

Pro Bono NEWS



PRO BONO PROFILE

MARTHA MACKINNON

LONG BEFORE HER CALL TO THE BAR, Martha taught English and Drama to high school students. She then took her experience as an educator and applied it to her legal career, opting to concentrate her practice on education law and children's rights.

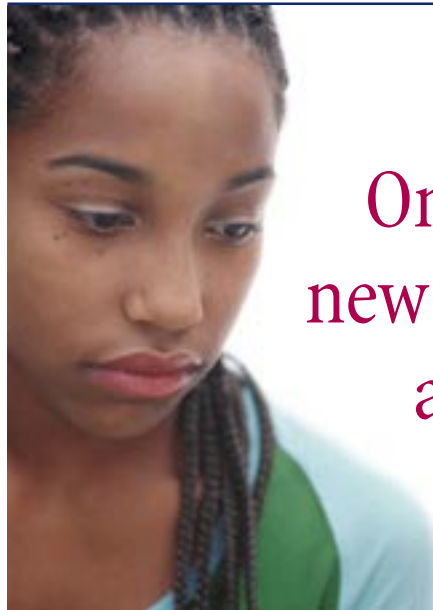
Martha served as counsel to the York Region Board of Education for eight years, and is currently the Executive Director at Justice for Children and Youth, a specialized legal clinic that serves low-income youth. She



has twice been the Chair of the Education Law Section of the Ontario Bar Association and is a member of its Council and of the Continuing Legal Education Committee.

For seven years, she has been on the Board of Directors of the

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Pro Bono Law Ontario launches new project to help at-risk youth in north Toronto

There might be new hope on the horizon for vulnerable youth in the Jane and Finch area of Toronto.

In 2003, Pro Bono Law Ontario launched TeamChild Ontario – a coordinated effort to provide legal and extra-legal services to youth (and their families) who have complex needs that are currently not met by existing programs.

The idea, modelled after a successful program in Seattle, is simple: take a holistic approach to dealing with the problems troubled youth face. Provide them with lawyers to assist

with their legal problems and basic legal rights education, and involve community workers and parents to provide services like mental health evaluations, conflict mediation and remedial education.

It is a preventative strategy designed to involve, engage and educate youth before their behaviour results in expulsion from school and subsequent involvement in criminal activity.

“The great thing about a project like this,” says Lynn Burns, PBLO’s Executive Director, “is that it’s a

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Do the public good.

BELIEVE IT OR NOT: REAL-LIFE COURT STATEMENTS

- “Was it you or your brother that was killed in the war?”
- “The youngest son, the 20-year-old, how old is he?”
- “Were you alone or by yourself?”
- “I show you Exhibit 3 and ask you if you recognize that picture.” ~ “That’s me.” ~ “Were you present when that picture was taken?”
- “All you responses must be oral, ok? What school did you go to?” ~ “Oral.”

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LawPRO enhances insurance coverage for pro bono lawyers

One of the issues cited by Ontario lawyers as a stumbling block to donating their services has just been lifted, thanks to LawPRO (the Lawyers Professional Indemnity Company).

As of Jan. 1, 2003, LawPRO has enhanced malpractice coverage for all lawyers doing pro bono work through PBLO registered projects. Lawyers in private practice (who are already insured under LawPRO) will not have to pay an insurance deductible or the claims history levy surcharge on lawsuits arising out of qualified pro bono work.

As well, lawyers who are retired, or work as in-house counsel or in government or education will now be provided with malpractice insurance free of charge for their approved pro bono legal services. (Prior to this change, these lawyers did not have insurance coverage in place for their current legal services, as they were eligible to exempt themselves from having to pay the annual insurance premium.)

LawPRO provides some form of

liability insurance coverage to the approximately 33,000 lawyers licensed to practice law in the province. Because lawyers are liable for negligence whether they charge \$350 or \$0 per hour, a lack of malpractice coverage has hampered many law professors, retired, government and in-house lawyers who wanted to do pro bono work.

As well, liability for the deductible and the possibility of a claims history surcharge discouraged many lawyers in private practice from participating in pro bono programs. LawPRO recognized this, and made the change expressly, “to encourage the provision of pro bono legal services.”

Ron Manes, Chair of the PBLO Board of Directors, says he is thrilled. “I think LawPRO realized that institutional considerations are always weighed when lawyers decide to volunteer their services. [LawPRO’s] decision sends home the message that pro bono work should be considered an integral feature of the legal profession.”

For more information please go to www.lawpro.ca.



PRO BONO LAW ONTARIO

Pro Bono NEWS

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Design WriteDesign

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Do the public good.



Brian Morgan (right) of Osler, Hoskin & Harcourt LLP; and Raj Anand (left), PBLO board member, of Weir Foulds LLP, during the pro bono workshop

Lawyers learn the ABCs of pro bono work

During the last week of November 2002, more than 45 lawyers participated in a dinner and workshop designed to help law firms develop pro bono programs and foster pro bono culture.

The event was sponsored by Pro Bono Law Ontario and featured pro bono expert Esther Lardent, CEO and President of the Pro Bono Institute, and Robert Sheehan, the progressive Executive Partner from Skadden Arps Flodden LLP, as speakers and workshop leaders.

The dinner portion of the event, hosted by Vern Krishna, Treasurer of

Esther Lardent of the Pro Bono Institute speaks with Michael Barrack, PBLO board member, of McCarthy Tetrault LLP, and Robert Sheehan of Skadden Arps Flodden LLP

the Law Society of Upper Canada, provided managing partners and associates from a multitude of firms (ranging from Osler Hoskin & Harcourt LLP to Miller Thompson LLP) a rare opportunity to discuss implementation and recognition strategies for pro bono projects.

During dinner, the Treasurer delivered a moving speech, imploring lawyers to devote a portion of their time, energy and resources to representing clients on a pro bono basis.



“The workshop was extremely helpful,” says Stacy Zowlski of Goodmans LLP. “I can take this information back to my managing partners and help them get our pro bono program rolling.”

“Many managing partners encourage the pro bono ethic, but need assistance in implementing a formal pro bono policy or program,” explained Ron Manes, President of PBLO’s Board of Directors. “This event gave them the tools to do that.”

Blake, Cassels, Graydon, LLP hosted the workshop component of the event, accommodating more than 30 associates and partners who attended the informative half-day seminar delivered by Esther Lardent and Robert Sheehan.

“The workshop was extremely helpful,” says Stacy Zowlski of Goodmans LLP. “I can take this information back to my managing partners and help them get our pro bono program rolling.” •



CHILD POVERTY: It's more than a numbers game

Children who go to bed hungry, aren't doing well at school, have poor health, don't get involved in organized recreation, or live with a depressed parent. These are the messages that come through loud and clear in the sixth annual progress report on children released by the Canadian Council on Social Development (CCSD) three months ago. And for many children, life is getting worse, not better, even in boom times.

That's because while the latest overall numbers – which do show some improvement for poor families, but far below that of their wealthier neighbours – tell one side of the story, they miss an important aspect of poverty. What the CCSD study shows is that the depth of poverty – which is the amount of money needed to move out of poverty – has remained relatively stagnant at around \$8,500 below the low-income cut-off. In other words, those who live in poverty are living in deep poverty, well below what is needed to have a decent quality of life.

Equally telling are the changes in the distribution of wealth in this

country. Wealth is defined as a family's assets minus its debts, with assets including such items as houses, cars, stocks, and bonds. Assets are said to be the key to a family's future, while income represents how a family is coping now. The wealth of the poorest 20 percent of couples with children under 18 went down by 51.4 per cent between 1984 and 1999, whereas that of the wealthiest 20 per cent of couples increased by 42.7 per cent. The wealth gap in this country is staggering.

And while families in poverty may be making some modest income gains, even if they can't accumulate any real assets, they are being hit hard with the rising costs for items they desperately need – education, health care and housing. Between 1992 and 1999, family expenditures for things like textbooks and education fees almost doubled to more than \$1,400. Two-parent families spent an average of \$1,500 on health care in 1999, up considerably over the decade. And adequate housing in major Canadian cities is out of reach for poor families who may spend more than 50 per cent of their income on shelter.

These numbers show the need to acknowledge two things about child poverty in this country: things are not getting better, and these trends will have a profound impact on Canada's future prosperity. We can't pat ourselves on the back if the best

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People on opposite sides of the child poverty issue in Canada often play the numbers game. So, when we at the Canadian Council on Social Development reported in November that despite years of economic growth, Canada's child poverty rate is largely unchanged and those who are poor are in fact getting poorer, skeptics jumped on the conclusion, arguing that the problem is lessening.

After all, didn't statistics Canada find that the number of children below the low-income cut-off decreased by two percent in the late 1990s, and that family income improved during the period? Can both studies be true?

Well, they can and are. No matter how you count them, too many chil-

Investigating pro bono needs across Ontario

Elisha Wagman and Ruth Schreier are determined to learn what gaps exist in legal services across the province. That's why they both travelled over 6000 kilometres across Ontario last fall to meet with lawyers and program managers of community agencies.

Only three months into the project, it is obvious to Wagman and Schreier that community agencies are anxious for pro bono projects that will:

- ensure their clients are assisted, if

not represented, in education hearings

- supply access to instructive public legal education seminars

- provide ask-a-lawyer columns in community papers or on radio programs

- initiate a mobile pro bono unit to help clients over-

come geographical barriers to justice in rural and northern communities.

Specific program needs may vary from one community to the next but the crux of their desire remains the same across the province – access to justice for all.

Lawyers in rural and northern communities are also committed to this cause. Their dedication is exemplified in the numerous hours they devote to pro

Wagman and Schreier will use the information from the research project to create an extensive report detailing the existing barriers to justice in Ontario.

bono casework and their willingness to do even more. “You never feel like you have done enough,” said one lawyer, “because after helping one person, there is someone else at your door.”

Wagman, Director of Communications for Pro Bono Law Ontario, says this much-needed research project could not have happened without the generous support and encouragement of the Ontario Trillium Foundation, Canadian Heritage and the Law Society of Upper Canada.

“In-depth, investigative studies are often cost-prohibitive for non-profit organizations,” explains Wagman. “Thanks to our funders, we are able to work with communities from Thunder Bay to Windsor, in an effort to ascertain what legal services are needed, and what Pro Bono can do to help fill those needs.”

Wagman and Schreier will use the information from the research project to create an extensive report detailing the existing barriers to justice in Ontario. Pro Bono Law Ontario then hopes to use the report as a stepping-stone from which to build effective pro bono projects across the province. •



Ruth Schreier and Elisha Wagman in Thunder Bay

justice

perhaps justice
does not exist
in heated courtroom battles
or piles of legal manuscript
rather
in the once betrayed
tear of understanding
that victoriously stains
a young face

when a raised
firmly clenched fist
becomes a symbol of
unity, brotherhood, equality
not a weapon
for deepening
wounds

when we take
the young fist
pry it open, gently
and raise it high
with our own

only then,
will we have done justice

– Jehangir Saleh, 17

MARTHA MACKINNON

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Canadian Association for the Practical Study of Law and Education and is currently the President of the association.

Martha has delivered numerous presentations on topics such as student discipline, special education, human rights teacher discipline and the Young Offenders Act. She also teaches Administrative Law and Charter of Rights and Freedoms to bar admission students.

Martha is the co-editor of Butterworth's *Consolidated Education Statutes and Regulations* and the co-author of *An Educator's Guide to Special Education Law*.

For more information: call 416-920-1633 or visit www.jfey.org. •

TEAM CHILD ONTARIO

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simple idea with the potential to profoundly effect youth in this neighbourhood or any other community that wants to implement it.”

TeamChild is being spearheaded by PBLO, but its strength lies in the variety of groups that have agreed to participate in the program. Promoting Economic Action and Community Health (PEACH) is playing a leading role in the project and will be coordinating with the Canadian Association of Black Lawyers (CABL), Child Advocacy Project, Conflict Mediation Services of Downsview, Westview Centennial School, Organization of Parents of Black Children, Hincks-Delcrest Centre, and Oolagen Community Services. •

CHILD POVERTY

CONTINUED FROM PAGE FOUR

we can do for poor children at the height of an economic boom is to reduce the poverty rate by about two per cent, see their family wealth drop significantly and charge them more for things they desperately need. And we can't ignore the fact that a significant segment of our child population may never have access to quality

child care, organized recreation, safe and affordable housing or food security – important ingredients to their healthy growth and development. Canada will pay a big price down the road for this failure. •

Marcel Lauziere is the President of the Canadian Council on Social Development, 613-236-8977, www.ccsd.ca, reprinted in part, with the permission of the Canadian Council on Social Development

Who is being affected by exclusions under the *Safe Schools Act*?

Do you know who is being excluded from your local schools? If you live in Ontario the answer is probably “No.”

Despite the fact that zero tolerance policies have been a reality in Ontario since 1994, there is a startling lack of information coming from school boards and government about who exactly is being affected by the *Safe Schools Act*. This omission is particularly glaring because studies from the US and the UK indicate that minority youth are disproportionately affected by such policies.

According to U.S. Department of Education figures, African-American children represent 32 per cent of all out-of-school suspensions even though they only make up 17 per cent of public school enrolment (see figures at right).

And while it might be tempting to assume these numbers are unique to America’s blighted public schools, numbers from Britain are similar. According to a recent study from the Department for Education and Skills,

African-Caribbean students were excluded from schools at three times the rate of fellow caucasians, and almost 10 times the rate of other visible minorities (see figures, right).

Debra Lipscombe is not surprised by these results. As Education Policy Analyst for the Grand Council of Treaty 3 – representing a territory of 55,000 square miles and 28 First Nations near Kenora,

Ontario – she regularly sees students coping with economic, family and social issues running afoul with school administrators.

Often a “very formal, very wordy” suspension letter is the first notice parents get that their kids are misbehaving. Moreover, even if parents do understand the implications of school discipline and even if they manage to get transportation to distant schools to appeal the decision, they feel unwelcome at the schools. Not surprisingly, many aboriginal parents feel that their kids are singled out and unfairly “getting the maximum.”

“It’s why,” Lipscombe argues, “advocacy is so important.”



Suspension rates for Cincinnati Public Schools, 2000–2001

- Total suspensions: 14,009.
- Black males: 8,060 suspensions, 57.53 percent of the total suspensions. (Black males made up more than 35 percent of the district’s total population.)
- Black females: 3,885 suspensions, 27.73 percent of the total. (Black females made up more than 35 percent of the total population.)
- White males received 1,484 suspensions, 10.6 percent of the total, (White males made up nearly 15 percent of the total population.)
- White females received 580 suspensions, 4.14 percent of the total. (White females made up nearly 15 percent of the population.)

– Source: Cincinnati Public Schools

Number of British pupils permanently excluded from school in 2000–2001

- African-Caribbean pupils: .38 per cent
- White pupils: .13 per cent
- South Asian pupils: .04 per cent

– Source: BBC News

WANTED: Non-profit board members

OCCASIONALLY, PRO BONO LAW

Ontario and Volunteer Lawyers Service receive requests from non-profit and charitable organizations looking for lawyers to sit on their Board of Directors. If you are a lawyer inter-

ested in serving on a board, please contact VLS Project Coordinator, Yonit Fuhrmann at vls@lsuc.on.ca. She will try to match you with an organization according to your interests. •

SALCO THANKS

The South Asian Legal Clinic of Ontario wishes to acknowledge the generous and continued support of Legal Aid Ontario.



PBLO THANKS

Pro Bono Law Ontario wishes to acknowledge the following organizations for their continued support:



Canadian
Heritage

Patrimoine
canadien

Together we're building bridges to justice.

RECOGNITION

Pro Bono News would like to recognize Mohan Sharma and Farhana Zuberi as the founders of the South Asian Legal Clinic of Ontario. We would like to apologize for the omission of their names in the autumn edition of our newsletter.

PRO BONO PROFILE

BRUCE COWLE

AS PARTNER OF MADDEN SIRMAN and Cowle, a small firm located in Napanee, Ontario, Bruce Cowle is no stranger to pro bono work. It is part of his firm's policy to assist local non-profit organizations. "We contribute to the community," says Cowle.

So when the call came from Volunteer Lawyers Service to assist Abigail's Learning Centre (ALC) – a Belleville based non-profit dedicated to helping low-income young children and their parents – Bruce did not hesitate to donate his firm's services. He assisted ALC with their application for incorporation as a non-profit.

Robert Howell, ALC's Executive Director says, "Mr. Cowle has removed a large burden from us. He was really receptive to our requests for legal services, didn't rush us and made wonderful suggestions."

Bruce helped ALC in another vital way – he was close by. Were it not for lawyers like Bruce in smaller areas, many organizations would be obliged to make the three-plus hour commute to Toronto to access desperately needed legal services.

It's a win-win situation. Pro bono work benefited Abigail's Learning Centre. It is also part of Madden Sirman and Cowle's business strategy. "It's good public relations," says Cowle. •