

The background features a stylized graphic of a tree on the left and a globe on the right, both rendered in various shades of blue. A prominent white diagonal line runs from the top right towards the bottom left, intersecting the text.

British Columbia Law Institute & Canadian Centre for Elder Law

Annual Report 2016



THE YEAR IN REVIEW



Lisa A. Peters, Q.C.

CHAIR, BOARD OF DIRECTORS

Report of the Chair

This is my first report as Chair of the British Columbia Law Institute (BCLI) and Canadian Centre for Elder Law (CCEL). We had much to celebrate in 2016 – from the BC government’s implementation of recommendations from two reports to the conclusion of three CCEL projects and the beginning of two more.

The BCLI was pleased to see recommendations from two of our past reports introduced in legislation in 2016. The *Miscellaneous Statutes (Signed Statements) Amendment Act, 2016* (Bill 5 2016) was introduced in February 2016. The Act substantially implements the recommendations of the BCLI 2006 Report on Unnecessary Requirements for Sworn Statements and amends 23 statutes.

Amendments to the *Community Care and Assisted Living Act* were introduced in March 2016 (Bill 16 2016). A number of the changes were

consistent with recommendations made in BCLI’s 2013 Report on Assisted Living in British Columbia. Currently assisted living residences are limited to providing no more than two prescribed services. The amendments repeal this restriction. Residents will now have a greater range of living and care options, allowing them to remain longer in the same apartment-style setting and retain as much independence as possible. Other amendments consistent with the BCLI report recommendations included clarifying the decision-making abilities required

Project Spotlight: Older Women's Dialogue Project

On September 30, 2016 the Canadian Centre for Elder Law and West Coast Women's Legal Education and Action Fund (WCL), in cooperation with SFU Gerontology Research Centre hosted a National Seniors Day event where guests gathered to hear about the work of four groups of senior women who participated in the Older Women's Dialogue Project. The project was a collaborative initiative between CCEL and WCL to engage older women in identifying, addressing and responding to policy and legal issues that are essential to their well-being. The interactive event was led by the four groups of women on the topics of: access to dental care for low income seniors, access to pharmaceutical care for low income seniors, respect and safety in housing for older Indigenous women, and availability and suitability of housing for older Indigenous women. The tools developed by each group of women can be viewed on the CCEL website at <https://www.bcli.org/project/older-womens-dialogue-project>.

In 2017 a fifth group will begin to meet to develop a tool to help them take action to assist older women who have experienced violence or abuse.

for eligibility to enter and remain in assisted living and amending the definition of "spouse" to include both a legally married spouse and a person who has been in a marriage-like relationship with a resident for at least two years.

Supported by the research and writing of BCLI's dedicated staff lawyers, 60 volunteers continued to meet regularly in 2016 to review the research, debate policy options and make recommendations on five projects:

- *Builders Lien Act Reform*;
- *Employment Standards Act Reform*;
- *Strata Property Law - Phase Two*;
- Uniform Law Conference of Canada (ULCC) *Uniform Vital Statistics Act* (renewal) project; and
- the CCEL's *Older Women's Dialogue Project*.

Key milestones were passed on two projects. In August 2016, the ULCC working group, led by Executive Director Kathleen Cunningham and research lawyer Alex Blondin, presented the working group's final recommendations at the August 2016 annual meeting of the ULCC in Fredericton, New Brunswick. They returned home to begin the work of overseeing the drafting of a more modern *Uniform Vital Statistics Act*.

In the fall of 2016, the consultation report on Complex Stratas was released. The consultation closed in January 2017.

Research and writing continued on both the 4th edition of our popular resource *Questions and Answers About Pension Division on the Breakdown of a Relationship in British Columbia*¹ and our *Study Paper on Financing Litigation*.²

The Board congratulates the CCEL on completion of three projects in 2016: the 3-year *CNPEA Knowledge Sharing Project*,³ the *Older Women's Legal Education Project*⁴ and *Elder Abuse in Chinese and South Asian Communities*.⁵

The CCEL was awarded funding to commence two new projects on important legal issues for vulnerable adults: *Health Care Consent, Aging and Dementia: Mapping Law and Practice*;⁶ and *Inclusive Investing: Respecting the Rights of Vulnerable Investors through*

Supported Decision Making. New funding was also received for a third project to work with older immigrant women who have survived violence or abuse.⁷ (see Spotlight on the previous page)

A common theme in CCEL projects is collaboration with other organizations. These collaborations allow the CCEL to expand its relationships with organizations and academics who work with a range of vulnerable populations. These organizations also help the CCEL reach older adults to carry out our research. In return, the organizations benefit from the elder law lens which the CCEL brings to different issues.

For more information on the BCLI and CCEL 2016 projects, see p. 23.

We could not contemplate initiating our projects without the support of our many funders. In addition, as the numbers show, our projects could not happen

without many expert volunteers. On behalf of the Board of Directors, I thank you all. Your commitment to BCLI and CCEL projects is inspiring. I also would like to thank my colleagues on the board. The many hours you contribute to board and committee meetings each year are greatly appreciated.

In 2016 we said good-bye and expressed our appreciation to board members Roy Cammack (appointee of the Society of Notaries Public of British Columbia) and Member at Large, Stan Rule. We welcomed Susan Mercer, appointee of the Society of Notaries Public of British Columbia, and Brent Olthuis, Member at Large.

I follow in the footsteps of past Chair, Joost Blom, Q.C. In addition to serving on the BCLI executive as Vice-Chair (2012-2014) and Chair (2014-2016), Joost chaired the Unfair Contracts Relief Project from 2009 to 2011. Joost was

appointed Treasurer in September 2016. On behalf of the board and staff, I thank Joost for his many contributions to BCLI and look forward to his wise counsel in 2017.

As we say good-bye to 2016, we look forward to 2017 and the celebration of BCLI's 20th Anniversary. Two events are planned where we will have an opportunity to thank past and present volunteers, board members, funders and supporters. The first event will be in Victoria in late January. A second is planned for Vancouver in May. In December staff worked with a videographer to make a short video entitled "Tending to Our Laws".⁸ The five-minute video was released at our first anniversary event and traces our history from our modest beginnings to today. If you have not yet viewed it, I invite you to do so and to share it with anyone who may be interested in the work we do.

Lisa A. Peters, Q.C.
Chair
British Columbia Law Institute

¹ The 4th edition of this resource is now available on our website at <https://www.bcli.org/project/questions-and-answers-about-pension-division-on-the-breakdown-of-a-relationship-in-british-columbia-2015-2016>

² The Study Paper is now available on our website at <https://www.bcli.org/project/financing-litigation-legal-research-project>

³ The Canadian Network for Prevention of Elder Abuse (CNPEA) received funding from the federal government to develop a national online resource for information, research and tools to prevent elder abuse. The CCEL was retained to manage the project. The website is in English and French. <https://cnpea.ca/en/>

⁴ A joint project with West Coast Women's Legal Education and Action Fund (WCL) <https://www.bcli.org/project/older-womens-education-project>

⁵ A collaborative project with University of Victoria Institute on Aging and Lifelong Health, National Initiative for the Care of the Elderly, Mosaic, and Inter-Cultural Association of Greater Victoria <https://www.bcli.org/project/elder-abuse-in-chinese-and-south-asian-communities>

⁶ The project is funded by the Law Foundation of BC. <https://www.bcli.org/project/health-care-consent-aging-and-dementia-mapping-law-and-practice-in-british-columbia>

⁷ The project is funded by the Law Foundation of Ontario Access to Justice Fund. <https://www.bcli.org/project/inclusive-investing-respecting-the-rights-of-vulnerable-investors-through-supported-decision-making>

⁸ The video can be found here: <https://www.bcli.org/bcli/in-2017-celebrate-bclis-20th-anniversary-with-us>



Kathleen
Cunningham

EXECUTIVE DIRECTOR

Report of the Executive Director

2016 was a year of change for BCLI staff. We said goodbye to Research Lawyer Alex Blondin and Manager, Community Engagement Raissa Dickinson.

We wish them well in their new endeavours. In June Benedicte Schoepflin completed her work on the CNPEA Knowledge Sharing project and assumed a part-time role as our Social Media Coordinator. Her unique skills are a great addition to the team.

In November, we welcomed back two former staff members on a part-time basis, Staff Lawyer Laura Tamblyn Watts, and Research Lawyer Rachel Kelly. In late November, Research Lawyer Valerie LeBlanc joined the team.

In May 2016 we welcomed Allard School of Law second-year law student Sebastian Ennis. As with all of our students, we were sorry to have to say goodbye. We wish him well.

After 19 months in my role, I continue to be impressed with the level of commitment and expertise of our staff, board members and the many volunteers who help make our projects the successes they are. Their collective commitment to maintaining BCLI's reputation for high quality, independent and non-

partisan legal research and law reform allows us to continue to secure funding for the projects we undertake.

In June 2016, all CCEL projects were winding down. By September new and exciting projects took their place. Each project addresses legal issues that affect vulnerable members of our aging population.⁹

In my 2015 report I noted that one theme emerging in my first seven months was that while we have many supporters and champions who know our work well, there are many more who do not, even within the legal community. I commented that we need to continue to tell our story and reinforce the important role we can play in improving the laws that affect British Columbians and older Canadians. Not all law reform or legal research projects are appropriate for BCLI or CCEL to take on for many reasons. But, when there is a

fit, BCLI and CCEL often fill a need that is difficult to address in other forums.

In 2016 we began the journey of paying more attention to how we tell our story. This work will continue in 2017. Highlights of this work include:

Hiring a dedicated part time social media coordinator.

In 6 short months Benedicte Schoepflin has introduced discipline to the process for releasing blog posts and using social media to promote our news. We now track a variety of metrics and will refine our processes as we learn more about the interests of our various audiences.

Communicating our value proposition.

In November 2016 I joined senior policy staff from two ministries -- the Ministry of Housing and the Ministry of Justice and Attorney General's Civil Policy and

Legislation Office -- at a monthly meeting of the provincial government's Policy Community of Practice. We spoke about the work carried out by both the BCLI and the Uniform Law Conference of Canada and how the law reform work of both organizations can help address broader policy and legal issues in a forum that is outside of political agendas and processes.

Refining how we track our impact. For many years we have tracked five metrics:

- Legislation passed or recommendations implemented
- New or renewed funding
- Judicial, academic or professional citation
- Third party project or review invitation
- Third party notice/publicity

⁹ See CCEL new projects beginning on page 27 for details.

Our tracking methods for the last three metrics rely on self reporting. Undoubtedly, many citation and third-party notice events are missed as they never come to our attention. However, the system provides a simple, consistent way to track these important metrics.

While legislative change is often the ultimate goal of any law reform agency, our projects also:

- make important contributions to the understanding of the history and evolution of the law;
- document the reasons for the need for reform;
- identify and discuss policy options; and
- offer insights into reforms in other jurisdictions across Canada and around the world.

The comprehensive nature of our reports and study papers contributes to the education of the profession, stakeholders and the public on many levels.

As we sought to tell our story in 2016, it became clear that our system could be refined so that data could be tracked and analyzed at both the organization and project level. With the assistance of a student in early 2017 we can now track our metrics by project and over time. Although data for 2016 is retroactive and may be incomplete, it provides a starting point for year over year comparisons as we move forward. While we cannot eliminate the reliance on self reporting, the system will help BCLI and CCEL analyze the data so we can become more strategic in our activities throughout a project's life cycle and beyond its completion. In 2017 we will explore how to track meaningful social media and website metrics.

I look forward to being able to begin reporting our data in future reports.

Kathleen Cunningham

Executive Director
British Columbia Law Institute
Canadian Centre for Elder Law

2016 by the numbers

| | |
|---|-------|
| Number of project volunteers and consultation participants | 93 |
| Estimated number of volunteer hours contributed to projects | 2,300 |
| Reports and project resources released | 7 |
| Projects continued | 7 |
| Projects completed | 3 |
| Projects commenced | 3 |
| Legislation introduced | 2 |
| Citations | 15 |
| New funders | 15 |
| Third party invitations | 7 |
| Third party mentions | 48 |



Krista James

NATIONAL DIRECTOR, CCEL

Report of CCEL's National Director

Disability and aging would seem to occupy sites of fruitful collaboration and inquiry. Indeed, aging research is often focused on health barriers, challenges and services, and much of the fear-mongering associated with the aging of Canada's population is tied to current, anticipated and exaggerated costs associated with treating older people for chronic medical conditions and degenerative disease.

People living with disabilities and long term illness and disease enter old age having lived with many of these health challenges throughout their lives, including related discrimination, ableism and lack of appropriate support services or supports for inclusion. Working at the intersections of aging and disability offers opportunities for aging researchers to learn from the disability sector, and for greater inclusion of people with disabilities in aging research, policy and law reform initiatives. Much of our work

at the CCEL in the last year has been exploring these intersections.

In recent years one of the CCEL's largest projects has been the Older Women's Dialogue Project (OWDP), and in the most recent phase of OWDP research we reached out to older women living with disabilities, including women living with multiple sclerosis, hearing impaired women, and blind and partially sighted women. The second consultation report of the OWDP, [*We are Not All the Same: Key Law, Policy*](#)

[and Practice Strategies for Improving the Lives of Older Women Living in the Lower Mainland](#) will reflect their experiences. It will also include a spotlight identifying some of the particular barriers to well-being associated with aging with a disability.¹¹

This past year we began two projects that explore the intersections between aging and disability. In September 2016, we commenced work on the CCEL and Alzheimer Society of BC collaboration, [Health Care Consent, Aging and Dementia: Mapping Law and Practice in BC](#). This project investigates the law, policy and practice of health care consent in BC, examining whether practice is consistent with the robust rights enshrined in BC's health care consent legislation. Consultation is a key part of research for this project, for how can we understand practice without talking to

the people whose rights are at issue? How can we understand the structural barriers to best practice without talking to practitioners working within the health system? As the work moves forward we will be consulting with people living with dementia, family caregivers, health care practitioners and others about their experiences with health care consent.

Although health care consent rights matter to everyone, people living with dementia may encounter additional barriers to respect for their rights, particularly due to discriminatory assumptions about the mental capacity of people living with dementia. The lives of people living with dementia may be greater impacted by health system practice because the need for support and services, as well as medication or treatment, pulls them into the system in order to access care. Indeed, more

generally, people living with disabilities may have a greater number of interactions with the health system and their lives are significantly impacted when practice fails to respond to individual unique needs and circumstances.

In the fall of 2016 we also began research on a second project on supported decision making [Inclusive Investing: Respecting the Rights of Vulnerable Investors through Supported Decision Making](#). This project will focus on the experience of investors from various disability communities who are using supported decision making in their lives, and will examine how Canadian investment and financial institutions, adults with capacity challenges, and supporters can incorporate supported decision making into the investment decision making process, while guarding against undue influence and elder

¹⁰ Publication date March 8, 2017.

financial abuse. A key part of research on this project will be speaking to people living with disabilities and those individuals they identify as part of their decision-making support network. As we discussed in a previous CCEL research paper on supported decision making, supported decision making seems to be used more frequently by people living with disability issues or capacity challenges across their lives. There seems to be limited uptake of supported decision making by older adults. This project will attempt to bridge a divide between disability and aging, tapping into a potential for elder law to learn from what is working well in the disability sector.

Both of these projects reflect another ongoing theme of CCEL's approach to work: including people with lived experience, not just judges, lawyers and other professional and academic experts,

in research to help us understand both the legal or policy problem and potential reforms to address it. Moving into 2017 we are looking forward to some exciting conversations with people living with disabilities and the agencies that support them that will enhance our understanding of how law and practice can better support the rights of older adults from diverse communities, including people aging with disability.

Krista James

National Director
Canadian Centre for Elder Law



OUR
PEOPLE

The Board of Directors

BCLI's Directors bring experiences from across the legal profession and the community. They include practicing lawyers and notaries, retired judges, academics, and public policy professionals. Together, they provide BCLI with the perspective and guidance necessary to serve the law reform needs of the people of British Columbia. Our Board members at the end of 2016 are:

Honourable Marion Allan

Appointee of the Canadian Bar Association, BC Branch

Marion Allan was appointed to the County Court of Vancouver in 1988 and the Supreme Court of British Columbia in 1990. She became Deputy Judge of the Supreme Court of the Yukon Territory in 1990. As an adjunct professor of civil procedure at UBC Law School between 1984 and 1988 Marion frequently participated in educational seminars on topics including evidence, family law, civil procedure, fiduciary obligations, and personal injuries. Madame Justice Allan is also an advocate for elder law reforms and has made significant contributions to BCLI and CCEL including keynote speeches at the Canadian Conferences on Elder Law in 2005 and 2012 and a panel discussion at the 2015 CCEL/CLE BC conference on "Dementia & Client Competency—Practice tips, communications, strategies & ethical issues".

Marion returned to practice at Clark Wilson LLP in September 2013 as associate counsel, where she practices as a mediator and arbitrator.

Professor Joost Blom, Q.C.

Member at Large

Prof. Joost Blom was awarded the designation of Queen's Counsel (for BC) in 1985. He served as Dean of the UBC Faculty of Law from 1997 to 2003 and is a former Bencher of the Law Society of BC. His research and writing has focused on the relationship between Contracts and Torts, on Conflicts of Laws, and on Comparative Law. He brings expertise to BCLI in the areas of regulation, organizational leadership, finance and law reform.

Jan Christiansen

Appointee of the Law Society of BC

Mr. Christiansen was called to the Bar of British Columbia in 1981. Since 1981, he has practiced with Heather, Sadler, Jenkins LLP and is Associate Counsel with the firm. His areas of practice include insolvency, commercial litigation, and general solicitor work. He has appeared as counsel in various Courts including BC Court of Appeal, BC Supreme Court, BC Provincial Court, Federal Court of Canada and Tax Court of Canada.

R. C. (Tino) Di Bella

Appointee of the Attorney General for BC

Mr. Di Bella graduated from University of Victoria Law School and was called to the BC Bar in 1980. He practices in wills and estates, estate litigation, insolvency and creditors' remedies, residential and commercial tenancies, and condominium law. Mr. Di Bella served on both the Estate Administration sub-committee of BCLI's Succession Law Project and the Project Committee of BCLI's Probate Rules Project.

Oliver Fleck

Appointee of the Canadian Bar Association, BC Branch

Mr. Fleck is a member of the Bars of British Columbia, Ontario, and Washington State. Currently employed by the Criminal Justice Branch, BC Ministry of Justice, he serves as Administrative Crown Counsel with management responsibility for the Fort St. John Crown Counsel office. Mr. Fleck worked with the Government of Canada in Ottawa, Ontario and Geneva, Switzerland from 1999 to 2012. Mr. Fleck has volunteered with

several organizations and is a member of the BC and Ontario branches of CBA, a member of the Washington State Bar Association Criminal Law Section and Canadian Maritime Law Association.

Professor Robert G. Howell

Appointee of the Dean of the Faculty of Law at University of Victoria

Prof. Howell joined the University of Victoria Law School in 1980. He was co-director of the International Intellectual Property Summer Program from 2002 to 2007 and currently teaches Property, Intellectual Property, Private International Law (Conflict of Laws), Managing Intellectual Property, Telecommunications, and Internet-related law. He has published extensively and has brought his expertise in the areas of intellectual property law, education, research, finance, and interdisciplinary teams to BCLI.

Frances Kelly

Member at Large

Frances Kelly is a staff lawyer with the Community Legal Assistance Society's BC Human Rights Clinic and Community Law Program. Frances has argued a number of test cases which have advanced the rights of disadvantaged groups, before tribunals and all levels of court including the Supreme Court of Canada. She was counsel for the appellant in the 1999 decision [B.C. \(Superintendent of Motor Vehicles\) v. B.C. \(Council of Human Rights\) Superintendent of Motor Vehicles](#) ("Grismer") and counsel for the family in the landmark 2012 Supreme Court of Canada decision of [Moore v. British](#)

[Columbia](#), which confirmed that students with disabilities have equal rights to education.

The Hon. Kenneth Mackenzie, Q.C.

Member at Large

Kenneth C. Mackenzie Q.C., S.J.D., is a retired Justice of the Court of Appeal of British Columbia. He was an associate professor of UBC's Faculty of Law, a member of the B.C. Law Reform Commission, a Justice of the B.C. Supreme Court from 1992 to 1998, and served on the B.C. Court of Appeal from 1998 to 2011.

Margaret Mason

Appointee of the Law Society of BC

Margaret Mason leads the Charities and Tax-Exempt Organizations practice at Norton Rose Fulbright. Her practice spans a broad range of issues which affect charities and not-for-profits including tax exempt status, governance, political activities and social enterprise. Margaret represents organizations across the sector including religious, environmental, sport, healthcare, social services, education, and research organizations as well as family and corporate foundations.

Susan Mercer

Appointee of the Society of Notaries Public of British Columbia

Susan Mercer became a member of The Society for Notaries Public of BC in 1986. During her eleven-year tenure on the Society's Board of Directors she served as President from 2008 to 2010 and later as Chair of the Notary Foundation from 2010

to 2012. One year after retiring from her successful practice in 2014 she was reinstated as Staff Notary for The Society. Now a leader of The Society Practice Advisory Team, she conducts Practice Inspections throughout the province, assists members with trust accounting matters, and has acted as custodian for two Notary practices.

Brent Olthuis

Member at Large

Brent Olthuis is a partner with the Vancouver Law firm Hunter Litigation Chambers. He has appeared before all levels of court in British Columbia and Ontario, and has conducted hearings before the trial courts in Alberta and Yukon Territory, the Tax Court of Canada, the Federal Court and Federal Court of Appeal, and various administrative tribunals. Brent has published peer-reviewed articles in the fields of aboriginal law, criminal practice and gaming law, and is author of the professional conduct chapter in a leading text on the practice of law in Canada.

Prof. Richard Oppong

Appointee of the Dean of the Faculty of Law at Thompson Rivers University

Dr. Richard Oppong is currently an Assistant Professor at Thompson Rivers University, Faculty of Law. One of his principal research interests is private international law (conflict of laws), with a special focus on Africa, and he has published several ground breaking works on the subject. Dr. Oppong's work has been cited frequently by courts and academic publications, and he is regularly consulted by law firms, international

organizations, academics and academic institutions.

Prof. Dennis Pavlich

Appointee of the Dean of the Allard School of Law at University of BC

Dennis Pavlich is a professor in the Allard School of Law at UBC. A graduate of Witwatersrand University and Yale Law School, Professor Pavlich has been an academic for over 25 years. Professor Pavlich teaches courses on property law, the law of trusts and the western idea of law and is the author and editor of several books and articles including Condominium Law in British Columbia (Butterworths), Academic Freedom and the Inclusive University (UBC Press) and, in 2010, Managing Environmental Justice (Rodopi).

Lisa A. Peters, Q.C.

Member at large

Lisa Peters is a partner with the Vancouver law firm Lawson Lundell LLP, and is the head of that firm's legal research and opinions department. She is the author of numerous publications on legal research and private law generally, and has served as chair of the Legislation and Law Reform Committee of the Canadian Bar Association (BC Branch).

Andrea Rolls

Member at large

Ms. Rolls has worked at the Ministry of Public Safety & Solicitor-General for more than 25 years and has held several very

senior positions. Being an active advocate, she has overseen implementation of legislation and policy relating to child abuse, aboriginal issues, court systems, and family violence. She has also overseen Ministry funding relating to seniors issues such as developing fact sheets on senior abuse and arranging funding for a victim services worker at BC Centre for Elder Advocacy And Support.

Stanley Rule

Member at large

Stanley Rule is a partner with the Kelowna law firm Sabey Rule LLP, where his practice focusses on estate planning, probate, and estate administration. He is also a writer on legal issues and author of the "rule of law" blog.

Thomas L. Spraggs

Appointee of the Attorney General for BC

Thomas Spraggs is the owner and operator of Spraggs & Company Law Corporation. Mr. Spraggs specializes in personal injury law. He serves as the Vice Chair of Douglas College where he has also served on a number of committees. Tom is an active member of the Canadian Bar Association and co-chairs the Civil Litigation Tri-Cities/New Westminster section. As a member of the Law Societies of British Columbia, Yukon and Alberta, Tom's work has been primarily in civil litigation, and he also has a strong interest in administrative law and governance. Mr. Spraggs He holds a Bachelor of Laws, Master of Laws, and Masters of Business Administration.

MEMBERS EMERITUS

Arthur L. Close, Q.C.

Arthur Close, QC is a retired lawyer and expert in law reform. Mr. Close was a former Chair of the Law Reform Commission of BC. He has authored a number of reports that were implemented through legislation. Following the abolishment of the Law Reform Commission, Arthur, along with other members of the legal community, founded BCLI where he subsequently became Executive Director. In 2003 Arthur spearheaded the creation of CCEL, which is the only body in Canada devoted exclusively to legal research and law reform in the area of elder law.

D. Peter Ramsay, Q.C.

Mr. Ramsay was called to the Bar of British Columbia in 1970 and was appointed Queen's Counsel in 1999. He primarily practices in estate matters, damages, land use, labour and employment. Mr. Ramsay has served as a Bencher of the Law Society of British Columbia. He chaired the Succession Law Reform Project for BCLI and a second project committee tasked with making recommendations for the reform to the court probate and administration rules. These projects resulted in the new Wills, Estates, and Succession Act and the new Probate Rule 25.

BCLI's Volunteers, Staff, and Judicial Liaisons

During the year, BCLI has benefited greatly from the substantial contributions of over 100 [volunteers](#) on the Board, on Project Committees, and through research and other assistance. We would like to offer a heartfelt thank you to all our volunteers.

Staff During 2016:

Executive Director

Kathleen Cunningham

Senior Staff Lawyer

Greg Blue, Q.C.

Staff Lawyer and BCLI Secretary

Kevin Zakreski

National Director, CCEL and Staff Lawyer

Krista James

Office Manager

Elizabeth Pinsent

Research Lawyer

Valerie Le Blanc

Social Media Coordinator

Benedicte Schoepflin

Research Lawyer (Part Time)

Rachel Kelly

Staff Lawyer (Part Time)

Laura Tamblyn Watts

Manager, Community Engagement

Raissa Dickinson

Staff Lawyer

Alexandre Blondin

Legal Research Assistant (Summer 2016)

Sebastian Ennis, Allard School of Law

BCLI's Judicial Liaisons:

The Honourable Madam Justice Mary Newbury
Court of Appeal of BC

The Honourable Justice Peter G. Voith
Supreme Court of BC

The Honourable Judge Gurmail Gill
Provincial Court of BC

Board Committees

The volunteer members of BCLI's Board of Directors also serve on board committees. At the August 31st, 2016 board meeting, committee membership was confirmed for September 2016–2017.

Executive Committee — meets as required and has the full power of the Board of Directors, except for the approval of commitments over \$75,000 or matters delegated to another Committee of the board.

Members: the Hon. Marion J. Allan, Prof. Joost Blom, Q.C., R. C. (Tino) Di Bella, Lisa A. Peters, Q.C., Thomas L. Spraggs, Kathleen Cunningham (*ex officio*).

Audit, Finance & Risk Committee — meets at least four times per year and assists the Board of Directors in fulfilling its oversight responsibility relating to financial, accounting, and risk matters.

Members: Prof. Joost Blom, Q.C., Jan Christiansen, Oliver A. Fleck, Prof. Robert Howell, Margaret Mason, Brent Olthuis, Thomas L. Spraggs

Program Committee — meets at least twice per year and assists the Board of Directors in fulfilling its responsibilities relating to the development and approval of law reform projects and public education and outreach projects.

Members: the Hon. Marion J. Allan, Arthur L. Close, Q.C. (member emeritus), Prof. Robert G. Howell, Frances Kelly, the Hon. Kenneth C. Mackenzie, Q.C., Susan Mercer, Dr. Richard F. Oppong, Lisa A. Peters, Q.C., Prof. Dennis Pavlich.

Nominating Committee — meets at least once per year and assists the Board of Directors relating to the appointment of members, officers, and committee members.

Members: Prof. Joost Blom, Q.C., R. C. (Tino) Di Bella, Frances Kelly, Margaret Mason, the Hon. Kenneth C. Mackenzie, Q.C., Lisa A. Peters, Q.C., Andrea Rolls.

Strategic Plan and Succession Committee — meets as needed and assists the Board of Directors in the review and update of the strategic plan.

Members: Prof. Joost Blom, Q.C., R. C. (Tino) Di Bella, Oliver A. Fleck, Margaret Mason, Andrea L. Rolls, Thomas L. Spraggs, Kathleen Cunningham (*ex officio*).



OUR PROJECTS

BC Franchises Act Regulations

The BCLI issued its *Report on a Franchise Act for British Columbia* in March 2014, recommending that British Columbia become the sixth province to enact franchise legislation. Legislation was introduced and passed in October 2015. Staff are participating in a Ministry of Justice working group to develop regulations under the *Franchises Act* [SBC 2015] c. 35. A Ministry of Justice public consultation on the content of regulations was held in 2015 and was followed by consultations with the working group in 2016.

Builders Lien Act Reform Project

Project Manager: Greg Blue, Q.C.

Committee: Donald A. Thompson (Chair), Leslie J. Armistead, Arthur L. Close, Q.C., Heather Ferris, Helmut K. Johannsen, James R. White, Dirk Laudan, David Mckenzie, J. Marc MacEwing, Karen Martin, Marina Pratchett, Q.C., Tyler Nyvall (Ministry Liaison)

The *Builders Lien Act* is a complex piece of legislation that is one of the major cornerstones of construction and insolvency law. The BCLI began this multi-year project in April 2014. The Project Committee continued its in depth review in 2016 and anticipates the release of a final report in 2018.

Employment Standards Act Reform Project

Project Manager: Greg Blue, Q.C.

Committees: Tom F. Beasley (Chair), David Ages, Doug Alley, Prof. R. G. Howell, Susan P. Arnold, Dan Cahill, Devyn Cousineau, Charles Gordon, Don Jordan, Q.C., Bruce A. Laughton, Q.C., Peter F. Parsons, Andrea Zwack, Michael Tanner (Ministry Liaison / Observer)

This multi-year project to review and make recommendations for reform of the *B.C. Employment Standards Act (Act)* commenced in October 2014. The Project Committee continued to meet in 2016. When completed, the project's report will provide a roadmap for the next generation

of employment standards legislation in BC. A consultation report is anticipated to be released for comment in 2018.

Financing Litigation Legal Research Project

Project Manager: Kevin Zakreski

Principal Researcher: Alexandre Blondin / Valerie Le Blanc

This 18-month project commenced in August 2015. Research for the study paper began in 2015 and will review issues relating to the private financing of litigation in British Columbia. It will discuss structural or legal changes that could support access to justice by providing litigants with increased financing alternatives and avoiding self-representation. A series of consultation events were held in 2016 with experts in the field of litigation where issues of self-representation and litigation financing are most prevalent (personal injury, class actions, family). The report is planned to be released in 2017.

Questions and Answers about Pension Division on the Breakdown of a Relationship in British Columbia (4th Ed.)

Project Manager: Kathleen Cunningham

Researcher and Writer: Tom Anderson, Q.C., Anderson Pension Law Consulting

The BCLI *Questions and Answers about Pension Division at the Breakdown of a Relationship* has been a valuable resource to the pension sector since the first edition was published in 1996. The new *Pension Benefit Standards Act* came into force in September 2015. It resulted in changes to pension division at the breakdown of a relationship. These are in addition to the changes brought into force by BC's new *Family Law Act* in March 2013. This project will update the third edition of the BC Law Institute Q&A Materials released in 2013 following the introduction of the *Family Law Act*. The 4th edition is expected to

be released in early 2017.

Strata Property Law: Phase Two

Project Manager: Kevin Zakreski

Committee: Patrick Williams (Chair), Veronica Barlee, Larry Buttress, Garth Cambrey, Tony Gioventu, Ian Holt, Tim Jowett, Alex Longson, Judith Matheson (2013-2016), Elaine McCormack, Susan Mercer, Doug Page (2013-2014), David Parkin, Allen Regan, Stanley Rule (2013-2016), Sandy Wagner, Ed Wilson

This multi-year project builds on the research and consultation carried out in phase one. The goal is to provide recommendations for legislative reform of selected strata-property issues. The final report on the first issue, termination of a strata, was released in February 2015 and government implemented the recommendations with amendments to the *Strata Property Act* introduced in November 2015. The committee continued its work in 2016 with a focus

on the next topic, complex stratas. The project is expected to continue into 2018. Upon completion the project reports will provide a framework for the next generation of strata property law in BC.

ULCC Vital Statistics Act (Renewal) Project

ULCC Working Group Project Chair:
Kathleen Cunningham

Principal Researcher and Writer:
Alexandre Blondin

In 2014, the BCLI received funding from a number of members of the Vital Statistics Council for Canada to carry out the research and writing for a Uniform Law Conference of Canada project to modernize the 1987 ULCC *Uniform Vital Statistics Act*. A modernized Act will address the significant social changes and modern requirements for collecting vital statistic information. The ULCC Working Group receives input from a Vital Statistics

Working Group who help identify the issues and provide feedback on proposals for reform. Work continued in 2016 and recommendations were accepted at the August 2016 ULCC Conference. In 2017 the working group will liaise with legislative drafters to prepare a modern *Uniform Vital Statistics Act* in English and French for approval at the August 2017 ULCC meeting in Regina.

CCEL

COMPLETED PROJECTS

Supporting Older Women Fleeing Abuse—Legal Information Resource for Service Providers

Project Manager: Krista James

This one-year project is a collaboration with West Coast LEAF (WCL) funded by the Elder Abuse Prevention Capacity-Building Grant from the Council to Reduce Elder Abuse. An information booklet and a workshop curriculum is being developed and will be delivered in

person and via webinar, to support front line responders to provide accurate legal information to older women fleeing abuse. The project commenced in April 2015 and was completed mid 2016.

Elder Abuse in Chinese and South Asian Communities in British Columbia

Project Manager: Krista James

This one-year project is a collaboration of the University of Victoria Institute on Aging and Lifelong Health, CCEL, the National Initiative for the Care of the Elderly, Mosaic, and the Inter-Cultural Association of Greater Victoria. The project began in April 2015. It has identified the needs of front line responders supporting South Asian and Chinese older adults who have experienced elder abuse.

This project was completed in mid 2016. It produced:

- a) a visual map of existing and needed resources that can be used to build awareness to prevent, recognize, and respond to elder abuse in the Chinese and South Asian communities. The map, the result of a shared leadership exercise, will serve as a capacity-building tool for the elder abuse sector in BC.
- b) two posters to fill an identified gap in the current resource pool.

CNPEA Knowledge Sharing Project

Project Manager: Krista James

CCEL provided management and other services for CNPEA's multi-year project

to develop a national knowledge sharing network on elder abuse prevention. The bilingual online hub went live on September 1, 2015. Work in 2016 focussed on promoting the website and the sustainability plan. The project was completed mid 2016. See cnpea.ca/en/

ONGOING PROJECTS

Older Women's Dialogue Project - Phase Two

Project Manager: Krista James

Committee: Andrea Rolls (Chair), Shashi Assanand, Anne Beveridge, Elsie Dean, Donna Dickison, Jill Hightower, Linda Light, Bella Maude, Gertrude Pierre, the Hon. Lynn Smith, Q.C.

Based on the Phase One report, CCEL is, in collaboration with West Coast LEAF,

a) consulting with a groups of older women who are especially marginalized, vulnerable or isolated, and

b) working with four groups of older women to develop tools that address law or policy issues they identify as pressing.

When complete, the Phase Two project will have identified specific tool or reform needs of specific groups of older woman in BC and will have developed the tools and/or law reform recommendations in support of those groups. Consultations were completed in 2015. Work on the tools was completed in 2016. The project is supported by the Advisory Committee and will continue until late 2016/early 2017.

NEW PROJECTS

Health Care Consent, Aging and Dementia: Mapping Law and Practice in BC

Project Manager: Krista James

Committee: Tara Fitzgerald, Isabel Grant, Laura Johnston, Michael Kary, Alison Leaney, Martha Jane Lewis, Barbara Lindsay, Isobel Mackenzie, Jim Mann, Dr. Deborah O'Connor, Lisa A. Peters, Q.C., Michael Vonn, Penny A. Washington

This project commenced in October 2016 and will run until mid 2018. The work is a collaboration with the Alzheimer Society of BC and will involve extensive comparative legal research on informed consent and interrelated areas of the law, as well as community and key stakeholder consultation. The project will culminate in a report identifying areas for law and practice reform and at least one plain language educational resource on health care consent rights.

Inclusive Investing: Respecting the Rights of Vulnerable Investors through Supported Decision Making

Project Manager: Krista James and Laura Tamblyn Watts

This multi-year project commenced in September 2016. It will explore the notion of using supported decision making in the investment process to maximize an investor's access to investment options while minimizing loss of autonomy and unnecessary interventions such as guardianship. It will also learn from the investment and securities regulatory field what level of knowledge they currently have on supported decision-making and will draw out key areas of concern or knowledge gaps which they may have. The project will focus on investors from two disability communities who are using supported decision making in their lives – people with intellectual disabilities and adults living with Alzheimer's or other form of dementia.

Older Women's Dialogue Project - Phase 3

Project Manager: Krista James

This one-year project commenced in October 2016. The project will allow us to conduct a tool development group in collaboration with older immigrant women through Vancouver Lower Mainland Multicultural Family Support Services Society (VLMFSS). The group will focus on a law or policy topic related to violence against older women. The project is on hold and will restart in 2017.

Highlights from the Older Women's Dialogue Project Tool Development



Photographs, clockwise from bottom:

1. Sharing stories at the National Senior Day event on September 30, 2016
2. Discussing dignity, culture, and housing at the Downtown Eastside Women's Centre
3. *Older Women's Dialogue* participants in Victoria sharing their work on the project



Appreciation

The BCLI thanks all of its friends, supporters, colleagues and collaborators over the years. In particular we thank the many committee members who gave so freely of their time and our funders.

Funders in 2016:

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| Law Foundation of British Columbia | Condominium Home Owners Association | Real Estate Council of British Columbia |
| Ministry of Justice and Attorney General for British Columbia | eHealth Saskatchewan (Vital Statistics) | Real Estate Foundation of British Columbia |
| Association of British Columbia Land Surveyors | Employment and Social Development Canada | Real Estate Institute of British Columbia |
| BC Government and Service Employees' Union | Government of Nunavut (Vital Statistics) | Service New Brunswick (Vital Statistics) |
| BC Ministry of Health - Council to Reduce Elder Abuse | Hospital Employees' Union | Statistics Canada |
| Canadian Human Rights Commission | Ministry of Jobs, Tourism and Skills Training | Strata Property Agents of British Columbia |
| Canadian Network for the Prevention of Elder Abuse | Ministry of Natural Gas Development and Responsible for Housing for British Columbia | Vancouver Foundation |
| Canadian Women's Foundation | Notary Foundation of British Columbia | Vancouver Island Strata Owners Association |
| Coalition of BC Businesses | Ontario Law Foundation Access to Justice Fund | |

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