the discharge of its audit review functions, the Committee met with the Law Society Auditors at KPMG on December 16, 2019 for the pre-audit meeting at which time the Audit Planning Report was presented and the Committee raised no concerns with the outlined process. On March 27, 2020, the Committee again met with Auditors Steve Power and Krista Burton by teleconference for the detailed presentation of the 2019 audit, to review the audit process and determine whether there are any issues of concern. The Audit process identified two areas of risk endemic to the operations of the Law Society. First, a significant financial reporting risk exists through the valuation of reserves for claims and related costs as the methodology necessarily involves significant judgment, assumptions and estimates used in the calculation. However, the Auditors address the risk by performing a test of design and implementation over the controls related to the claims review committee, which was found to be appropriate. Second, the risk of management override of controls

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is a presumed fraud risk in the audit process. To address this presumption, the audit methodology incorporates the required procedures in professional standards, which procedures included testing of journal entries, performing a retrospective review of estimates and evaluating the business rationale of significant unusual transactions. These procedures were performed without exception.

Also on March 27, 2020, Committee members met with the auditors in the absence of the Law Society Executive Director and Accountant, during which time no concerns were brought to the attention of the Committee. The Auditors again expressed their appreciation for the work of the management team of the Law Society, both in general and during the audit process.

The Committee is scheduled to meet with the Financial Advisors again on April 21 and July 21,

2020. At the April meeting, we will review our first quarter performance with our Financial Advisor and do our annual review the Law Society's Investment Policy Statement. A similar review of investment performance will occur in July, together with a review of the 2019-2020 Work Plan and preparation of the 2020-2021 Work Plan. We will also be discussing both: 1) the audit tender process and making recommendations to Benchers respecting external auditors; and 2) the performance of the Law Society financial advisors and making recommendations to Benchers respecting the selection of financial advisors.

In addition to its scheduled meetings, the Committee has frequent contact with its Financial Advisors and receives recommendations on the management of its financial assets outside of scheduled meetings.

The Committee appreciates feedback from any members on matters within the terms of reference of the Committee.

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## REAL ESTATE COMMITTEE REPORT

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### Brenda Duffy, QC, Chair

The Real Estate Committee was established to support Benchers in the governance of the Law Society by developing professional standards for the area of Real Estate Law.

The Real Estate Committee is responsible for:

- Identifying existing applicable professional standards of Real Estate Law practice;
- Identifying emerging Real Estate Law issues which may require the development of new professional standards or the revision of current standards and advising Benchers;
- Identifying resources and tolls to assist members to practice in accordance with professional standards;
- Acting as a resource on issues of professional standards for Real Estate Law as may be requested by Benchers; and
- Engaging members in determining real estate practice education initiatives relevant to the Law Society and its role of regulating the profession in the public interest.

The members of the Real Estate Committee are Brenda Duffy, Q.C., Graham Wells, Q.C., Blair Downey, Lisa Daly, Barry Lake and Trevor Stagg. The Committee had four meetings scheduled for 2019/20: November, January, March and May. The Committee

had a very full plan for the year, with its primary focus being the finalization of the draft practice standards. Unfortunately, we had some difficulties completing this task for various reasons, not the least of which were the State of Emergency in January and the Pandemic in March. As this report is being filed, two Committee members are conducting the final review of the draft practice standards. These will then be submitted to Angela Whitehead, Director of Practice Management, for her review. The same two Committee members have also undertaken the task of collaborating on a draft real estate transaction checklist. Other issues discussed by the Committee in 2019/20 included the backlog of loose deeds at the registry. This problem is most noticeable during the summer months when staff are on holiday and the real estate market is busiest. The general consensus was that there is little that the Committee can do to influence the practices of the Registry and that practitioners should protect themselves by sending notice of any potential delays in registration to their title insurer.

The Real Estate Committee invites members of the bar to contact its members should they have an issue or concern with the practice of real estate law in the Province that they feel should be addressed by the Committee and which fall within its terms of reference.



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# INDIGENOUS EDUCATION AND ACTION COMMITTEE REPORT

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## Violet Ford, Chair (Interim)

The Indigenous Education and Action Committee was formed in the spring of 2017. Its mandate is to work within the legal profession to advise, educate and act on reconciliation with Indigenous peoples in Newfoundland and Labrador, which includes addressing the Calls to Action arising from the Truth and Reconciliation Commission.

Violet Ford is the current acting chair.

The Committee has held several conference calls throughout the year.

In 2019, the Indigenous Education and Action Committee continued to work on the priorities which involves the (1) development of education materials for the bar admission course; and (2) the development of education materials for continuing legal education to educate the bar. The Indigenous Education and Action committee also recognizes the importance of fostering and nurturing of relationships with the Indigenous community in Newfoundland and Labrador.

In this regard, representatives of the IEAC met with

Chief and Counsel and the Justice Committee of Miawpukek (Conne River) First Nation in July 2019. In those meetings, it was heard loud and clear that society at large and in the Bar in particular, needs to be educated on the history of Indigenous people in Canada and more specifically in Newfoundland and Labrador. In addition, a representative of the Indigenous Education and Action Committee joined members of the Law Society Executive in a meeting with Qalipu First Nation Chief Brendan Mitchell and CEO Keith Cormier on February 20, 2020.

In early 2020 the Indigenous Education and Action Committee reached out to Indigenous leaders in Labrador including those of the Nunatsiavut government, the Innu and the NunatuKavut requesting to meet with them. However, the busy schedules of the Indigenous leaders and the emergence of COVID-19 affected those plans and will continue to do so for the short term.

The work of the Indigenous Education and Action Committee to meet its responsibilities is ongoing despite the new challenges facing us.

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## EQUITY AND DIVERSITY COMMITTEE

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### Scott Worsfold, Chair

First, I hope that you are all continuing to remain healthy and safe during these uncertain and somewhat unsettling times.

The Equity and Diversity Committee was struck in late 2018 and has now had just over a full year in operation.

Under its Terms of Reference, the Equity and Diversity Committee's mandate is to gather information about issues related to equity and diversity in the legal profession, engage collaboratively with the Law Society membership to increase recognition and awareness about equity and diversity issues in the profession, and to develop and implement initiatives related to equity and diversity.

One of the initiatives the Committee has been working on is an information collection tool in the form of a demographic data questionnaire. The Committee looked to the work of other law societies that have been collecting demographic data for some time, both to determine best practices and to look at the type of information they have been collecting. Some of the other law societies in Canada have been collecting this data for a number of years with a similar goal of better serving an increasingly diverse population.

At the December 2019 meeting of Benchers, the Benchers approved a draft questionnaire and background statement. The questionnaire will now be looked at through the lens of a privacy impact assessment. We had hoped to have a draft PIA by our June meeting, but given the current state of the

Covid-19 pandemic, the Committee's work is being somewhat curtailed. However, we still hope to have this voluntary demographic questionnaire distributed to the Members by September and we are also working with Christian Hurley to have it distributed at this year's Bar Admission Course in October. Of course, it is also our hope that as many Members as possible will choose to participate and complete the questionnaire. The results of the questionnaire will be extremely helpful to this Committee in planning for future CLE events and topics of interest to a diverse membership.

Speaking of CLE, the Committee is also in the planning phase of a Continuing Legal Education seminar for the fall which will focus on "unconscious bias". We have been in touch with Dr. Christina Doonan of Memorial University who has agreed to present on this extremely interesting topic. Please stay tuned for more information in the coming months about this topic and about the CLE offering.

Much of this Committee's focus will be on developing interesting and informative continuing education seminars and presentations on topics related to equity and diversity. It is our hope that as we collect more information from the Members about their questions and interests in this area, we will be able to create and deliver helpful and informative continuing legal education material to serve an ever-increasingly diverse membership and population.

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## AUDITOR'S REPORT AND FINANCIAL STATEMENTS

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for the Fiscal Year Ended December 31, 2019



# LAW SOCIETY

Newfoundland & Labrador



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

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## INDEPENDENT AUDITORS' REPORT

To the Members of the Law Society of Newfoundland and Labrador.

### ***Qualified Opinion***

We have audited the financial statements of the Law Society of Newfoundland and Labrador (the Entity), which comprise:

- the balance sheet as at December 31, 2019
  - the statement of earnings (loss) for the year then ended
  - the statement of changes in net assets for the year then ended
  - the statement of and cash flows for the year then ended
  - and notes to the financial statements, including a summary of significant accounting policies
- (Hereinafter referred to as the "financial statements").

In our opinion, except for the possible effects of the matter described in the "Basis for Qualified Opinion" section of our auditors report, the accompanying financial statements present fairly, in all material respects, the financial position of the Entity as at December 31, 2019, and its results of operations and its cash flows for the year then ended in accordance with Canadian Accounting standards for not for profit organizations.

### ***Basis for Qualified Opinion***

The Lawyer's Insurance Programme derives revenues from transaction levies, the completeness of which is not susceptible to satisfactory audit verification. Accordingly verification of these revenues was limited to the amount recorded in the Lawyer's Insurance Programme.

Therefore, we are not able to determine whether any adjustments might be necessary to:

- the current assets reported in the balance sheet as at end of December 31, 2019 and end of December 31, 2018.
- the revenues and net earnings (loss) reported in the statements of earnings (loss) for the years ended end of December 31, 2019 and end of December 31, 2018.

KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.



- the unrestricted net assets, at the beginning and end of the year, reported in the statements of changes in net assets for the years ended end of December 31, 2019 and end of December 31, 2018.
- the net earnings (loss) reported in the statements of cash flows for the years ended end of December 31, 2019 and end of December 31, 2018.

Our opinion on the financial statements for the year ended December 31, 2019 was qualified accordingly because of the possible effects of this limitation in scope.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the "**Auditors' Responsibilities for the Audit of the Financial Statements**" section of our auditors' report.

We are independent of the Entity in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified opinion.

### ***Responsibilities of Management and Those Charged with Governance for the Financial Statements***

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Entity's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Entity or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Entity's financial reporting process.



## ***Auditor's Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.

We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Entity's to cease to continue as a going concern.





- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

*KPMG LLP*

Chartered Professional Accountants  
St. John's, Canada  
April 7, 2020

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Balance Sheet

December 31, 2019, with comparative information for 2018

Assets	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2019	2018
<b>Current assets:</b>							
Cash and cash equivalents	\$ 26,774	\$ 1,058,009	\$ 155,732	\$ -	\$ -	\$ 1,240,515	\$ 831,690
Investments and marketable securities (note 4)	2,425,479	14,996,269	946,354	12,435	-	18,380,537	17,687,695
Accounts receivable - other	35,939	-	-	-	-	35,939	23,242
Trade receivable (net of allowance of \$(Nil))	-	-	-	-	-	-	-
(2018 - \$572)	107,517	222,368	-	-	-	329,885	337,945
Prepaid expenses	25,261	55,569	21,975	-	-	102,805	194,561
Interfund balances	(1,370,048)	(14,041)	4	-	1,384,085	-	-
	1,250,922	16,318,174	1,124,065	12,435	1,384,085	20,089,681	19,075,133
Capital assets (note 5)							
Claims recovery receivable (note 6)	765,157	-	-	-	-	765,157	851,634
Accounts receivable - other	-	18,937	-	-	-	18,937	35,123
	24,368	-	-	-	-	24,368	18,865
	\$ 2,040,447	\$ 16,337,111	\$ 1,124,065	\$ 12,435	\$ 1,384,085	\$ 20,898,143	\$ 19,980,755
<b>Liabilities and Net Assets</b>							
<b>Current liabilities:</b>							
Bank indebtedness	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,669
Accounts payable and accrued liabilities (note 7)	179,286	23,812	104,799	-	-	307,897	184,618
Provision for unpaid claims	13,100	-	-	-	-	13,100	13,100
Reserve for claims and related costs (note 8)	-	3,267,281	-	-	-	3,267,281	3,813,297
	192,386	3,291,093	104,799	-	-	3,588,278	4,033,684
<b>Net Assets:</b>							
General Fund	1,848,061	-	-	-	-	1,848,061	1,924,146
Lawyers' Insurance Programme	-	13,046,018	-	-	-	13,046,018	11,436,209
Assurance Fund	-	-	1,019,266	-	-	1,019,266	1,106,971
Endowment Fund	-	-	-	12,435	-	12,435	11,892
Internally Restricted Fund (note 2)	-	-	-	-	1,384,085	1,384,085	1,467,853
Commitments (note 9)	1,848,061	13,046,018	1,019,266	12,435	1,384,085	17,309,865	15,947,071
	\$ 2,040,447	\$ 16,337,111	\$ 1,124,065	\$ 12,435	\$ 1,384,085	\$ 20,898,143	\$ 19,980,755

See accompanying notes to financial statements.

On behalf of the Benchers:

President

Vice President

Chair of Insurance Programme

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Earnings (Loss)

Year ended December 31, 2019, with comparative information for 2018

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2019	2018
<b>Revenue:</b>							
Admission fees (note 10)	\$ 82,575	\$ -	\$ -	\$ -	\$ -	\$ 82,575	\$ 75,500
Annual fees (note 11)	1,532,875	900,734	39,188	-	-	2,472,797	2,452,485
Audit program	85,489	-	-	-	-	-	82,806
Bar admission course	56,250	-	-	-	-	56,250	81,495
Continuing legal education	98,111	-	-	-	-	98,111	97,824
Grant - Law Foundation	16,500	-	-	-	-	16,500	28,200
Interest - membership fees	59,065	-	-	-	-	59,065	57,595
Investment income (note 4)	218,573	1,011,779	78,690	943	-	1,309,985	(170,113)
Other income	25,165	-	97	-	-	25,262	26,969
Transaction levy revenue	-	802,076	-	-	-	802,076	769,000
	2,174,603	2,714,589	117,975	943	-	5,008,110	3,501,761
<b>General and administrative expenses:</b>							
Salaries and benefits	1,119,969	224,705	-	-	31,400	1,376,074	1,201,948
Provision for unpaid claims and related costs	-	519,400	-	-	-	519,400	699,250
Discipline expense	49,819	-	-	-	-	49,819	103,586
CLIA premiums and assessments	-	109,864	104,799	-	-	214,663	272,697
Miscellaneous expenses	243,178	18,873	47,859	-	88,845	398,755	247,985
Libraries	196,100	-	-	-	-	196,100	195,156
Building operation	156,118	-	-	-	-	156,118	146,088
Custodianship	-	27,470	-	-	-	27,470	22,852
Audit program	95,555	-	-	-	-	95,555	96,166
Amortization	114,642	-	-	-	-	114,642	117,663
Insurance	15,653	-	51,037	-	-	66,690	76,416
Professional fees	27,872	19,199	1,985	-	-	49,056	50,886
Federation of Law Societies' fees	58,511	-	-	-	-	58,511	58,509
Continuing legal education	39,415	-	-	-	-	39,415	41,426
Bencher's convocations and receptions	62,127	-	-	-	-	62,127	82,344
Professional development	85,655	-	-	-	-	85,655	30,584
Actuarial fees	-	38,173	-	-	-	38,173	36,484
PLIAN	-	-	-	-	50,000	50,000	50,000
Professional Assistance Program	-	27,096	-	-	-	27,096	27,096
Bar admission course	19,597	-	-	-	-	19,597	21,715
Scholarships	-	-	-	400	-	400	200
Administration fees	(120,000)	120,000	-	-	-	-	-
	2,164,211	1,104,780	205,680	400	170,245	3,645,316	3,579,051
<b>Net earnings (loss)</b>	<b>\$ 10,392</b>	<b>\$ 1,609,809</b>	<b>\$ (87,705)</b>	<b>\$ 543</b>	<b>\$ (170,245)</b>	<b>\$ 1,362,794</b>	<b>\$ (77,290)</b>

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Changes in Net Assets

Year ended December 31, 2019, with comparative information for 2018

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2019	2018
Net assets, beginning of year	\$ 1,924,146	\$ 11,436,209	\$ 1,106,971	\$ 11,892	\$ 1,467,853	\$ 15,947,071	\$ 16,024,361
Net earnings (loss)	10,392	1,609,809	(87,705)	543	(170,245)	1,362,794	(77,290)
Transfer to capital asset reinvestment	(86,477)	-	-	-	86,477	-	-
<b>Net assets, end of year</b>	<b>\$ 1,848,061</b>	<b>\$ 13,046,018</b>	<b>\$ 1,019,266</b>	<b>\$ 12,435</b>	<b>\$ 1,384,085</b>	<b>\$ 17,309,865</b>	<b>\$ 15,947,071</b>

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Cash Flows

Year ended December 31, 2019, with comparative information for 2018

	2019	2018
Cash provided by (used in):		
Operations:		
Net (loss) earnings	\$ 1,362,794	\$ (77,290)
Items not involving cash:		
Amortization	114,642	117,663
Unrealized gain on investment	(825,338)	650,169
Provision for unpaid claims	(546,016)	5,800
	106,082	696,342
Change in non-cash operating working capital:		
Decrease (increase) in accounts receivable - other	(12,697)	11,134
Decrease in trade receivable	8,060	35,454
Decrease in prepaid expenses	91,756	7,617
Increase in accounts receivable non-current	(5,503)	(18,865)
Increase in accounts payable and accrued liabilities	123,280	18,948
Decrease in reserve for claims and related costs	-	(18,178)
Decrease in claims recovery receivable	16,186	16,197
	327,164	748,649
Investing:		
Proceeds from sales of investments and marketable securities	2,421,833	1,460,589
Purchases of investments and marketable securities	(2,289,338)	(1,897,129)
Purchase of capital assets	(28,165)	(132,835)
	104,330	(569,375)
Increase in cash and cash equivalents	431,494	179,274
Cash and cash equivalents, beginning of year	809,021	629,747
Cash and cash equivalents, end of year	\$ 1,240,515	\$ 809,021
Cash and cash equivalents consists of:		
Cash and cash equivalents	\$ 1,240,515	\$ 831,690
Bank indebtedness	-	(22,669)
Cash and cash equivalents, end of year	\$ 1,240,515	\$ 809,021

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements

Year ended December 31, 2019

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The Law Society of Newfoundland and Labrador (the "Law Society") is a regulatory body for the legal profession in the province. The Law Society is a not-for-profit entity and, as such, is exempt from the payment of income tax.

### 1. Significant accounting policies:

The financial statements have been prepared by management in accordance with Canadian accounting standards for not-for-profit organizations in Part III of the CPA Canada Handbook.

#### (a) Fund accounting:

The Law Society records its financial transactions on the fund accounting basis as follows:

##### (i) General Fund:

Operations include all activities related to the Law Society not directly associated with the Assurance Fund or the Lawyers' Insurance Programme.

##### (ii) Lawyers' Insurance Programme (the "Programme"):

Operations relate to the administration of professional liability insurance for members of the Law Society whereby professional liability insurance is provided to the members of the Law Society by the Canadian Lawyers' Insurance Association (CLIA). The Programme receives contributions from members of the Law Society through annual insurance premiums. In addition, effective October 1, 2005, the Programme commenced the collection of transaction levies. The levies are collected from members of the Law Society on certain legal transactions and are then reported and remitted to the Programme on a quarterly basis.

##### (iii) Assurance Fund:

Operations relate to providing compensation to individuals who have suffered a loss due to misappropriation of funds or other fraudulent activities by a member.

##### (iv) Endowment Fund:

The endowment fund holds investments for the purposes of providing scholarships to law students in the province of Newfoundland and Labrador.

##### (v) Internally Restricted Fund:

Benchers restrict certain funds which are not available without approval from the Benchers.



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements (continued)

Year ended December 31, 2019

### 1. Significant accounting policies (continued):

#### (b) Reserve for claims and related costs:

The reserve for claims and related costs is based upon the change from year to year of the claims and related costs. The reserve value is based upon the greater of the Programme's current year estimate of incurred costs of claims and the actuarial computed discounted costs of possible claims for the current year.

The Programme's appointed actuary is engaged to provide an annual valuation of the reserve for claims and related costs in accordance with the standards of practice adopted by the Canadian Institute of Actuaries. For the purpose of the actuarial valuation, the actuary is making use of certain information contained in the Programme's financial records.

Claims and related costs of the Programme are subject to specific maximum limits set out in the insurance policy with CLIA. CLIA's liability is limited to \$1,000,000 per occurrence, and \$2,000,000 in aggregate per policy year. A deductible of \$5,000 is recoverable from the insured member at the time of claim pay-out. Until June 30, 2009 the Programme was responsible for administrative costs but did not retain any responsibility for the indemnification of claims. From July 1, 2009 onward the Programme has been responsible for administrative costs and for the indemnification of claims to specified limits. The limits per claim year are as follows:

Period	Per occurrence	In aggregate
July 1, 2009 - June 30, 2010	\$ 100,000	\$ 900,000
July 1, 2010 - June 30, 2011	100,000	1,000,000
July 1, 2011 - June 30, 2012	200,000	1,350,000
July 1, 2012 - June 30, 2013	200,000	1,375,000
July 1, 2013 - June 30, 2014	200,000	1,400,000
July 1, 2014 - June 30, 2015	300,000	1,600,000
July 1, 2015 - June 30, 2016	300,000	1,675,000
July 1, 2016 - June 30, 2018	300,000	1,305,000
July 1, 2018 - June 30, 2018	300,000	1,365,000
July 1, 2018 - June 30, 2019	300,000	1,500,000
July 1, 2019 - June 30, 2020	300,000	1,400,000

#### (c) Recoveries:

Recoveries from claims and related costs from insurers and other parties are recorded when they can be reasonably estimated and collectability is reasonably assured. Otherwise, the recovery is recorded when received.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements (continued)

Year ended December 31, 2019

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### 1. Significant accounting policies (continued):

#### (d) Provision for unpaid claims:

Lawyers' Professional Indemnity Company (LawPRO) is an insurance company that is licensed to provide professional liability insurance and the title insurance in numerous jurisdictions across Canada. This insurance applies to acts or omissions committed by an insured in connection with his/her practice as a member of the Law Society, provided the original claim or suit for damages is brought during the policy period.

The 2003 and 2004 insurance program insures all practicing members up to \$1,000,000 per claim, after an individual deductible of at least \$5,000 per member per claim, to a maximum annual limit of \$2,000,000 per insured.

The program is responsible for all claims and legal and adjusting expenses above the members' deductible and has arranged for 90% quota share reinsurance above the members' deductible, retaining the other 10% for its own account for claims relating to 2003. For claims relating to 2004 the program has arranged for 80% quota share reinsurance above the members' deductible, retaining the other 20% for its own account. The Law Society has agreed to share equally in this 10% and 20% retention.

The determination of the provisions for unpaid claims includes reported claims, legal and adjusting fees, less recoveries.

#### (e) Cash and cash equivalents:

Cash and cash equivalents consist of cash and short-term investments with a maturity of less than 90 days.

#### (f) Revenue recognition:

The Law Society follows the restricted fund method of accounting for revenue which include annual fees, admission fees, and other fees for education and trust audits, grants, and investment income. Revenue from annual fees are recognized in the general fund over the course of the calendar year. Revenue from insurance and assurance premiums are recognized in the Lawyers' Insurance Programme and General Assurance Program, respectively, as they are earned. Revenue from various other services provided by the Law Society, are recognized in the general fund over time as the services are provided. Investment income is recognized in the corresponding fund in the period in which it is earned.

Unrestricted revenue is recognized in the general fund when it is received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Endowment contributions are recognized as revenue in the endowment fund in the period in which they are received.



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements (continued)

Year ended December 31, 2019

### 1. Significant accounting policies (continued):

#### (g) Financial instruments:

Financial instruments are recorded at fair value on initial recognition. Equity instruments that are quoted in an active market are subsequently measured at fair value. All other financial instruments are subsequently recorded at cost or amortized costs, unless management has elected to carry any such financial instruments at fair value.

Transaction costs incurred on the acquisition of financial instruments measured subsequently at fair value are expensed as incurred.

Financial assets are assessed for impairment on an annual basis at the end of the fiscal year if there are indicators of impairment. If there is an indicator of impairment, the Law Society determines if there is a significant adverse change in the expected amount or timing of future cash flows from the financial asset. If there is a significant adverse change in the expected cash flows, the carrying value of the financial asset is reduced to the highest of the present value of the expected cash flows, the amount that could be realized from selling the financial asset or the amount the Law Society expects to realize by exercising its right to any collateral. If events and circumstances reverse in a future period, an impairment loss will be reversed to the extent of the improvement, not exceeding the initial carrying value.

#### (h) Use of estimates:

The preparation of the financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the year. Items subject to such assumptions include collectability of trade receivables, and claims recovery receivable, the useful life of capital assets, reserve for claims and related costs, and provision for unpaid claims. Actual results could differ from those estimates.

#### (i) Capital assets:

Capital assets are stated at cost, less accumulated amortization. Amortization is provided using the following methods and annual rates:

Asset	Basis	Rate
Building	Straight line	4%
Furniture and equipment	Declining balance	25%
Software	Declining balance	25%

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

## 2. Internally Restricted Fund:

Internally restricted funds consist of the following:

- \$ 506,685 for capital asset reinvestment (2018 - \$420,208)
- \$ 377,400 for strategic initiatives (2018 - \$547,645)
- \$ 500,000 for future operations (2018 - \$500,000)

These internally restricted amounts are not available for other purposes without approval by the Benchers.

## 3. Trust Account:

The Law Society holds a trust account which represents cash received from law firms for funds unclaimed in trust accounts. At the balance sheet date, the amounts received from law firms and held in trust was \$265,424 (2018 - \$299,493). The Law Society holds these funds until such time as they are claimed to a maximum period of 10 years after which unclaimed funds are turned over to the Law Foundation.

## 4. Investments and marketable securities:

Fixed income investments certificates are measured at fair value which is equal to cost plus accrued interest. Equity instruments and mutual funds holdings are measured at fair value.

	2019	2018
Fixed income	\$ 15,304,188	\$ 13,825,402
Preferred shares	70,400	79,161
Equity investments	2,993,463	1,213,244
Mutual funds	-	2,558,004
Investments held in endowment	12,486	11,884
	<u>\$ 18,380,537</u>	<u>\$ 17,687,695</u>

Included in investment income is interest income of \$218,009 (2018 - \$253,415), dividend income of \$187,136 (2018 - \$216,045), unrealized gains (losses) of \$825,338 (2018 - \$(650,169)) and realized gains on the disposal of marketable securities of \$79,502 (2018 - \$10,596).

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

## 5. Capital assets:

			2019	2018
	Cost	Accumulated amortization	Net book value	Net book value
Land	73,429	-	73,429	\$ 73,429
Building	1,935,376	1,355,329	580,047	657,462
Furniture and equipment	430,717	340,893	89,824	111,087
Software	32,362	10,505	21,857	9,656
	\$ 2,471,884	\$ 1,706,727	\$ 765,157	\$ 851,634

## 6. Claims recovery receivable:

	2019	2018
Non-interest bearing receivable to be received in monthly installments of \$1,000.	\$ 18,000	\$ 30,000
Promissory note to be received in blended monthly payments of \$400 including interest at 3.5% until March 2020 when the remaining balance is due.	17,203	21,320
	35,203	51,320
Less current portion (included in trade receivable)	16,266	16,197
	\$ 18,937	\$ 35,123

## 7. Accounts payable and accrued liabilities:

As at December 31, 2019 there was \$3,541 (2018 - \$2,682) payroll related taxes included in accounts payable and accrued liabilities.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

## 8. Reserve for claims and related costs:

	2019	2018
Provision for claims and related costs		
beginning of year	\$ 3,813,297	\$ 3,831,475
Current year expense	519,400	693,450
Claims and related costs paid during the year	(1,065,416)	(711,628)
	\$ 3,267,281	\$ 3,813,297

As at December 31 2019, the outstanding claims liabilities, calculated by the Programme's actuaries in accordance with the standards of practice of the Canadian Institute of Actuaries, were as follows:

	2019	2018
Discounted damages and defence costs	\$ 2,428,581	\$ 2,845,619
Discounted adjusting and counselling fees	203,363	254,024
Discounted internal claim administration expenses	277,871	287,488
	2,909,815	3,387,131
Provision for adverse deviation	333,966	391,166
Discounted receivable	23,500	35,000
Total discounted liabilities plus provision for adverse deviation	\$ 3,267,281	\$ 3,813,297

The liabilities have been discounted at a rate of 2.50% (2018 - 2.50%). The provision for adverse deviation for 2019 and 2018 includes a margin of 25 to 200 basis points on the discount rate and 2.5% to 20% on the claims development variables. There is no active market for the trading of claims liabilities, however the present value of the actuarial claims liabilities, including provision for adverse deviation is considered an indicator of fair value.

## 9. Commitments:

The Law Society has equipment and building leases with the following annual lease payments:

2020	6,356
2021	5,592
2022	3,727

The organization has also committed to providing the Public Legal Information Association of NL (PLIAN) with funding in the amount of \$100,000 per year for the next three years, subject to good financial stewardship.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

## 10. Admission fees:

Admission fees consist of the following:

	2019	2018
Articled clerks	\$ 5,700	\$ 12,000
Call to bar	31,875	25,000
Certificate of standing	5,000	3,500
Transfers	40,000	35,000
	<b>\$ 82,575</b>	<b>\$ 75,500</b>

## 11. Annual fees:

Annual fees consist of the following:

	2019	2018
Assurance Fund annual membership fee	\$ 39,188	\$ 38,842
Law Society annual membership fee	1,456,050	1,440,695
Federation fees	47,025	46,530
Professional law corporation fees	29,800	31,000
Insurance premiums	900,734	895,418
	<b>\$ 2,472,797</b>	<b>\$ 2,452,485</b>

## 12. Equity in Canadian Lawyers' Insurance Program:

The Programme is a subscriber to the CLIA, a reciprocal insurance exchange through which the law societies of six provinces and three territories (or their associated liability insurance entities) enter into agreements of mutual indemnification. CLIA maintains separate reserves for each participating entity with regards to risks assumed, and the Programme has an interest in the surpluses of these reserves. CLIA prepares annual Subscriber Accounts as of December 31, which represents the end of their fiscal year, which are reviewed and approved by CLIA's Advisory Board. These accounts include a reserve for claims liabilities on a discounted basis. The Subscribers Accounts of CLIA in respect of Part A coverage as of December 31, 2019 show the Programme's subscriber's equity to be \$1,736,725 (2018 - \$1,896,077) of which nil is recorded as recoverable as of December 31, 2019 (2018 - nil). The Subscribers Accounts of CLIA in respect of Part C coverage as at December 31, 2019 show the Programme's subscriber's equity to be \$89,145 (2018 - \$13,476), of which nil is recorded as recoverable as of December 31, 2019 (2018 - nil).

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

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## 13. Financial risks:

Financial instruments consist of cash and cash equivalents, accrued claims recovery, trade receivable, other receivables, investments and marketable securities, accounts payable and accrued liabilities, and provision for unpaid claims. Investments and marketable securities are carried at fair value, and all other financial instruments approximate their carrying amounts due to their short-term maturity and liquidity.

Risk management relates to the understanding and active management of risks associated with all areas of the business and the associated operating environment. Financial instruments are primarily exposed to interest rate volatility, credit and liquidity risk.

### (a) Credit risk:

Financial instruments which potentially subject the Law Society to credit risk consist primarily of cash and cash equivalents, accrued claims recovery, trade receivables, other receivables, investments and marketable securities. The Law Society limits the amount of credit exposure with its cash balances by only maintaining cash with major Canadian financial institutions. Credit exposure is minimized by dealing with only credit worthy counter parties and monitoring cash payments.

### (b) Interest rate risk:

Interest rate risk refers to the impact of future changes in interest rates on cash flows and fair values of assets and liabilities. Interest rate changes directly impact the fair value of fixed income securities. Interest rate changes will also have an indirect impact on the other investments and marketable securities. The Law Society uses investment diversification to manage this risk.

### (c) Liquidity risk:

Liquidity risk is the risk that the Law Society will not be able to meet its cash requirements in a timely and cost effective manner. Liquidity requirements are managed through the receipt of funds from the Law Society's various revenue sources. These sources of funds are used to pay operating expenses.



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2019

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## 14. Subsequent events:

Subsequent to December 31, 2019, the COVID-19 outbreak was declared a pandemic by the World Health Organization and has had a significant financial, market and social dislocating impact.

At the time of approval of these financial statements, the entity has experienced the following indicators of financial implications in relation to the COVID-19 pandemic.

- Declines in the fair value of investments and investment income.
- Potential impact on the provision for claims and related costs due to the economic effects of COVID-19, which could affect the cost of settling some of the claims.

At this time these factors present uncertainty over future cash flows, may cause significant changes to the assets or liabilities and may have a significant impact on future operations. An estimate of the financial effect is not practicable at this time.

