



# The Middlesex Law Association

Established 1879

## Message from the Editor by Jeanine LeRoy

We are pleased to introduce to the membership the new logo of the Middlesex Law Association (for those of you who did not attend Gord Cudmore's Roast – see above). We will soon incorporate the new logo in a re-design of the MLA website. So stay tuned.

In the heart of winter, we look forward to warmer temperatures, melting snow, and holidays. Whether those holidays come in the form of March Break or Summer Vacation, they afford us all the opportunity to rest, relax and recuperate. Can't wait!! Those special times spent with family and friends in beautiful surroundings also afford us the opportunity to take numerous photographs. For all those shutterbugs out there, we are pleased to announce what we hope will be the first ANNUAL photo contest. Watch this space for further details.

NEWSLETTER

## PRESIDENT'S REPORT

by Stephen Taran

### MLA Board of Trustees Elections and Annual General Meeting

I encourage our members to vote this month in the MLA Trustee elections, and attend our Annual General Meeting, which will be held in our library on February 28, 2011 at 4:30 p.m.

### Continuing Professional Development (CPD)

The CPD page on the LSUC Portal is now available so that you can report your CPD programs and activities. Lawyers in the 100% fee paying category have to complete at least 12 hours of CPD by December 31, 2011 in eligible educational activities, with a minimum of three hours to be taken in ethics, professionalism, and/or practice management. Register for the portal by clicking [https://portal.lsuc.on.ca/wps/portal/custom\\_login\\_en](https://portal.lsuc.on.ca/wps/portal/custom_login_en)

The LSUC's free professional development program on Effective Practice Management Processes on March 4th is sold out. As such, the MLA is investigating whether this program can be repeated in

*continued on page 2*

Deadline for next issue  
February 25th, 2011

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PRESIDENT'S REPORT CONTINUED

order to facilitate more of our members completing their professionalism hours.

Mark your calendars for some upcoming programs including:

- Winning Mediation Strategies on March 3rd from 4:00 to 5:30 pm
- Straight from the Bench Conference on April 7th
- Annual Business Breakfast on June 23rd
- MFLA Annual Conference on June 24th

Please check our 2011 Calendar of CLE Programs on our website for further details.

**Social Events**

Don't miss our annual Family Skate event at the JLC on February 12th from 1:00 - 3:00 pm. The jumbotron will be on to capture the kids' smiling faces.

Some other upcoming events that you will not want to miss are:

- Court House Rocks at

Downtown Kathy Brown's on March 25th

- Mentoring Dinner at the London Club on March 30th
- Straight from the Bench Dinner at Hilton London on April 6th

**Judicial Vacancy in London**

The Judicial Appointments Advisory Committee is seeking applications for a judicial position in London. This appointment, while primarily a criminal law position, may also involve presiding over family law matters. Applications must be submitted by 4:30 p.m. on February 11, 2011.

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## MEMBERS UPDATE

**Lianne Armstrong** – is now practicing at Leners and her email is [larmstrong@leners.ca](mailto:larmstrong@leners.ca)

**Joseph Reis** – is now practicing on his own at 79 Frank St., Strathroy, ON, N7G 2R5, ph: 519-246-6565, fax: 519-246-6566, email: [josephmreis@bellnet.ca](mailto:josephmreis@bellnet.ca)

**Janet Gibbons** – is now practicing on her own but all her contact information remains the same

**Phillip Millar** – his firm name has changed to Millars Law and his email has changed to [phillip@millarslaw.com](mailto:phillip@millarslaw.com). All other contact information remains the same.

**Kim Newman** – is now at Cohen Highley and her email is [newman@cohenhighley.com](mailto:newman@cohenhighley.com)

**Samia Alam** – her email has changed to [alamlawoffice@gmail.com](mailto:alamlawoffice@gmail.com)

**P. Brian Chapman** – is now at Chinneck Law and his email is [brian@chinneck.ca](mailto:brian@chinneck.ca)

**Pamela Munn** – her new office address is 205-420 Talbot St., London ON N6A 2S2. All other contact information remains the same.

**David Sanders** - (Camberwell House Law) has moved to 633 Wellington Street, 2nd Floor, London, ON, N6A 3R8. Phone fax and email info remain the same. [www.camberwellhouse.com](http://www.camberwellhouse.com)

JED M. CHINNECK, B.Sc. (Honours Geology), LL.B.  
&  
WILLIAM (BILL) MITCHES, B.A. (Honours), LL.B.

*are pleased to welcome*

**PHILIP BRIAN CHAPMAN, B.A., LL.B.**  
Barrister, Solicitor, Notary (Ontario)  
Barrister, Solicitor, Attorney (Bermuda)  
as COUNSEL to the firm  
as of February 1, 2011

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## SPOTLIGHT – LISA MARIE WALTERS

By Maciej Piekosz

Lisa Marie Walters took time from her family law practice and sat down with the *Middlesex Law Association Newsletter* to discuss her start in law, the charities she is involved with, and what it would take to get her on the next plane to Bali.

**Middlesex Law Association Newsletter:** Could I get your full name for the record?

**Lisa Marie Walters:** Lisa Marie Walters (my parents were not very original)

**MLA:** What areas of law do you practice in?

**LMW:** Exclusively family law. I handle custody and access disputes, divorces, child support, spousal support, adoptions, a little bit of CAS work, property disputes, and Collaborative law. Primarily, I litigate, but if people want to resolve their family issues outside of the court, the collaborative option is available.

**MLA:** Take me through a typical day at the office:

**LMW:** I am in court approximately 3-4 times per week at case conferences, settlement conferences, first appearances and argued motions. The rest of my day is spent drafting pleadings, correspondence, or separation agreements, and fielding telephone calls and emails from clients.

**MLA:** What made you decide to practice exclusively in family law?

**LMW:** I wanted to litigate. There were three options that I perceived would allow me to spend a great deal of time in court—family law, personal injury and criminal. Family seemed like a good fit for me.

**MLA:** What is the most interesting thing you have done so far in your career?

**LMW:** I have had the opportunity to work on a couple of appeals. Appeal work is very interesting, although there is rarely a dull moment in family law generally.

What I have found the most interesting is the ability to work with experienced and reasonable counsel to come up with a settlement that works for all of the parties. The parties and the families have to live with these results for the rest of their lives so it is nice when counsel can come together to figure something out that will work for everyone.

**MLA:** Is there a type of client that you enjoy working with more than others?

**LMW:** I prefer working with a reasonable client. The biggest challenge in family law is

dealing with all of the emotions of the clients. You have the responsibility of dealing with the legal aspects of the case but also have the challenge of managing clients' expectations, which can sometimes be unreasonable or emotionally charged.

**MLA:** How long have you been practising?

**LMW:** I was called to the Bar in 2006, and have been practicing exclusively in family law since then.

**MLA:** Outside of practice, do you get involved in the community? How?

**LMW:** Currently I am chairing an event called Night of Heroes for Community Living London. The event will be held on March 2<sup>nd</sup>. It is a great event that celebrates local heroes while bringing awareness to the community about the people supported by Community Living. There is also a great silent auction and live entertainment. The event will be hosted by Tucker and Kelly from FM96. If you want get involved, contact me at [lwalters@millerthomson.com](mailto:lwalters@millerthomson.com). We are open to sponsorship, and tickets are available.

I have also done some work with the George Bray Sports Association, and the Accessibility in Sport Counsel. George Bray is a hockey league for special needs kids; it is a really great organization that has been around since about 1968.

I have also taught a clinic and volunteered at the Running Room and have enjoyed participating in several of the clinics offered.

**MLA:** Where did you grow up?

**LMW:** Niagara Falls, Ontario

**MLA:** How did you end up in London?

**LMW:** I came to London for my undergrad at the University of Western Ontario, stayed for law school and never left.

**MLA:** Why did you decide to enter the practice of law?

**LMW:** I don't think I have any other viable skill sets. It is what I have always wanted to do, as lame as that sounds. There was no real life defining moment.

**MLA:** What is your fondest memory of law school?

**LMW:** I had a great time in law school. If I had to choose one, I guess it would be our third year trip.

**MLA:** What is your law school horror story?

**LMW:** I don't think I have one. Or if I do,



perhaps I have suppressed that memory?

**MLA:** What do you like to do in your spare time?

**LMW:** I enjoy my charity work. Ordinarily I like to run but I haven't been running much this winter. I enjoy spending time with friends and family, and I love travelling.

**MLA:** When you get a vacation, where do you like to spend it?

**LMW:** Anywhere and everywhere. Most recently I went to the Florida Keys. I have been to Southeast Asia, (Vietnam, Cambodia and Laos). I would love to go back and visit Bali and spend some quality time shopping in Hong Kong. I have been to South America, (Argentina, Chile and Peru) and did the Inca trail. I loved Peru and Argentina and think it would be great to go somewhere like the Galapagos. I think the next trip will be to head back to Italy and perhaps hop on a boat and head across to Croatia.

**MLA:** What is your favourite London restaurant?

**LMW:** We have a group that tends to frequent Bertoldi's, probably because it is centrally located. I like La Casa, and The Only on King is wonderful.

**MLA:** Who is your favourite fictional attorney and why?

**LMW:** My answer is going to be typical, Atticus Finch from *Kill a Mockingbird*. I recently re-read the book (and forced some friends to watch the old movie with me). Atticus is a great dad and is of upstanding moral character.

Second favourite....Denny Crane from *Boston Legal*.

**MLA:** Where do you see yourself in ten years?

**LMW:** Still working away as a family lawyer, unless of course I win the lottomax tomorrow, in which case I am on the first flight to Bali.

## LIBRARY NEWS

**Library News - Gail Brown, Cynthia Simpson**  
[library@middlaw.on.ca](mailto:library@middlaw.on.ca)

**Court Maternity Jumper**

About a year ago, we had a closet cleanout day at the MLA Library and members were warned in advance to remove any of their items prior to that date. We were never planning to dispose of any court attire and, in fact, we have a collection of various shirts, robes, tabs and vests for lawyers to borrow if needed. Unfortunately, just prior to the closet cleanout day, someone removed the court maternity jumper that we stored in the last closet with the various court attire pieces. It is essentially a black jumper that is worn under your actual robe, and it takes the place of a vest and skirt. Someone may have removed the jumper thinking we were going to throw it out or perhaps, coincidentally, someone may have borrowed it immediately before the cleanout deadline. If you have the jumper, please return it as soon as possible. We always have female lawyers in need of it.

**Research Services**

Do you dread having to drive through London's various Snowmageddons and the resulting pothole obstacles to get a couple of cases from Quicklaw or copy a few pages from a looseleaf text you know we have in our library? Well, dread no more, because you can just call, email or use MLA Chat to ask us to do it for you! All MLA members have access to research services through their local library. We can find and note up particular cases for you and email them directly to your office. Alternatively, if you need some cases or legislation copied and faxed or emailed to your office, we will do that too. We have access to a variety of online electronic services to locate case law or commentary dealing with your particular fact situation. We can also trace sections of legislation for you to determine when a change was made that you believe pertains to your case. We charge a nominal fee for our time, often as little as five dollars to find and email a couple of cases, and will advise you if your request requires more extensive research. It's a heck of a lot cheaper than the gas and parking costs you will incur to come to the courthouse yourself.

**MLA Chat**

You may have noticed the reference to MLA Chat in the last segment but didn't know what it was. Well, for quite a while now, the MLA has run a chat service where you can ask us questions about the library or association events and services. You can access MLA Chat from the home page of our MLA Website at <http://www.middlaw.on.ca>. You simply click on the link and a chat box will open up where you can type in your question. We will then respond to your question right away. It's easy and immediate, which is good when you run a busy law practice. You can ask us questions about anything related to the Middlesex Law Association or its library.

**New Books**

LSUC. **Practice gems: title and off-title searching 2011.**  
 LSUC. **Annotated employment agreement 2011.**  
 LSUC. **2011 Oatley-McLeish guide to motor vehicle litigation.**  
 LSUC. **Practice gems: Construction lien essentials.**  
 LSUC. **15th annual intellectual property law: the year in review.**  
 MacDonald, James C. **Handling a family law matter in Ontario**, Thomson Carswell OBA. **"Bread and butter" issues in family law.**  
 So, F. Daniel. **Canadian franchise law - a practical guide 2nd ed.**, LexisNexis  
 Winsor, Roderick S.W. **Good faith in Canadian insurance law**, Canada Law Book

**Missing Books**

n/a. **Art & Science of Cross-Examination (DVD)**  
 Brown, Craig **Insurance law in Canada --3rd student ed.**  
 CBAO **Grateful dead: how to keep estate accounting on track (2000)**  
 CBAO. **Hot issues in labour arbitration procedure and strategy (1999)**  
 CBAO **Practising criminal law in 2000 and beyond**  
 Epstein, Philip et al. **Separation agreement annotated**  
 Fridman, Gerald. **Law of torts in Canada -- 2nd ed**  
 Gillese, Eileen. **Law of trusts (Essentials of Canadian law series) -1997**  
 Gold, Alan. **Defending drinking and driving cases 2009.**

Hall, Geoff. **Canadian contractual interpretation law**  
 Hoffer, Joseph. **Practical guide to the Tenant Protection Act**  
 Insight. **Family business succession planning (1998)**  
 Katz, Joel. **Art of bail: strategy and practice. --NEW**  
 Kratz, Martin. **Obtaining patents --2nd ed., 1999**  
 Levy, Earl. **Examination of witnesses in criminal cases --4th ed.**  
 Louis, David. **Implementing estate freezes --2nd ed --NEW**  
 LSUC. **Annotated trust**  
 LSUC. **Ceiling \$10,000: small claims becomes a big deal**  
 LSUC. **Commercial priorities: avoiding the pitfalls of creating and enforcing security interests**  
 LSUC. **Impaired and "over 80" 2009.**  
 LSUC. **Marriage contracts: drafting and advising post-Hartshorne**  
 LSUC. **Real estate for law clerks (2001)**  
 LSUC. **Six-minute criminal court judge 2010 --NEW**  
 McConnell, Rose. **Guide to collections procedures in Ontario**  
 McGuinness, Kevin. **Law and practice of Canadian business corporations**  
 Meagher, Arthur. **Parties to an action.**  
 Nicholls, Christopher. **Corporate finance and Canadian law**  
 OBA. **Agreements, agreements, agreements: how to settle family law disputes effectively**  
 OBA. **Common legal problems for common law couples, same sex spouses**  
 OBA. **Small business financing: what your clients need to know.**  
 Olson, Richard. **Commercial tenancy handbook**  
 Stalbecker-Pountney, Barbro, ed. **Common civil applications in Ontario**  
 Ziff, Bruce. **Principles of property law -- 3rd ed.**

## CPD ACCREDITATION FOR THE LSUC

by Paula Puddy HBA LLB MBA

As you know, every lawyer has to complete 12 hours of Continuing Professional Development credits (“CPD credits”) activity every year. Three hours of these credits must include a “professionalism” component which is comprised of professional responsibility, ethics and/or practice management.

For members of the profession in their first two years of practice, only CPD activity accredited by the Law Society will count towards the 12 hour requirement.

The MLA will be applying for CPD accreditation for all of its continuing education programs this year. However, in an effort to ensure that everyone obtains the 3 hours of “professionalism” content, here is a list of **free** programs that are being broadcast live online by the LSUC. You must register ahead of time for these programs. For more details and to register, contact the Law Society of Upper Canada.

Please note that there is an interaction requirement. As such, two or more persons must be present when watching recorded programs. If you are a sole practitioner, consider watching these programs with another lawyer at the MLA library which has wireless internet.

Finally, please remember to report your CPD activities annually, by December 31, using the LSUC portal at <https://portal.lsuc.on.ca>. You can register for the portal by following the instructions on the LSUC's home page at [www.lsuc.on.ca](http://www.lsuc.on.ca)

### Key Ethical Challenges for Administrative Lawyers

Wednesday, February 23, 2011 (12:30 PM – 1:30 PM)

Freya J. Kristjanson, *Cavalluzzo Hayes Shilton McIntyre & Cornish LLP*

As an administrative lawyer, you face a variety of unique ethical challenges. How should you handle the representation of

multiple parties? When is it appropriate for you, as a lawyer, to wear other hats? What are your obligations when the other party is self-represented? These are just a few of the questions that senior lawyers will grapple with in this interactive one-hour session.

CPD Credit Information  
Total CPD: 1.0 credit hour professionalism content  
New Members: 1.0 credit hour

### Work / Life Balance: Myth or Reality?

Monday, February 28, 2011 (12:00 PM – 2:00 PM);  
Monday, May 30, 2011 (12:00pm to 2:00pm)  
John G. Starzynski, Volunteer Executive Director, *Ontario Lawyers' Assistance Program*

In this era of increasing demands on your time and expertise, you need to have strategies in place to avoid burn out. Recognizing the symptoms of stress and learning effective stress management techniques are vital to maintaining a successful and satisfying practice. Attend this program and learn about valuable resources and key tools for achieving work/life balance.

CPD Credit Information  
Total CPD: 2.0 credit hours professionalism content  
New Members: 2.0 credit hours

### Professionalism for Workers' Compensation Practitioners

Tuesday, March 29, 2011 (9:00 AM – 11:00 AM)  
Gary W. Newhouse, *Barrister and Solicitor and Laura Russell, B.Sc., CRSP, CompClaim (CCM) Legal Services Professional Corporation*

This professionalism program is a must for workers' compensation practitioners. Using two fact scenarios, panellists will help you effectively tackle challenging ethical and practice management dilemmas. Issues such as confidentiality and disclosure, contingency fees, and file retention will be examined from both employer and worker representative perspectives.

CPD Credit Information  
Total CPD: 2.0 credit hours professionalism content  
New Members: 2.0 credit hours

### Ethical Dilemmas in Family Law

Wednesday, March 30, 2011 (12:00 PM – 1:30 PM)  
Cheryl Goldhart, C.S., *Goldhart & Associates*  
Family law lawyers regularly deal with a myriad of ethical issues that have a significant impact on their clients' files. Speakers will

continued on page 7

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- A guide to determining your injured client's legal rights
- Presented at Fall 2004 Ontario Trial Lawyers Association (OTLA) Conference

**Co-Author:** *Worker's Comp for Dummies: A Primer for Practice before the W.S.I.B.*

- Presented at Fall 2003 OTLA Conference

**Editor:** *Your Legal Rights under the Workplace Safety & Insurance Act*

- Educational booklet published by OTLA for the benefit of its members

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CPD ACCREDITATION FOR THE LSUC

address issues such as fraud and non-disclosure, theft of a spouse's electronic information, and sham marriages. Watch this webcast to learn how to resolve these dilemmas in a practical and appropriate fashion.

CPD Credit Information

Total CPD: 1.5 credit hours professionalism content

New Members: 1.5 credit hours

**Conflicts of Interest in your Civil Litigation Practice**

Tuesday, April 12, 2011 (9:00 AM – 12:00 PM)

Tuesday, June 14, 2011 (9:00 AM – 12:00 PM)

Paul Michell, *Lax O'Sullivan Scott Lisus LLP*

Conflicts of interest can arise unexpectedly. Being prepared to deal with them in advance will serve you well in your practice. Attend this program and learn about appropriate conflicts checking systems, the duty of loyalty, and "ad hoc" vs. "per se" fiduciary relationships. Analysis of Supreme Court of Canada decisions and the *Rules of Professional Conduct*, as well as practical words of wisdom from practitioners, will help you gain confidence when dealing with such issues.

CPD Credit Information

Total CPD: 3.0 credit hours professionalism content

New Members: 3.0 credit hours

**Fee Structure Arrangements for Employment Lawyers**

Monday, May 16, 2011 (12:00 PM – 1:30 PM)

Chris Foulon, *Israel Foulon LLP*

As an employment lawyer, you face special challenges when setting fees. Your clients don't know if or when they will return to work and are apprehensive about their financial future. This 90-minute webcast will provide you with creative billing strategies that strike a balance between your clients' financial concerns and your interest in being compensated for your services.

CPD Credit Information

Total CPD: 1.5 credit hours professionalism content

New Members: 1.5 credit hours

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is currently recruiting board members for its agency board. Interested members of the community are encouraged to consider giving approximately 3 hours/month of their time in a leadership capacity by becoming a member of our board of directors. Monthly meetings are held from September to June over the lunch hour.

We are currently looking for board volunteers who have had previous board experience with a community-based organization and have some knowledge or experience in the areas of finance, legal and marketing.

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## WINE REVIEW

by Michel Castillo

I am reminded of my time in law school, reading articles in learned journals. I often wondered why authors could not come up with succinct names for their writing creations. Not to be outdone, I have chosen to call this edition of the Wine Review: *“Mr. White. Mr. Red. Mr. Pink. No, not an ode to Quentin Tarantino, but rather an introduction to how wine is made, including some semi-amusing anecdotes and other trivia that I hope you will find interesting and informative; or Wine 101”*.

I was thinking what I should write about, having already written about different wines from different regions. As I did, it dawned on me that I have omitted the very essence of things – what is wine? In answer, I would say that it is the most versatile, inspiring and delicious beverage ever created by humans. But maybe I am a bit biased.

Wine is an alcoholic beverage usually made from the juice of extracted from grapes. I say usually because you can make wine from other fruits. For example, Elderberry Wine is not just a classic Elton John song, it is also an alcoholic beverage made from the juice of elderberries (CAUTION: take it easy on elderberry wine because (a) it has a slightly higher alcohol content than regular wine, and (b) they add sugar to the juice, making the final product a major hang-over inducing beverage).

But I digressed. I will write about the wine we call wine – the grape variety. “In the beginning there was ‘grape’”... A trip to your local LCBO will show you the wide range of grapes that are used in making wine. Names like Merlot, Cabernet Sauvignon, Chardonnay and others come to mind, but there are many others, some of which (such as varieties from Spain and Greece) we are not well acquainted with. Different grapes grow in different regions, some well and some not so well. Soil, temperature, growing season, and a wealth of other factors affect the grape even before it appears on the vine.

Once harvested, the first task is to extract the juice from the grape. In order to do so, once upon a time, the grapes were placed in large barrels or containers and then people would stomp on them barefoot... and if you like old 50's TV shows, you may even

recall an “I Love Lucy” episode where Lucille Ball did just that! Now-a-days, the process is almost universally done mechanically. The process extracts the juice, leaving behind all the pulp, skins, stems, and seeds, which is called “pomace”. Many countries take that pomace and distill it to create a strong liquor that goes by different names in different places; in Italy they call it grappa.

Back to the grape juice, depending on the desired result, the skin may be separated from the juice, to make a white wine, or left with the juice for a longer time, to make rosé or red. Extended contact of the juice with the skins not only gives the red wine its colour but it also helps to give it its complexity of flavor.

The next stage in the wine making process is fermentation. We have all tried grape juice – it is sweet. In order to ferment it, special cultured yeast is added to help turn some of the sugars into alcohol. This is done in vats that can be made of different materials. The usual suspects are oak or stainless steel. Oak is usually used for reds while stainless steel is generally used for whites. The choice of yeast, vat, temperature and length of fermentation all play a key role in creating the final product. If we are dealing with red wine, the skins are removed during or shortly after the fermentation process. The wine is then filtered and it is ready for aging. Some wines are aged in barrels and some in their bottle; some not for long and some for several years before they make it to the market. Some wines are meant to be savoured young (e.g., Beaujolais Nouveau) while others need aging to mature into the wonderful and delicious wines they are destined to be.

You will see that throughout this condensed description of the wine making process, there are a great many variables. It is these variables (from soil, to climate, to grape, to fermentation to aging, to everything in between) and all the different combinations of factors that make all the thousands of different beverages from plonk to the most amazing and expensive wines. It takes true experts and scientists throughout the production process to make the amazing potion we call wine.


Trivia to wow your friends and family:

- Wine growing is believed to have

been developed/created about 8,000 years ago around the Caspian Sea (around modern day Georgia and Armenia).

- Most of the European vines are part “made in USA”. Well, not really, but late in the 19<sup>th</sup> Century a disease known as phylloxera wiped out most of Europe's wine yards. The savior proved to be grafting of rootstock from the US onto European existing rootstock and replanting.
- Decant or otherwise let a red wine “breathe”; most reds benefit from the process; even a cheaper bottle of wine will improve through decanting. Some other reds have no salvation and do not even deserve a spot on the “cooking wine” portion of your pantry.





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# MURDERERS WHO WERE HANGED DR. THOMAS NEILL CREAM

by John Lisowski

*Continued from Last Month...*

When the inquest resumed on Tuesday, May 13, 1879, Helena Harris, a former chambermaid at the Tecumseh, testified that when she and Kate were still employed at the Tecumseh House, Kate had confided to her that “she was in the family way by a man named Johnson in Listowel.” Kate told her that a doctor had refused to do anything for her, but she did not reveal his name. She never heard Kate say she would kill herself.

Robert Gardner, the deceased's brother, testified that Kate had last been home about July or August of the previous year. He identified a letter from Kate dated May 1<sup>st</sup> which he received on May 3<sup>rd</sup> as being in her handwriting. He examined the letter produced by Dr. Cream and stated he was positive that it was not in his sister's handwriting. He also stated that the signature was not hers and that he had never known her to sign her name as Kate L. Gardner. He said her proper name was Catharine Hutchinson Gardner and that he had never known her to use the name of Catherine Lorne Gardner.

Edward Morley, a drug store clerk, testified that Kate had come into the store and asked for ergot of rye but that he had told her he could not give it to her without a doctor's prescription. [Ergot is the common name of a [fungus](#) that grows on certain grasses and grains such as rye. Historically, controlled doses of ergot were used to induce [abortions](#).] The clerk knew she was one of Dr. Cream's patients because she had been in earlier to have one of his prescriptions filled. He later spoke with Cream about the incident and was warned by the doctor not to give her ergot without a prescription from him.

Dr. Caitermole, with some 40 years of practice experience, testified that he had examined the foetus during the post mortem examination of the body and that

in his opinion it was at least three months old. This was confirmed by Drs. Niven and Street. Dr. Caitermole confirmed that, generally speaking, the effect of ergot of rye would be to produce abortion. He too, was of the opinion that the deceased could not have produced the marks found on her face by administering chloroform herself. The room was then cleared to allow the Coroner to privately deliver his charge to the jury.

“After a considerable time had elapsed,” the public was re-admitted and the jury gave the following verdict: “We, the jury empanelled to investigate the cause of death of Kate Gardner, do find that she died from the effects of chloroform, administered to her by some person or persons to us unknown, and that she was placed in the water closet in which she was found after death, and we find a verdict of guilty of murder against the aforesaid person or persons unknown.” Before being dismissed, the jury, for whatever reason, felt compelled to express their opinion that Mr. Johnson of Listowel was the father of the child, even though the evidence on which they based their opinion was hearsay.

Although he was never charged in the death of Kitty Gardener because police were unable to find sufficient evidence to connect him with her death, many Londoners felt that Dr. Cream had in fact murdered the young woman by forcing her to inhale the chloroform. Perhaps he was the father of her child and she had threatened to expose him. His reputation in tatters, Dr. Cream left the city shortly thereafter, moving to Chicago, Illinois. The aforementioned article in the November 10, 1892 issue of the London Advertiser suggested that, “The fact that immediately after the tragedy he cleared out like a thief in the night, would seem to justify the strong suspicion then entertained against him.” His subsequent activities would lend credence to people's suspicions.

*continued on page 10*

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## MURDERERS WHO WERE HANGED - CONTINUED

After arriving in Chicago, Cream quickly gained a reputation as an abortionist, assisting prostitutes to terminate unwanted pregnancies. Although he was suspected in the untimely and mysterious deaths of several women, it was for the murder of the husband of an attractive female patient with whom he was reputed to be having an affair that he was tried and convicted. Following the man's death, Cream attempted to blackmail the druggist who had supplied the strychnine with which the man was killed, but the druggist reported the attempt to police who had the body of the husband exhumed and examined. The stomach was found to contain nearly four grains of strychnine, enough to kill three persons. Although sentenced to life imprisonment at Illinois State Penitentiary in Joliet, Cream was, according to official records, inexplicably released ten years later on July 31, 1891. Rumours have it that certain authorities were bribed to secure his early release. Cream returned to London, England, where he set up another medical practice.

Shortly thereafter, he again came under suspicion in the murders by poisoning of at least four women. A fifth potential

victim became suspicious and threw away the pills Cream had given her. She provided police with sufficient information to identify him as the person who had given her poison. When his lodgings were searched, a large quantity of small bottles which, upon analysis, were found to contain strychnine. He was tried, convicted and hanged in Newgate Prison in London, England, on the morning of November 15, 1892.

Although Cream made no last minute confession, the hangman, James Billington, reported that at the moment that he sprang the trap door and Cream plunged to his death, he allegedly cried out the words "I am Jack ..." before the end of the rope cut off the rest of what he was going to say. Those persons who like a good mystery firmly believe Cream had intended to say he was Jack the Ripper, conveniently overlooking the fact that at the time that Jack was mutilating and eviscerating his victims in London, England, Cream was serving time in the prison at Joliet, Illinois. Unless someone is able to conclusively prove that Cream left Joliet Prison before the officially recorded date of his release in July, 1891, then he could not have committed the

murders attributed to Jack the Ripper as they had ended in 1888. These alleged words should be regarded with suspicion, especially since none of the other witnesses at Cream's hanging ever mentioned hearing any last words from him.

Those who would like to believe that Cream was Jack the Ripper theorize that Cream may have escaped from Joliet prison, may have bribed a guard to release him or may have even paid a double to do his time while he travelled to London, England, to do the crimes. Ripper researchers refute this theory on the grounds that it seems illogical that Cream would have poisoned his earlier victims, then changed his *modus operandi* to the savagery exhibited by Jack the Ripper, only to return to poisoning once again. Perhaps it was Cream's one last attempt to achieve immortality by usurping the infamy of the real Jack the Ripper. Given his reported vast ego, that is not an unreasonable conclusion.

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## ASK SYLVIA: LSUC PRACTICE REVIEW

by Sylvia A. Loyens  
 Counsel, Practice Review,  
 Professional Development and Competence  
 Law Society of Upper Canada

### Preventing unauthorized access to client files and confidential information

This month's question is: "What should I do to prevent unauthorized access to my client's file and confidential information?" Before we can answer this question, we must assess the threats and vulnerabilities that face your client information.

**First**, consider unauthorized access during business hours. Casual handling and storage of client files can result in a breach of client confidentiality. Ask yourself the following questions:

- What can be seen by those sitting in your reception area? Are client files visible?
- Is there a staff desk adjacent to the reception area with files positioned so that client information is visible?
- Is there a large label on the outside of the file with confidential client contact information? Could that label be read by a casual observer?

Some of you might remember a Bar Admission course video on practice management, which shows a lawyer walking across the street carrying a banker's box with the client name and matter description clearly visible.

It's also important to think about what may be visible to clients whom you escort to your office or meeting room. Staff should only have out the files on which they are actively working. Others should be securely stored to preserve confidentiality, to protect against loss and damage and to facilitate efficient file retrieval when needed.

When not in use, active client files (including client data stored in a portable electronic format) should be stored:

- in a location separate from the place where closed files are stored;
- in a locked cabinet or other secure location;
- in an orderly fashion for easy retrieval.

**Second**, consider unauthorized access after hours, through break-ins. While many offices have filing cabinets with locks, few of them are actually locked at the end of the day. And although many office buildings have sophisticated security systems, several do not. Locked filing cabinets or another secure location, such as a secured file room, provide one more obstacle to unauthorized access to client files.

Working files should be secured nightly. In addition to preserving confidentiality, this practice also can assist in the preservation of the physical file. For example, consider the unthinkable – what if there is a fire in the office?

Even if there is no great fire damage, water damage may easily occur as the fire department tackles the fire. Automatic sprinklers are standard in most commercial offices. Are your files safe if they should activate? Again, the filing cabinet is your best defence.

**Third**, consider unauthorized access to electronic data:

- Is your computer system protected with a complex password containing at least eight alphanumeric characters and a mix of upper and lowercase letters?
- Is portable technology password protected?
- Do you change these passwords regularly?
- Is your password written on a "sticky note" pasted to your computer or in a visible location, so you will not forget it?
- What efforts have you made to secure the electronic data in your



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practice?

These risk scenarios are not exhaustive, so it's a good idea to look around and determine what other circumstances in your office or practice warrant attention to prevent unauthorized access to client files and information.

By conducting a thorough control risk assessment of your physical and electronic files, you will be better able to identify and determine the level of remediation needed to mitigate those risks.

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CLE NEWS

by Paula Puddy LLB MBA  
 Director of Continuing Legal Education  
 Middlesex Law Association

**Past Programs: Mock Trial Exercises with PWC LLP**

Six lawyers completed both sessions of the mock trial exercises with PWC on January 12<sup>th</sup> and 19<sup>th</sup>, 2011. During the first session, participants picked the brains of their “expert” to better understand the expert reports pertaining to a commercial litigation case. The second session required participants to prepare and subsequently conduct a direct and cross-examination of an expert on a particular issue in the case study. Thank you to Bruce Webster at PricewaterhouseCoopers LLP for chairing this event. In addition, thank

you to Chris Gray, Lindsay Campbell and Jim Forbes at PWC for their role as the other experts. I would also like to thank our “judges”, Lisa Gunn, Bob Ledgley, Shauna Powell and Spencer Nicholson for their insightful and constructive feedback. It was an excellent event and we look forward to running similar exercises with PWC in the future.

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## YOUR SAY

by Dagmara Wozniak  
([dagmara.wozniak@siskinds.com](mailto:dagmara.wozniak@siskinds.com))

Recently, this author came across an article featuring the top 10 addictions in modern society. Addictions to Facebook (which apparently carries with it a formal diagnosis: Facebook Addiction Disorder), shopping, and teeth whitening made the list. This piqued our curiosity. What are MLA Members addicted to?

We thought a guilty pleasure/addiction survey was in order. Read on as selected MLA Members confess to their guilty pleasures and “addictions”!

“I am addicted to walking to work. I started walking from my home in Old South to the University 3 years ago as a new year's resolution. Now, when business requires me to take my car, I am frustrated, resentful and impatient with traffic, parking, gas prices and lack of exercise – clear signs of a true addiction.” – **Stephen Jarrett**, Legal Counsel, University of Western Ontario

“[www.mlbraderumors.com](http://www.mlbraderumors.com). It's

pretty much an addiction of mine.” **John D. Goudy**, Cohen Highley LLP

“I am addicted sports. Whether it is participating or as a spectator, I spend too much of my idle time following sports at all levels,;amateur or professional, men's or women's, old or young. I suspect if someone told me that there was a challenge race between two ants, I'd want to know when and where and then I'd a find some way to watch and would be interested in the results. My only question would be, ".....is there going to be a re-match?"- **Michael M. Lerner**, Lerner's LLP

“I am addicted to the Food Network. Cooking is so earthy and sensual, and much more relaxing than practicing law!” – **Erin Reid**, McKenzie Lake Lawyers LLP

““I am addicted to ... tennis. I love playing it (with family and friends); I love watching it (my family is off to the Australian Open this year); I love teaching my daughter how to play (even if she currently has absolutely no interest in learning to play); it has been the source of great friends and many good times; it (similar to other sports)

reveals the true nature of the person; it is something that I hope to play as long as (and as well as) my father who is 77 and who still hits a great ball.” – **Ian S. Wright**, Scott, Petrie, Brander, Wright & Bell LLP

“I am addicted to: those candies and chocolates that used to come in a big bag, but now are individually wrapped. In the past, I could just reach in the bag and grab a bunch of candy. But now each candy needs particular attention. Each piece takes planning and effort to remove the wrapper. It is not just a matter of grabbing and consuming anymore. You really have to want that candy. Animals in zoos used to get food in a bucket. But this stifled the animal's creative problem solving abilities, so now they hide the food or put it in old tires so they have to work for it. This keeps the animals sharp. Candy makers are now doing the same thing. I am addicted to these individually wrapped candies because I know they are making me a better person.” – **Wade Sarasin**, Siskinds LLP

“I am addicted to GLEE. I just can't help it – it makes me smile!!”- **Paula Puddy**, Vantage Professional Development



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RECESS – BY VINCENT CALZONETTI

The last few years we have gone to the amazing Palm Springs International Film festival in January to see 35 films. This year we then drove up the coast to San Simeon and San Francisco.

We were walking in the Mission District – huge wall murals - and after a terrific lunch at Delfina [highly recommended to you all] we came upon a legal clinic - " one dollar a minute ". I dropped off a job application. For reasons that many MLA members know, I had to leave the academic and reference sections blank.

I have my fingers crossed.



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*Written by Paula J. Puddy HBA LLB MBA*  
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How would you describe your work ethic? This is not a rhetorical or a trick question. Would your description include ambitious, hard-working or driven? Upon further reflection, have you lost some of your motivation or direction?

Over time, many lawyers lose their desire and drive to achieve. Others gradually become less motivated to work on files, bring in new clients or become partners. Their success and achievement has reached a plateau.

Consider the clearly defined path to becoming a lawyer. It included obtaining high grades in undergrad, scoring well on the LSAT, applying and being accepted into law school, finding an articling position, writing the bar exams and being hired back. After practising for several years, the proverbial "light at the end of the tunnel" may be dimmer.

If the light at the end of your tunnel is dim, I encourage you to stop and "smell the roses". Take a moment to contemplate and resolve some of the following issues. So doing will jumpstart your performance.

1. What motivates you? Personally?  
Professionally?
  - a. Personally – family, spouse, kids, friends, vacation, money, house, cottage, cars, ego, pets, music, culture, books, community, charity?
  - b. Professionally
    - i. What do you enjoy about practising law? Variety, challenge, flexibility, helping clients, achievement, recognition, appreciation, reputation, knowledge, independence, teamwork, reward, pay, people?
    - ii. What motivates you to accomplish your work? Deadlines, fear, salary, bonuses, personal and client satisfaction, pay, billings, evaluations, interest, independence, control,

planning a vacation?

c. Consider whether these motivators are positive or negative, external or internal. Positive and/or internal motivators tend to be more effective motivators over the long term.

2. Do you procrastinate? Consider how procrastination manifests itself during the work day. Consider the cost of procrastination.

a. Do you avoid certain files, check email instead of starting a new task, or work on the "easier" files first? If you recognize how you procrastinate, you can choose to change your behaviour to reduce wasted and unproductive time.

b. Consider implementing any of the following steps to overcome or minimize procrastination:

- Break tasks into small steps. Look for partial solutions.
- Consider delegating work or tasks to others.
- Do the task badly even though your output will be unacceptable the first time.
- Work on difficult or complex files for a short period of time. Consider timing yourself.
- Do the worst task first.

3. Consider your attitude.

a. Do you tell people you are a lawyer? If so, can they tell that you are proud of your profession and your career?

b. Do you react positively or negatively to the following situations:

- Receiving telephone calls from existing clients;
- Receiving more work from existing clients;
- Receiving a call from a new potential client;
- Conducting a new client interview;
- Responding to e-mails on existing files;
- Receiving constructive criticism or feedback;
- Receiving a note from a senior associate or partner that says "See me";
- Being asked to attend a firm function;
- Meeting potential clients?

c. Recognize that you can choose your attitude to the above and any situation. Don't just react. Choose how you act.

d. Be realistic. Not every aspect of work will be fun and rewarding. Change the things that can be changed and accept those that cannot.

4. Set goals.

a. What do you want to achieve today? What do you want to achieve by the end of the year? In 5 to 10 years?

i. When setting goals, consider the following categories: practise area or service offering, specialty, reputation, client development initiatives, types of clients, referral sources, networking opportunities, building a self-sustaining practise, continuing education, teaching or mentoring, writing, speaking, being respected by your peers, and community involvement.

b. Be SMART in your goal setting: specific, measurable, attainable (yet challenging), realistic and timely.

c. Plan your time to achieve those goals. (see time management article)

d. Revisit your longer term goals at least once a year to reflect on your performance, and revise and/or set new goals.

5. Reward yourself when you achieve those goals.

a. For example, have a coffee break when you complete a task or work late on weeknights so that you don't have to work on the weekend.

You are in the driver's seat. Be accountable and responsible to yourself and your career. Accept the fact that hard work, challenging files and difficult clients are a chronic and recurring part of your practise.

The practise of law is a marathon, not a sprint. By motivating yourself, minimizing procrastination, making these small adjustments to your attitude, setting goals and rewarding yourself, you will transform your performance.

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The Middlesex Law Association's  
**Continuing Legal Education Programs & Events  
 2011**

	Monday	Tuesday	Wednesday	Thursday	Friday
January	24	25	26	27	28
	31	1	2	3	4
February	7	8	9	10 Advocate's Society Court House Series	11
	14	15	16	17	18
	21 Family Day	22	23	24	25
	28	1	2	3 Mediation Strategies	4 LSUC Practice Management
March	7	8	9	10	11
	14	15	16	17	18
	21	22	23	24	25 Court House Rocks
	28	29	30 Mentoring Event	31	1
April	4	5	6 Straight from the Bench: Dinner	7 Straight from the Bench: Conference	8
	11	12	13	14	15
	18	19	20	21	22 Good Friday
	26 Easter Monday	27	28	29	30

**The Advocates' Society Court House Series**  
 February 10, 2011, 1:00pm to 5:00pm  
 Old Court House  
 Evidence : Pre-Trial Prep, Openings & Fighting Back  
 Chaired by Maia Bent and Jill McCartney

**MLA Skate at the John Labatt Centre**  
 Saturday, February 12, 2011, 1-3pm

**MLA Annual General Meeting**  
 February 28, 2011, 4:30pm, Mayer Lerner Lounge

**MLA & OBA: Winning Strategies for Mediations**  
 March 3, 2011, 4:00-5:30pm  
 Mayer Lerner Lounge  
 Chaired by Kathryn Munn  
 Presenters: Vince Calzonetti & Greg VanBerkel

**LSUC: Effective Management Practice Processes**  
 March 4, 2011, 9:30am to 1:00pm  
 The Best Western Lamplighter Inn  
 Presented by: Sylvia Loyens  
 3.5 accredited hours for the professionalism content

**Court House Rocks**  
 March 25, 2011, 6:00pm to close  
 Downtown Kathy Brown's  
 Supporting London Lawyers Feed The Hungry

**Mentoring Event**  
 March 30, 2011, 5:00pm  
 The London Club  
 Chaired by Alysia Christiaen

**Straight from the Bench - Dinner**  
 April 6, 2011, 6:00 to 10:00pm  
 Hilton London  
 Dinner & Entertainment

**Straight from the Bench - Conference**  
 April 7, 2011, 9:00am to 4:30pm  
 Hilton London  
 6th Annual Litigation Conference on Evidence  
 Chaired by Karen Hulan & Kelly Tranquilli  
 Judicial Chair: Madam Justice Leitch

**Middlesex Family Law Association Annual Conference**  
 Friday, June 24, 2011

For more information on CLE programs, contact Paula Puddy at [cle@middlaw.on.ca](mailto:cle@middlaw.on.ca) or call 519-868-6771.