

20th ANNIVERSARY

British Columbia Law Institute
& Canadian Centre for Elder Law

Annual Report 2017



THE YEAR IN REVIEW



Lisa A. Peters, Q.C.

CHAIR, BOARD OF DIRECTORS

Report of the Chair

The British Columbia Law Institute turned 20 on January 7, 2017. This milestone gave us the opportunity to celebrate with past and present board members, volunteers, staff, friends, funders and supporters.

Twenty years ago,¹ an enterprising group of lawyers² incorporated the British Columbia Law Institute (BCLI) under the Society Act. Their vision, coupled with financial support from the Law Foundation of British Columbia, the B.C. Branch of the Canadian Bar Association and the Law Society of B.C., ensured that the important work of the former British Columbia Law Reform Commission could continue in a new vehicle.

On January 26th, over 60 people joined our celebration at Laurel Point Inn in Victoria. One hundred more joined us at the Law Courts Inn in Vancouver on May 11th. Each event was our opportunity to reflect on the

many memories and highlights over the years and to say thank you to our volunteer committee and board members, funders, and supporters, both past and present. Without you we could not do our work or had the successes we've enjoyed. We were inspired by the supportive words of our guest speakers and the many conversations among volunteers, board members, funders, supporters and friends as they reconnected. I wish to thank our sponsors and donors whose generosity ensured our 20th anniversary expenses were fully funded. Sponsors and photos of the events are found at pages 30-31 of this report.

Project Spotlight: Study Paper on Financing Litigation

On October 4, 2017, BCLI released its [Study Paper on Financing Litigation](#). The cost of litigation is a significant barrier to accessing the justice system. While some disputes can be resolved outside the courtroom, litigation is often the only means to achieve an equitable result. However, a litigant's ability to pay for the legal fees and expenses that come with litigation may become a concern before, or during, the process. Taking a legal dispute to trial is expensive. Many litigants lack the financial resources to take on the risk of an unsuccessful case. Generously funded by the Law Foundation of BC, this study paper examines the traditional and alternative methods litigants use to pay for litigation. It reviews six financing models that have emerged both in Canada and internationally: 1) unbundled legal services, 2) third-party litigation funding, 3) alternative fee arrangements, 4) crowdfunding, 5) legal expense insurance, and 6) publicly funded litigation funds. It also identifies 18 opportunities and ideas to consider for structural, systemic or legal change to enhance the use of each financing option in British Columbia. BCLI welcomes the interest within the profession in the ideas raised in the study paper. We hope that the discussion that follows will lead to new solutions to address this access to justice issue.

We invite you to visit [our 20th anniversary web page](#) for more event photos, sign up for our mailing list or follow us on Twitter and Facebook. While you are on the website, check out the short video "Tending to our Laws", where current and past board and committee members and staff share some of their memories and thoughts on the BCLI.

Highlights over our first twenty years include:

- At the end of the first year after

incorporation, 13 members had been appointed to our Board of Directors. Today we have 16 members, ten appointed by stakeholder bodies and six members at large. Since 1997, some 58 lawyers, judges, legal academics and community members have served on the board and its committees.

- The BCLI has released 62 reports. The B.C. Government has implemented recommendations from 14 reports substantially or in part,

including: *Trustee Act*; *Charitable Purposes Preservation Act*; *Land Title Act*; *Wills, Estates and Succession Act*; *Family Law Act*; *Limitation Act*; *Societies Act*; *Strata Property Act*; *Franchise Act*; and *Community Care and Assisted Living Act*. The report on unnecessary requirements for sworn statements has led to amendments in 23 statutes.

- Some reports are comprehensive study papers that serve as a valuable resource for legal

researchers and advocates, while others are structured as practical guides such as the [Questions and Answer about Pension Division on the Breakdown of a Relationship](#), the project on [Potential Undue Influence: Recommended Practices for Wills Practitioners](#), and [Questions and Answers on the Builders Lien Act](#).

- The Canadian Centre for Elder Law (CCEL), a division of the BCLI established in 2003, has [completed](#) some 24 projects ranging from research and study papers to the development of tools and resources for professionals, seniors serving agencies and seniors themselves.
- The CCEL has hosted seven [national elder law conferences](#). The conference is attended by legal and other allied professionals and academics from across Canada, the U.S.A. and as far away as Australia,

Europe and the African continent. Average attendance was 125-150 and in some years as high as 200.

- In the early years, the BCLI had a core staff of two, supported by law students and part-time contractors. Today, we have a core staff of five and, at any given time, three to five part-time and full-time contractors and law students. Over the years, over 45 summer students and co-op students have worked with the BCLI and CCEL and nine articulated students have completed a part of their articles with us.
- At least one staff member has attended the annual meeting of the Uniform Law Conference of Canada each year, and our executive directors have been active participants on the executive and project committees of that organization.

- BCLI has also participated in at least six Federation of Law Reform Agencies of Canada (FOLRAC) conferences, hosting two of them — one in Victoria in 2009 and a second at UBC in 2010.
- BCLI could not carry on its law reform work without the commitment and expertise of the many project committee member volunteers. A review of project reports reveals that over 370 lawyers, stakeholder representatives and other experts have participated on our project committees over the years. Most of these committees met nine to ten times a year for two to three years, and sometimes longer. Meetings are often two hours each and require preparation time. As we have reported in the past, a conservative estimate of the value of this volunteer time across our projects ranges from \$500,000 to \$1 million a year.

We would not be able to carry out our work without the support of our core funders — the Law Foundation of BC and the BC Ministry of Attorney General — and our many project funders. Project funders may be found at the back of our project reports and on the individual project web pages. Funders for 2017 are listed at the end of this report.

A milestone like a 20-year anniversary is an opportunity to look both backwards and ahead. We are indebted to the leaders in the legal community who created BCLI and those who have contributed to its success over the past 20 years.

We look forward to another 20 years and hope to see our roster of committed volunteers and supporters continue to grow and diversify to reflect both the legal community and community at large. If you have not yet been involved, talk to us

about ways to volunteer. In an inclusive society, law reform is everyone's business.

REMEMBERING GREG STEELE, Q.C.

In late January 2017, we lost Greg Steele, Q.C., one of our founding members. Greg's stoic battle with leukemia kept him with us for many years. With his passing, the legal profession has lost a great champion for law reform. His kindness, generosity and humour will be missed. Greg's contribution to the formation and growth of BCLI and CCEL was immense. His contributions at the national level through the Uniform Law Conference of Canada were equally significant. On behalf of the entire BCLI family, we wish to express our deepest gratitude to Greg for his contributions to law reform throughout his career and we send our condolences to his wife Susan and his family.

CHANGES ON THE BOARD OF DIRECTORS

In 2017 we said good-bye to long-time board members Joost Blom, Q.C. and the Hon. Marion Allan. Joost and Marion's contributions to the BCLI and CCEL over their long tenures were significant. Thank you. We also said good-bye to Member at Large Frances Kelly, the Peter A. Allard School of Law appointee, Professor Dennis Pavlich, and Thompson Rivers University appointee Professor Richard Oppong. Thank you to each of them for their commitment and engagement during their tenure on the board.

We also welcomed Canadian Bar Association B.C. Branch appointment Mathew Good; Peter A. Allard School of Law appointee Dr. Janis Sarra; Member at Large Dylan Mazur and Thompson Rivers University appointee Associate Professor

370 lawyers, stakeholder
representatives, and
expert volunteers

\$500,000 - \$1,000,000
A CONSERVATIVE ESTIMATE OF VOLUNTEER
VALUE CONTRIBUTED EVERY YEAR

58
served on
BCLI Board

14
PROJECT REPORTS
IMPLEMENTED BY
THE BC GOVERNMENT
SUBSTANTIALLY OR IN
PART

45
SUMMER STUDENTS AND
CO-OP STUDENTS HIRED

9 articling
students
hosted

24 CCEL PROJECTS
COMPLETED

Dr. Tesh Dagne. We look forward to
working with each of you in the coming
years.

This will be my last annual report as Chair
of the BC Law Institute Board. I feel very
fortunate to have been Chair during this
20th Anniversary year and to have been
able to celebrate the past 20 years of law
reform with the community that supports
the BCLI and CCEL. The mentorship of
past chairs, including Joost Blom, Q.C.,
Tino Di Bella and Peter Ramsay, Q.C.
equipped me for this rewarding role. As
an organization, we are very fortunate
to have top-notch staff doing yeoman
service; it has been a pleasure working
with each of them.

I hope I will be able to encourage and
mentor other lawyers interested in law

reform and look forward to the well-
researched, informative and compelling
reports that will no doubt be published in
2018 and into the future.

Lisa A. Peters, Q.C.

Chair
British Columbia Law Institute

62
BCLI PROJECT
REPORTS
RELEASED

2 FOLRAC
meetings
hosted

7
national elder
law conferences
hosted

20 ANNUAL UNIFORM LAW
CONFERENCES OF
CANADA MEETINGS
ATTENDED

23 statutes
affected
by BCLI
report on sworn
statements

200
largest
attendance at
an Elder Law
Conference

¹ January 6, 1997.

² The founding members were Thomas G. Anderson, Q.C., Arthur L. Close, Q.C., Gregory K. Steele, Q.C., the Honourable Martin Taylor, Q.C. and Gordon Turriff, Q.C.



Kathleen
Cunningham

EXECUTIVE DIRECTOR

Report of the Executive Director

In 2017 the BCLI completed four projects. BCLI founding member Tom Anderson Q.C. brought his extensive knowledge of pensions to the 4th update to the popular BCLI resource [Questions and Answers About Pension Division on the Breakdown of a Relationship in British Columbia](#) (2015-2016) which was released in March 2017.

In June, the board approved the release of the second major report of the [Strata Property Law – Phase Two Project](#) – The Report on Complex Stratas. On October 4th the [Study Paper on Financing Litigation](#) was released and we were pleasantly surprised by the attention it attracted. Following the release, we launched a blog series. Each post reviews highlights of each method of paying for litigation discussed in the report and recent developments. In

November the Vital Statistics Working Group of the Uniform Law Conference of Canada received news that the modernized *Uniform Vital Statistics Act* had been approved. The English and French versions of the Act may be found on the [BCLI website](#). In addition to the new statutes, the [ULCC website](#) has posted the working group's annual reports to the ULCC.

The CCEL also released three reports in 2017. In conjunction with International Women's Day, on March 7, 2017, we released the final report of the [Older Women's Dialogue Project](#) *We Are Not All the Same: Key Law, Policy and Practice Strategies for Improving the Lives of Older Women in the Lower Mainland*. In October 2017 the report *Engaging Older Women in your Community: A Promising Practices Guide for Women's and Senior Serving Organizations* was released. Informed by our experience with the Older Women's Dialogue Project, the report is a resource to support agencies to anticipate and address structural barriers to the participation of older women in community initiatives aimed at legal and policy change. Finally, in November 2017, [FAIR Canada](#) and the CCEL jointly released the report [Vulnerable Investor Protective Action and Legal Safe Harbour Project](#). The report includes six recommendations to address

financial exploitation, undue influence and diminished capacity and received a lot of positive support from investment regulatory bodies including the Ontario Securities Commission.³

In 2018 BCLI will begin winding up its three large multi-year projects -- [Builders Lien Act reform](#), [Employment Standards Act reform](#), and [Strata Property Law - Phase Two](#). In 2017 we began to explore ideas for potential new projects. Stakeholders have identified a number of interesting and important areas of the law requiring reform. We look forward to announcing new projects in the latter half of 2018.

ENGAGING WITH LAW STUDENTS FROM BC'S LAW SCHOOLS

We were pleased to be able to participate once again in the University of Victoria Co-op program. Sergio Ortega joined

us for the January – April 2017 term and brought his keen interest in our work along with his research skills and other talents. We wish him well as he completes his 3rd year and begins articles in 2018 and look forward to our next student who will join us in January 2018, Emily Amirkhani.

BCLI also hired its first student from Thompson River University's faculty of law. Alison Curley, a recent graduate of the school joined us as a summer student and left in September to begin her articles with a boutique Vancouver firm. We wish her well.

MEETING COLLEAGUES FROM THE COMMONWEALTH

A personal highlight for me was the opportunity to attend the Commonwealth Association of Law Reform Agencies conference in Melbourne Australia on

³ See the Seniors Strategy released on March 20, 2018 which acknowledges the report [OSC Staff Notice 11-779](#)

March 21-23, 2017. Twenty participants from thirteen commonwealth jurisdictions were represented from New Zealand, Australia (and four state level agencies), Scotland, Papua New Guinea, Canada, Nepal, Kenya, South Africa, Uganda, Bermuda, Hong Kong, Mauritius and Namibia. The theme of the conference was “Effective Law Reform: Sharing Together across the World”. I was struck by how different our agencies are, yet how similar are the fundamental guiding principles for how we do our work and the challenges we face. Later in the year, CALRA completed a publication *Changing the Law: A Practical Guide to Law Reform*. Launched at the October 2017 Commonwealth Law Ministers meeting, the guide is now available on the CALRA website at www.calras.org/foswiki.

Prior to the conference, I also had an opportunity to meet with staff at the law

reform agencies of Australia and the states of New South Wales and Victoria, the Deputy President and Division Head of the Guardianship Division of the New South Wales Civil and Administrative Tribunal, the Public Guardian of New South Wales, and his counterpart in Melbourne. Again, the overlap of law reform project topics and elder law issues reminded me of how much we can share and learn from each other.

MONITORING OUR IMPACT

In 2016 I reported that we had refined how we keep track of our key indicators. We now track indicators at the project and organizational level. See p. 11 for our first report using our own new tracking system.

Kathleen Cunningham

Executive Director
British Columbia Law Institute
Canadian Centre for Elder Law

Monitoring our Impact

In 2017 we updated our database to allow for year over year comparisons from 2015 through 2017. While our tracking relies on much self-reporting, and will vary from year to year depending on the status of various projects, the results tell an encouraging story and offer insights into activities that we might undertake to raise awareness of our work. In 2018 we will be developing new ways to present the information including highlights for the first year of each project after its release. This table summarizes the number of identified occurrences for each indicator for BCLI and CCEL over the period.

Indicator ¹	2015	2016	2017	Total 2015-2017
Bills Passed	3	2	0	5
Academic Citations	5	2	4	11
Judicial Citations	3	3	7	13
Professional Citations	11	10	31	52
Press mentions	19	20	17	56
Web/print mentions	22	18	36	76
Invitations to speak	7	7	32	46
Legislative mentions	6	2	0	8
Educational mentions	1	8	13	22
Renewed funding	11	10	11	32
New funders	11	13	1	25

¹ Note: These indicators exclude social media tracking and newsletter subscribers which will be incorporated into reporting in other ways going forward.



Krista James

NATIONAL DIRECTOR

Report of the National Director

In 2017 collaboration continued to be a lynchpin of almost all the work of the CCEL.

It was a busy year for us—we released two reports, published a promising practices guide, hosted another Canadian Elder Law Conference in Vancouver, and announced two new areas of work. In each case, relationships were fundamental to moving the work forward. Each collaboration supported us to work with different kinds of stakeholders, and contribute our expertise to a partnership that allowed for unique impact.

Throughout the year we worked with an exciting new partner, the [Canadian Foundation for the Advancement of Investor Rights](#) (FAIR). In 2016 FAIR received a grant from the Law Foundation of Ontario Access to Justice Fund to conduct research and consultation on strategies for preventing and responding

to elder abuse and neglect, mental capacity and undue influence in the investment sector. The project was concerned in particular with exploring the viability of the concept of a legal safe harbour in Canada that shields investment firms and practitioners from regulatory liability if they act in good faith and exercise reasonable care in making a disclosure about a client who is experiencing abuse in a manner that would otherwise amount to a breach of privacy law or professional confidentiality obligations.

FAIR Canada was founded in 2008 to represent the voice of investors on matters related to securities regulation, with initial funding provided by the then newly created Investment Industry

Regulatory Organization of Canada. Now a national non-profit like the CCEL, FAIR's mandate centres on advancing knowledge in relation to capital markets, savings, investments, and investment practices. FAIR's work targets the general public, government, and regulators through various events and publications, and, like the CCEL, includes a significant amount of research. Given CCEL's strong knowledge base in topics such as elder abuse, mental capacity, and undue influence, FAIR approached us about collaborating with them to move this project forward. With strong relationships in the investment sector, working with FAIR allowed CCEL to leverage our knowledge in new communities of practice. In November 2017 we published the [Report on Vulnerable Investors: Elder Abuse, Financial Exploitation, Undue Influence and Mental Capacity](#). The report identifies six recommendations

aimed at enhancing investment industry practice.

On International Women's Day 2017 (March 8), we released the second report of the Older Women's Dialogue Project, a long time CCEL collaboration with the [West Coast Women's Legal Education and Action Fund](#) (West Coast LEAF). The report, entitled [We are Not All the Same](#), identifies 30 strategies for law, policy and practice reform aimed at improving the lives of older women. On National Seniors Day we released a promising practices tool to support agencies to anticipate and address structural barriers to the participation of older women in community initiatives aimed at legal and policy change. [Engaging Older Women in Your Community](#) reflects what we learned through consulting with over 500 older women living in the Lower Mainland of British Columbia over a number of

years. Working with West Coast LEAF supported us to bring a feminist analysis to our elder law work, and also to enhance our capacity to support other organizations that work with women to consider issues that impact older women differently. We collaborated with the [Canadian Network for the Prevention of Elder Abuse](#) to launch the Promising Practices Guide via webinar.

In November we hosted our second [Canadian Elder Law Conference](#) in partnership with the [Continuing Legal Education Society of BC](#) (CLEBC). Working with CLEBC allows us to focus on what we do best—curating an agenda of rich elder law content—while CLEBC develops the infrastructure to support an amazing learning opportunity, including broadcasting the conference via webinar so that people from around the world can participate without

travelling to Vancouver. Highlights of the 2017 conference included two panels on medically assisted death (MAiD): one session on the viability of advance consent to MAiD; another on physician experiences on the ground, which featured Dr. Ellen Weibe, who has supported many British Columbians to take greater control over their experience of end of life.

During 2017 we collaborated with the [Alzheimer Society of BC](#) (Society) to learn more about practices of health care consent in BC, consulting with people living with dementia, family caregivers, health care providers, advocates, lawyers, and others. We will be publishing our report on [Health Care Consent, Aging, and Dementia](#) in the fall of 2018. The report, funded by the Law Foundation of BC, will identify changes to law and practice aimed at enhancing respect for health care consent rights in

BC. The Society has a large province-wide membership, and so working with the Society supported us to include people with lived experience around health care consent and dementia in the consultation, and to recruit [Jim Mann](#) to the project's advisory committee.

2017 brought two new collaborations to the CCEL. We began working with a group of older immigrant women through the [Vancouver Lower Mainland and Multicultural Family Support Services Society](#) (VLMFSS) to develop a tool to take action on a barrier to their well-being as survivors of violence. The women decided to create a video to illustrate

how the family law system fails to support them as immigrant women survivors of violence. See [this page](#) to see what they created. Working with people who have experienced trauma is challenging but important work. Collaborating with VLMFSS helped to make sure the women involved in the project had access to

emotional support and advocacy.

Throughout the project many other agencies came forward to offer legal advice and referrals to the women, including the [Law Students Legal Advice Program](#), [Rise Women's](#)

[Legal Centre](#), the [Tenant Resource and Advisory Centre of BC](#), and [Seniors First BC](#). This was truly a project that

**“Collaboration makes
our work possible.
It supports us to
enhance our expertise
and impact.”**

leveraged many relationships.

In 2017 we also developed a new relationship with [AGE-WELL](#), a pan-Canadian network of industry, non-profit organizations, government, care providers, end users, and academic partners working together to drive innovation and create technologies and services that benefit older adults and caregivers. CCEL was named a new AGE-WELL core facility, focused on the area of elder law. As a result of this relationship you will see CCEL staff supporting a number of learning opportunities for AGE-WELL network members. Many of these events will be free webinars open to any member of the public. Watch the AGE-WELL webpage and our social media feeds for regular updates on webinars and other AGE-WELL related events.

Collaboration makes our work possible.

It supports us to enhance our expertise and impact. Combining forces allows us to see diverse perspectives, and engage different stakeholders. We think collaboration also strengthens our accountability to community, because more people learn about our work, and access an opportunity to get involved in our work earlier on in the research process. We also think collaboration makes the work output better: broader consultation means the research is more thorough and representative of different perspectives.

Although some of our work requires staff to hide in their offices and write furiously, law reform and legal education are social, community-engaged activities. Thank you for working with us in 2017. We look forward to working with old friends, and building new relationships, in 2018.

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 2017 are:

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.

Tesh Dagne

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

Dr. Tesh W. Dagne is an Associate Professor at the Faculty of Law, Thompson Rivers University. Dr. Dagne was previously a

Schulich Research Fellow and part-time Faculty member at the Schulich School of Law, Dalhousie University and also worked at the Canadian Institute of Resources Law and the Law and Technology Institute. Dr. Dagne was also Visiting Scholar at the United Nations Commission on International Trade Law in Vienna. Dr. Dagne's primary research interest are in intellectual property law, biodiversity conservation and environmental law.

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 Attorney General, 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.

Mathew Good

Appointee of the Canadian Bar Association, BC Branch

Mat Good practices class actions and complex commercial litigation with Good Barrister in Vancouver. He has particular experience with plaintiff-side actions in the areas of consumer protection, tort law, antitrust and competition law. He remains active academically, publishing in these areas and on the law of civil procedure and judicial administration. Between 2012 and 2017, he taught Statutory Interpretation at the law schools of the Universities of British Columbia and Victoria.

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 inter-disciplinary teams to BCLI.

The Hon. Kenneth Mackenzie, Q.C.

Member at Large

Kenneth C. Mackenzie Q.C., S.J.D., is a recently 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 H. Mason, Q.C.

Appointee of the Law Society of BC

Margaret Mason, Q.C. leads the Charities and Tax-Exempt Organizations practice at Norton Rose Fulbright Canada LLP. 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. She was awarded the designation of Queen's Counsel in October 2017.

Margaret represents organizations across the sector including religious, environmental, sport, healthcare, social services, education, and research organizations as well as family and corporate foundations.

Dylan Mazur

Member at Large

Dylan Mazur is the Community Lawyer at BC Civil Liberties Association. Dylan has over fifteen years of experience collaborating with diverse communities in Canada and Latin America on initiatives in the areas of human rights, mental health, and community development. Dylan has served as Executive Director of the Vancouver Association for Survivors of Torture and as Program Director at QMUNITY, BC's largest centre for LGTBQ communities, and has collaborated with human rights organizations in Mexico and with First Nations and Mayan communities in Guatemala.

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.

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

Andrea 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.

Dr. Janis Sarra

Appointee of the Dean of the Peter A. Allard School of Law at University of BC

Dr. Janis Sarra is Professor of Law at the Peter A. Allard School of Law and founding Director of the National Centre for Business Law. She served as Associate Dean of the Peter A. Allard School of Law until 2007. Dr. Sarra's research and teaching interests are in the areas of corporate finance, banking law, corporate governance, securities law, contracts, commercial insolvency law and law and economics. Dr. Sarra previously served as Vice-Chair of the Ontario Pay Equity Hearings Tribunal, as well as Vice-Chair of the Canadian Social Assistance Review Board. She holds five degrees from the University of Toronto.

Thomas L. Spraggs

Member at Large

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 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. Mr. Ramsay also chaired the [Project on Potential Undue Influence: Recommended Practices for Wills Practitioners](#).

BCLI's Volunteers, Staff, and Judicial Liaisons

During 2017, BCLI 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 2017:

Executive Director

Kathleen Cunningham

Senior Staff Lawyer

Greg Blue, Q.C.

National Director, CCEL and Staff Lawyer

Krista James

Staff Lawyer and BCLI Secretary

Kevin Zakreski

Research Lawyer

Valerie Le Blanc

Office Manager

Elizabeth Pinsent

Social Media Coordinator

Benedicte Schoepflin

Research Lawyer (Part Time)

Rachel Kelly

Staff Lawyer (Part Time)

Laura Tamblyn Watts

Legal Research Assistant

Allison Curley

Legal Research Assistant

Sergio Ortega Huerta

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 Malcolm MacLean
Provincial Court of BC

The volunteer members of BCLI's Board of Directors also serve on board committees. At the September and December 2017 board meetings, committee members to September 2018 were confirmed.

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: Prof. Joost Blom, Q.C. (to January 4, 2018), 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. (to January 4, 2018), Jan Christiansen, Oliver A. Fleck, Prof. Robert Howell, Margaret H. Mason, Q.C., 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: Tesh Dagne (effective January 4, 2018), Mathew Good, Prof. Robert G. Howell, Frances Kelly (to January 4, 2018), the Hon. Kenneth C. Mackenzie, Q.C., Susan Mercer, Lisa A. Peters, Q.C., Dr. Janis Sarra, and Arthur L. Close, Q.C. (member emeritus).

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. (to January 4, 2018), R. C. (Tino) Di Bella, Frances Kelly (to January 4, 2018), 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. (to January 4, 2018), R. C. (Tino) Di Bella, Oliver A. Fleck, Margaret H. Mason, Q.C., Andrea L. Rolls, Thomas L. Spraggs, Kathleen Cunningham (*ex officio*).



OUR PROJECTS

BCLI

COMPLETED PROJECTS

Financing Litigation Project

Project Manager: Kevin Zakreski

Principal Researcher: Alexandre Blondin / Valerie Le Blanc

Funder: Law Foundation of BC

This 18-month project commenced in August 2015. Research for the study paper began in 2015 and reviewed issues relating to the private financing of litigation in British Columbia. It discussed 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 final [study paper](#) was published October 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

Funder: BC Ministry of Attorney General

The BCLI Questions and Answers about Pension Division 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. The [4th edition](#) was released in March 2017. It updates the third edition of the BC Law Institute Q&A Materials released in 2013 following the introduction of the *Family Law Act*.

ULCC Vital Statistics Act (Renewal) Project

ULCC Working Group Project Chair:
Kathleen Cunningham

Principal Researcher and Writer:
Alexandre Blondin

Funders: Vital statistics agencies from the provinces and territories of British Columbia, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Nunavut; Statistics Canada

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 received input from a Vital Statistics Working Group who

helped identify the issues and provided feedback on proposals for reform. Final recommendations were accepted at the August 2017 ULCC Conference. The [final Act with commentaries](#) was delivered in mid-October 2017 and approval was confirmed in November 2017. The French version was finalized in January 2018.

ONGOING PROJECTS

Builders Lien Act Reform Project

Project Manager: Greg Blue, Q.C.

Funder: BC Ministry of Attorney General

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, Tyler Nyvall,

Marina Pratchett, Q.C.

The *Builders Lien Act* is a complex piece of legislation. It 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. Drafting of the consultation paper continued in 2017. The consultation paper is expected to be released in late 2018 or early 2019.

Employment Standards Act Reform Project

Project Manager: Greg Blue, Q.C.

Funders: Law Foundation of BC, Ministry of Labour, BC Government and Service Employees' Union, Coalition of BC Businesses, Hospital Employees' Union, the Vancouver and District Labour Council

Committees: Tom F. Beasley (Chair),

David Ages, Prof. R. G. Howell, Doug Alley, Charles Gordon, Susan P. Arnold, Dan Cahill, Devyn Cousineau, Peter F. Parsons, Don Jordan, Q.C., Bruce A. Laughton, Q.C., 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 2017. The project's final report will provide a roadmap for the next generation of employment standards legislation in BC.

A consultation report will be released for comment in 2018.

Strata Property Law: Phase Two

Project Manager: Kevin Zakreski

Funders: Real Estate Foundation of BC, Notary Foundation of BC, BC

Ministry of Municipal Affairs and Housing, Real Estate Council of BC, Real Estate Institute of BC, Association of BC Land Surveyors, Strata Property Agents of BC, Vancouver Island Strata Owners Association, Condominium Home Owners Association of BC

Committee: Patrick Williams (Chair), Veronica Barlee, Larry Buttress, Garth Cambrey, Tony Gioventu, Tim Jowett, Judith Matheson, Elaine McCormack, Susan Mercer, Doug Page (2013-2014), David Parkin, Allen Regan, Stanley Rule (2013-2016), Susan Mercer, 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. A consultation paper was released in the fall of 2016 and the final report was released in June 2017. The project will continue into 2018 for a fifth and final year, looking at governance, insurance, and land title issues. Upon completion the project reports will provide a framework for the next generation of strata property law in BC.

CCEL

COMPLETED 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

Funders: The Government of Canada New Horizons for Seniors Program, the Vancouver Foundation

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

- a) consulted with groups of older women who are especially marginalized, vulnerable or isolated, and
- b) worked with four groups of older women to develop tools that address law or policy issues they identify as pressing.

The Phase Two project identified specific tool or reform needs of specific groups of older woman in BC and developed the tools and law reform recommendations in support of those groups. Consultations were completed in 2015 and work on the tools was completed in 2016. A final report was published in March 2017. Additional tools, including project summaries in

multiple languages, were released in November 2017.

On National Seniors Day we released *Engaging Older Women in Your Community*, a promising practices resource that shares what we learned through consulting with over 500 older women for this project.

Family Status Discrimination Research

Project Manager: Krista James

In late 2016, BCLI was retained by the Canadian Human Rights Commission to prepare a paper on family status discrimination jurisprudence, the workplace and caregiving. The work deliverables were completed in March 2017 and the resulting research was

presented at CLEBC's Human Rights Law conference in November 2017.

Vulnerable Investor Protective Action and Legal Safe Harbour Project

Project Manager: Laura Tamblyn Watts

Funder: Law Foundation of Ontario Access to Justice Fund

In early 2017, CCEL was retained by FAIR Canada to assist with this project. The project considered what remedies or procedures might be implemented by the financial services sector to allow for a process to deal with urgent situations in the case of suspected cognitive impairment or inability to make decisions. The project is now complete and was launched jointly with a presentation to the Investor Advisory Panel of the Ontario Securities Commission.

2017 Canadian Elder Law Conference

Project Manager: Krista James

In 2017, CCEL collaborated with CLEBC to host the Canadian Elder Law Conference. The event took place in November 2017. Featured speakers included the Hon. Adele Kent, National Judicial Institute; Isobel Mackenzie, BC Seniors Advocate; and others.

Sponsorship funds were used to provide bursaries to twenty participants.

Many thanks to our 2017 sponsors who made the bursaries possible:

Platinum Sponsor: VanCity

Gold Sponsors: Whaley Estate Litigation Partners, Goddard Gamage LLP

Silver Sponsors: McLellan Herbert, Clark Wilson, BC Notaries, and Geoffrey W. White Law Corporation

ONGOING PROJECTS

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

Project Manager: Krista James

Funder: Law Foundation of BC

Committee: Barbara Lindsay (Chair), Dr. Heather D'Oyley, Dr. Elisabeth Drance, Tara Fitzgerald, Isabel Grant, Laura Johnston, Michael Kary, Alison Leaney, Martha Jane Lewis, Isobel Mackenzie, Jim Mann, Dr. Deborah O'Connor, Lisa A. Peters, Michael Vonn, Penny A. Washington, Alix Adams (Ministry Liaison / Observer), Scott Wingrove (Ministry Liaison / Observer)

This project commenced in October 2016 and will run until September 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

Funder: Law Foundation of Ontario
Access to Justice Fund

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. The project is expected to issue its final report in the fall of 2019.

Older Women's Dialogue Project - Phase 3

Project Manager: Krista James

Funder: Canadian Women's
Foundation

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 restarted in 2017 and will be completed in early 2018.



Highlights from BCLI's 20th Anniversary Celebrations

Victoria Event

Inn at Laurel Point, January 26th, 2017

Guest speakers: the Honourable Suzanne Anton Q.C., Minister of Justice and Attorney General of British Columbia; Jay Chalke Q.C., BC Ombudsperson; Lisa A. Peters, Q.C., Chair of the BCLI Board; and Eileen Vanderburgh, Chair of the Law Foundation of BC.

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Solvare

Bronze Sponsors

Ramsay Lampman Rhodes
Public Guardian and
Trustee of BC

Photographs (counter-clockwise, from top):

BCLI's staff stand in front of the 20th Anniversary banner.

Prof. Robert Howell, Nancy Carter, Kathleen Cunningham, and Joost Blom, Q.C., pose for a photograph.

Guests react as Jay Chalke, Q.C. delivers an address.

The Hon. Suzanne Anton, Q.C., signs BCLI's 20th Anniversary poster.

Vancouver Event

The Law Courts Inn, May 11, 2017

Guest speakers: the Honourable Mr. Justice Ronald A. Skolrood; Jay Chalke Q.C., BC Ombudsperson; Lisa A. Peters Q.C., Chair of the BCLI Board; and Eileen Vanderburgh, Chair, Law Foundation of BC.



Photographs (clockwise, from top):

Krista James, R. C. "Tino" Di Bella, and Fiona Hunter.

Emily Clough, D. Peter Ramsay, Q.C., and the Hon. Mr. Justice Ronald A. Skolrood.

Tom Spraggs, Lisa A. Peters, Q.C., and Kathleen Cunningham pose with BCLI plaque listing board members.

Attendees watch BCLI's video, "Tending to our Laws".

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 2017:

Law Foundation of British Columbia	eHealth Saskatchewan (Vital Statistics)	Strata Property Agents of British Columbia
BC Ministry of Attorney General	Employment and Social Development Canada	Vancouver Foundation
BC Ministry of Labour	Government of Nunavut (Vital Statistics)	Vancouver Island Strata Owners Association
BC Ministry of Municipal Affairs and Housing	Hospital Employees' Union	
Notary Foundation of British Columbia	Ontario Law Foundation Access to Justice Fund	
Association of British Columbia Land Surveyors	Real Estate Council of British Columbia	
BC Government Employees Union	Real Estate Foundation of British Columbia	
Canadian Human Rights Commission	Real Estate Institute of British Columbia	
Canadian Women's Foundation	Service New Brunswick (Vital Statistics)	
Coalition of BC Businesses	Statistics Canada	
Condominium Home Owners Association		

British Columbia Law Institute & Canadian Centre for Elder Law



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