

Ontario Deputy Judges Association

Spring/Summer
2020

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President's Report

By Janis Criger, President

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When 2020 is eventually taught in history classes, teachers and professors will have to specialize in one particular month.

With all that is going on, we still have not heard about whether the Province will accept Commissioner Winkler's recommendations. They now have until October 2020 to respond as they exercised their extension right.

COVID continues to upend interpersonal interactions. The Province is assessing courthouses, retrofitting plexiglass barriers and working out safe ways for in-person hearings to resume. I know some differ with me but I am in no rush to return to in-person hearings for Small Claims Courts.

Our rooms are usually the smallest. If there are windows, the windows do not usually open. There are often no windows. In either case, the ventilation is usually poor. In my view this, combined with the facts that we will see a rotating cast of attendees and our members are often in the higher-risk groups, increases the risk of serious illness unacceptably. For members who are not in high-risk groups, it raises the spectre that they will carry the virus to loved ones who are.

Where does that leave us?

We are seeing settlement conference assignments, either for conferences by telephone or by Zoom. It appears that the centralized trial co-ordinators are working their way through the roster alphabetically. I know we are up to 'K' because Marty Klein posted his work-from-home settlement conference outfit, a fetching combination of vest and wing collar, paired with well-loved denim jeans.

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President's Report Continued

By Janis Criger, President

So far, it does not appear that litigants are rushing to take advantage of the Zoom or telephone conference option. This should improve now that the procedure does not require the consent of both parties.

As I am a 'C', I was assigned two conferences for July 30, 2020. I conducted them via Zoom and they went smoothly. For those of you with less than ideal internet connections and/or no wish to learn yet another computer programme at this point, the telephone option remains available in the new process. I encourage everybody to sign up at least for the telephone option or for both, depending on your comfort level.

As we are the hosts for settlement conferences by Zoom, there is extra work involved. I am reliably informed that we will not be assigned more than four Zoom settlement conferences for a single day as a result. All told, hosting two of them and including the extra work for scheduling, emailing, etc., I found the two hearings did not occupy a full 6-hour day.

I believe we can also conduct trials by Zoom so long as we have a trained clerk to host the meeting. My other gig is with the Law Society Tribunal where I held two days of Zoom hearing a week or so ago. The well-trained clerk there hosted the meeting, arranged and operated the breakout rooms and made sure everybody was properly connected. I admit that the second day did not go as smoothly as the first but we made it through and took two days of evidence without a great deal of difficulty.

I discuss the issues with Justice Ntoukas regularly, as she updates me on the meetings held by the Small Claims Court Working Group.

I am advised that clerks are currently being trained to host Zoom proceedings. As always, we will be last to receive staff assistance. I am pushing to make sure that our need for trained clerks remains top of mind with the Small Claims Court Working Group at the Deputy Judges Council.

The other impediment to Zoom trials is the need for a document-sharing system and the transition from paper documents to electronic ones. The other branches of the Superior Court are starting to use CaseLines and, once again, I am doing my best to see that we are not overlooked. I am emphasizing that we are a very busy court, serving individuals at all socioeconomic levels along with small business. We obviously need to be provided with the same tools available to the other branches of the Superior Court.

Other than that, I hope all of you have been able to get out in the hot, sunny weather (appropriately socially-distanced of course) and take a break from the indoors. I don't know about you but I think I've watched all that Netflix has to offer.



Our Courts After COVID-19

By Jack Zwicker, Deputy Judge

As soon as Covid 19 shut down courts across Canada, some Canadian trial judges began to embrace Zoom to deal with urgent civil and criminal matters, and a limited number of civil pre-trials. Increasing numbers of lawyers are now suggesting that video conferencing will shorten trials and drag the courts into the 21st century. While it is still too early to conclude that video conferencing may be the antidote our struggling courts need, this technology poses significant risks. If we are about to embrace it, we had better be aware of those risks.

More importantly, we need to understand the fact that technology alone cannot end a continuous five to seven year backlog in getting cases to trial in our largest cities. We need to reform trial advocacy. In a nutshell lawyers need to restrain the ingrained tendency to over speak, over write and use ponderous language. The sheer volume of paper we generate is grinding down our courts making it impossible for them to speed up decision making.

While video conferencing provides a virtual means of meeting while face to face meetings are impossible, here are some of the serious risks both to the courts and to counsel. We are all aware of the 'bombing breaches' affecting Zoom several weeks ago. Although Zoom immediately agreed to patch its security so as to avoid the embarrassment of conferences being hacked, here is what we are learning piecemeal.

According to Thomas Reisinger, who has been video conferencing for the past ten years and is completing his doctoral thesis on this subject at De Montfort University, Zoom has never used 'end to end encryption' which is standard for private communication services. Instead, it uses an AES-256 ECB method of encryption that shares a key to encrypt calls with all of its worldwide servers. According to Reisinger whose column entitled Zoom Security was published May 1, 2020 on The Conversation.com, some of Zoom's servers are based in China where the company has development sites leaving open the possibility of government eavesdropping.

As well, Zoom is now offering to pay customers to opt out of having data routed through China. As user friendly as Zoom is, we need to know what we are buying into.

Beyond the problems of zoom bombing and potential eavesdropping, there are a number of operational issues that of concern. Law Pro which provides Ontario's 55,000 licensed lawyers with compulsory errors and omissions coverage, published an advisory on April 23, 2020 cautioning users of the following.

- Using Zoom to send meeting passwords may compromise security. Law Pro recommends sending passwords using external e-mail.
- Authenticating meeting participants in order to avoid uninvited guests requires all users to open a Zoom account and to log in to it. Users who are merely participants and do not host Zoom meetings may not have or want a Zoom account.
- File sharing using Zoom is discouraged. Law Pro recommends document distribution using external delivery.
- Disabling chat and screen sharing during meetings is encouraged to minimize security risks arising from their being recorded.

As a practical matter adequate lighting and audio along with sufficient band width are critical in order to ensure proper identification of parties and witnesses and uninterrupted, high quality audio and visual transmission. As well, video cameras need to be strategically placed so as to ensure that no one attends a meeting who is off camera and uninvited. What Law Pro is telling us, is to be careful in using this technology. Should anything go wrong with video conferencing that dissatisfies a losing client, we can expect a new host of errors and omission claims.

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Our Courts After COVID-19 Cont.

By Jack Zwicker, Deputy Judge

In an unreported recent decision of the UK High Court in Republic of Kazakhstan et al v New York Bank of Mellon commented on in AV Magazine on April 7, 2020, a commercial action involving a \$530 million dollar claim was set for trial when Covid 19 shut down the British courts. The trial was scheduled for 7 days. The Plaintiffs were prepared to proceed to trial by video conference. A preliminary hearing was held at which Mr. Justice Teare ordered the trial to proceed seven days later over the Defendants' strenuous objection.

Mr. Justice Teare left it to the parties to select a platform, and have a third party set up all of the hardware, software, and arrange for the complete management and hosting of the video meeting including pre-trial testing and instruction for all participants. The parties choose Zoom. Due to media coverage of this case, Sparq one of the finest technical support firms in Great Britain had to ensure a means for the public to observe the trial. The trial was completed and the Plaintiffs were given judgment.

While the commentary referred to does not explicitly mention the question of Sparq's costs, it is implied that the parties had the burden of selecting the platform and of paying all of the technical costs. Given the shutdown of the courts, imposing these costs on the parties almost looks like one degree of separation from a private commercial arbitration. It remains to be seen whether the Defendants appeal and whether any arguable deficiencies arising from the use of an out of court process become grounds for appeal.

The speed with which courts and some counsel are jumping on the Zoom bandwagon masks a long running problem affecting our trial courts. Over the past few years an annual plea for more funding for our provincial Ministries of the Attorney General is made by various Chief Justices of our trial courts. According to last year's budgets for B.C., Quebec and Ontario, their respective Ministries of the Attorney General were allocated 3% of B.C.'s budget, 3.4% of Quebec's budget. Ontario's budget was 3.2%. Those percentages have barely moved for years. And it's highly improbable that these allocations will rise once the provinces are pressured to deal with the exponential debt arising from Covid 19 spending.

If our trial courts operated in the private sector, they would be forced to permanently close.

Imagine any goods or services business that could not promise delivery in less than five to seven years. As I said at the outset, the problem of the courts is an offshoot of the way we communicate. While all law schools make a course on legal research and writing mandatory, only one Canadian law school insists on three mandatory writing courses, one each year. That law school is at the University of Ottawa. The home page of its website proudly declares that "great lawyers are great writers". It also proudly states that its teaching faculty are accomplished writers.

Despite the impetus to move to 'plain English' in the 1990's, supported by CBA course offerings and the admonitions of trial and appellate judges, counsel at trial do not make their points quickly and succinctly. They often fail to focus only on their strongest arguments. Not all legal issues are equally important. While a host of issues may be relevant in any given lawsuit, it's likely that a limited number are truly material to the probable outcome of a case. Some of our more colloquial judges when confronted by counsel who over speak and overwrite, often ask for their 'pitch'. Their not so subtle message is that lawyers need to communicate better.

An additional problem for the courts is that our Rules of Civil Procedure leave too much discretion to the profession regarding production of document briefs. The Rules have long required counsel to exchange discovery plans with timetables, and judges increasingly order summary trials that rely on affidavit evidence instead of examinations in chief.

However, the prevailing norm results in over production of material, portions of which are often skipped over at trial. The question we need to ask is why waste our time, and clients' money including material only to overlook it? The answer may lie in rule change that forces counsel in case conference to review and justify their lists of proposed documents. The underlying judicial principle should always favour quality over quantity.

We as lawyers need to help our trial courts dispose of matters quickly and efficiently. We all know that barely 3% of all lawsuits go to trial. We need to do better to process the remaining 97%. If we make the effort to speak less, write less, write plainly and stop arguing unimportant points for the sake of argument, we may be able to help cut the backlog. I am reminded of Walt Kelly's 1960's comic strip, Pogo in which he wrote, "we have seen the enemy and the enemy is us".

Upside Down and Downside Up

By Deputy Judge Tania Perlin

I am sure that most of us remember where we were during momentous occasions in history. However, no one imagined that COVID would be that type of occasion.

I still remember how surprised I was that within 24 hours, courts closed, and that life was suspended in time until further notice.

The feelings of disbelief, shock, fear, sadness all rolled into one flooded my reality. It was overwhelming to the body, mind and soul.

As weeks turned into months, each day looked very much like the one before. The movie Groundhog Day came to mind as I woke up each morning. I jokingly wondered what do I need to do different today so that magically things will get back to normal.

However, the normal that we knew was nowhere to be found. It became clear that whatever each one of us missed, such as seeing family, friends, going out when we wanted, travel when we pleased, and yes, work outside of the house, was put on an indefinite pause.

It was like being in a strange bubble where one day just melted into the next, with new responsibilities and stresses, such sanitizing groceries, wearing gloves, masks (if you could find them), and not really understanding what we had to do.

As time stood still, I found time to contemplate the reality of the present moment. Drawing on years of experience working with clients both in law and mental health, I realized that surviving any type of difficulties, including trauma, people usually try to find purpose behind the current situation. This is the survival mechanism that is a fine line between being dragged down the rabbit hole, or slowly pulling oneself into the light of day.

I tried to figure out what is the purpose behind this completely illogical reality in which we were living. I spoke to friends and family, and began to see a pattern.

Many people, including myself were saying that for the first time, they were not rushing anywhere, and they had time to sit and think about what was working in their lives and what they would not want to have once life returned to “normal”.

For example, not having to rush in the morning to get to work. The extra stress of making breakfast, lunches, taking kids to school, rushing to get to work, coming back late and struggling to have some quality family time, while still having to clean and make dinner suddenly disappeared for many. Even though there was a brand new layer of stress of working from home, taking care of kids and not being able to go anywhere, most people got into a new routine that still allowed them to have time to just relax and be still. One friend told me that the time she saved in travel to and from the office, allowed her to pursue a long time goal of learning to meditate and do yoga. This extra time, that was so illusive in the past, became a welcome gift for many of us stuck in the invisible bubble.

Other things became evident as well. For example, the sudden lack of produce in stores, masks, gloves, sanitizers, closures of services for the homeless, inequality, came to the forefront. The business of life was taken away and we saw that the world pre COVID was mostly filled with running around, keeping ourselves busy, and not taking time to actually look around to see what needed our true attention, both on a personal and global level.

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Upside Down and Downside Up Continued

By: *Tania Perlin, Deputy Judge*

If finding meaning in difficult times is something that resonates with you, then I invite you to think about what messages this unique time has for you. Is it time to slow down and perhaps reassess the hours you work per day; or add extra “me” time so that you can recharge and be ready to face your day; perhaps you are realizing that your job is not as fulfilling as it used to be and you crave a different outlet of professional expression; maybe there is a hobby that you wanted to pursue but the fast pace of our previous normality did not lend itself to this luxury.

Whatever the message, I believe that each one of us had been given a very unique opportunity to look at our lives, and decide what is and is not working. It’s not an easy task to sit quietly with oneself and acknowledge what the next part of our life’s journey will look like. For some, the quiet will be too much to handle and the message will not be heard. For others, it will be loud and clear.

There is also a global message that cannot be ignored. It tells us to be kind to ourselves and to others. Let go of fear, as it creates hatred, and replace it with love and tolerance. We have seen throughout history and now in this present moment, that fear breeds hatred and we can no longer live in a world where we are not mindful of how our actions will impact our fellow human and the nature in which we live.

As Deputy Judges we are in a unique position to make this world a better place. Our work allows us to help litigants in a cost effective and meaningful manner. We see self-represented litigants who would not be able to get their “day in court” if it wasn’t for small claims court. Settlement conferences ensure that many cases are resolved before they go to trial with minimal cost and stress.

Every Deputy Judge that I have had the honor of knowing, goes the extra mile to help litigants resolve disputes in a compassionate and equitable manner. Our work makes a huge difference in people’s lives, and contributes to the wellbeing of society.

My sincere wish, is that when we finally press play and return to “normal”, that we will remember to do a daily pause and reflect on how to make our lives and the world a little bit better, one person at a time.

Wishing you all the very best.



How a Winnipeg Lawyer Came to Be a Deputy Judge of the Ontario Small Claims Court at Kenora

By: Paul Brett, Deputy Judge

Some of you may have wondered (most perhaps not) how I came to be a Deputy Judge at Kenora, while living and practising primarily in Winnipeg. The short answer is that I hold my calls in each of Manitoba, Saskatchewan and Ontario, and have practised extensively in Ontario over the years, including appearing in matters in Oshawa, Ottawa, Windsor, Hamilton, Toronto, London, Thunder Bay and Kenora. Having been born and raised in Kenora, it was a natural step to stick up my hand when the Court required help seven or eight years ago due to a shortage of willing candidates in the Kenora area. The rest is history.

The longer answer relates to extensive legal roots in Ontario. My father practised law in Kenora until his untimely death at the age of 43 years in 1960. My maternal grandfather, John T. Mulcahy, practised law in Orillia and raised his young family there, before becoming appointed County Court Judge for the County of Renfrew, in Pembroke. My uncles, Tom Mulcahy and John Mulcahy, practised law in Pembroke, Tom a general practitioner, while John was in general practice early on, subsequently becoming Crown Attorney for the County of Renfrew appearing in courts throughout the region, including Pembroke, Renfrew, Killaloe, Barry's Bay, Cobden and so on.

My parents both being U of T grads, one at UC and the other at St. Mike's, and our mother firmly though incorrectly believing there was no university west of Kenora worth its salt, I also studied at St. Michael's College, followed by one year at McMaster, graduating in 1971. Having along the way altered my views about the sensibility of law as a career and married to a Winnipegger in the interim, Law School followed at the University of Manitoba from 1972 to 1975, practising thereafter with Thompson Dorfman Sweatman LLP for the past 45 years, commencing articles in 1975, 24 lawyers when I joined, and now more than 100.

I had been appearing in Ontario on the odd Occasional Call basis where one paid \$500.00 per engagement, in particular in the Thunder Bay area. At a Pre-Trial Conference, Justice William (Wild Bill) Maloney challenged me one day to become a full member of the LSUC (now the LSO), instead of "sneaking in the back door". What Justice Maloney did not know on that occasion was that I was within a month of writing the then extremely and unduly onerous Ontario Statutes exam required of any transfer candidate. I studied my face off for that exam, which has paid dividends through to this day.

In any event, I received my Ontario call in 1993, and as noted have practised extensively throughout Ontario. When the Small Claim Court was actively soliciting candidates due to a shortage of bodies, I stuck my hand up one day. This caused a bit of a flurry at the MAG, due to their having to satisfy themselves that there was no residency requirement, only a requirement to be a member of the LSUC/LSO. I had already determined that was the case, but it took the MAG over half a year to arrive at the same conclusion. I think they were surprised, to say the least.

Thereafter, I have thoroughly enjoyed serving as a Deputy Judge at Kenora, and a couple of years ago when bodies were once again scarce, in Dryden. I would organize double-headers travelling initially to Kenora after working all day in Winnipeg, stay overnight, press on early the next morning to Dryden, hear a full slate of Settlement Conferences or whatever, returning to Kenora that evening, thereafter hearing a full schedule of matters in Kenora on the following day, returning to Winnipeg that evening. Now that additional appointments have been made in the Kenora and Dryden Courts, I do not have that pressure which, considering I remain vigorously practising, is not in any way considered tragic.

In the Kenora Small Claims Court, we have been consistently assisted by extremely competent administrative personnel who make our jobs much easier to do than they might otherwise be.

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How a Winnipeg Lawyer Came to Be a Deputy Judge of the Ontario Small Claims Court at Kenora

By: Paul Brett, Deputy Judge

The files are well organized internally, they are ready in the court room prior to our arrival, with the essential pleadings themselves scanned to us in advance so we know with precision the issues in any particular action before arriving at the courthouse. The courthouse staff are unfailingly polite, have a great collective sense of humour, and enjoy (I think) a little repartee with the Deputy Judges to break up their day.

I have found the work stimulating, instructive for sure, and particularly enjoy when I can successfully encourage a party to view the case through the eyes of the other. That is, to identify issues with them which are solvable with huge doses of common sense, even though the principal issue, liability, may need to remain alive. As well, I have had some level of success in encouraging parties when they go away from the Settlement Conference to persist in their discussions, and see if they cannot resolve their matter outright.

In the course of Settlement Conferences, I am inevitably evaluative at some point, believing it is part of our job to assist parties who are barking up a wrong tree to reach that conclusion themselves, and similarly to encourage those who have clearly been wronged by another party to persevere in their case. I firmly believe that as part of our mandate, the parties are entitled to an evaluative stage in the process, particularly if two-headed or one-headed intransigence rears either of their ugly heads. Of course, one always stresses that it is his or her view only, and a Trial Judge might see the matter differently.

However, with the years of experience that each of us possesses, I find that more often than not we persuade parties of the relative correctness of our views. Particularly so since by the time of the Settlement Conference we have the pleadings and all available documents before us, and if not, we send the parties away to gather them up and reappear on a subsequent day.

At age 71 years, I don't have too many years left within which I will be permitted to do the job, but I fully intend to do so through mandatory retirement. Thereafter, maybe I will just "hang around" the courthouse in spirit. Now, as to mandatory retirement, let's leave that for another day!





The Last Game

By: Kevin Cleghorn, Deputy Judge

It was the last game. We all knew that. Yet it was not a sad event, nor was it discussed among us at the time. But we all knew it. It took a long time to get to the last game, and involved many years, and many miles.

The journey to the last game began for me in April of 1984. That marked my arrival in Thunder Bay as a newly minted lawyer following the call to the bar ceremony in Ottawa. I began my legal career with the talented and prestigious law firm that is now known as Carrel and Partners. That firm had among its ranks some of the best and brightest lawyers in the city. And that group included John Carrel, Bob Zelinski, Kris Knutsen, Ken Whent, Jack Jamieson, Alex Demeo and Dan Newton. Plus a guy named Nicholas John Pustina.

Nick Pustina seemed too good to be true at first. Jovial, pleasant and welcoming to a fault, he was anxious to make sure that even the new lawyers in the firm felt welcome and included. He had an incredibly busy real estate practice. Nick and Ken seemed to have cornered the market on real estate legal work in the community, and had a dozen administrative assistants to assist their efforts.

It was clear why Nick was so busy. He had deep roots in the Thunder Bay area and was quite beloved throughout the town. He had time for everyone, a smile permanently etched on his face. He was also universally respected among his colleagues for his wisdom and acumen.

Despite Nick's surprising, and disappointing, allegiance to the Hamilton Tiger Cats, we got along well (go Bombers go). He was constantly inviting me as a young associate to social events and to take out of town trips to Duluth, or Minneapolis for sporting events. One thing we could agree on was the Minnesota Vikings

Early in my time in the city, my friend Anita joined me for the Thunder Bay Law Association Christmas Gala, held in spring of course. Nick attended at the event as well, and spent considerable time around me that evening. The following Monday Nick trooped in to my office, with a serious look on his face. "Kev", he said "are you going out with Anita? And if not, may I?" I nearly choked on the spot, and, gently stifling my laughter, I said something along the lines of "No Nick, we're just friends. And I think it's up to her."

Within two years, Anita and Nick were married. And remained happily so for the remainder of his life. The years following included many wonderful gatherings with Anita and Nick, and their extended family.

It included my first trip to the new ballpark in downtown Minneapolis to watch the Twins from the Budweiser deck with Lorne Firman and Nick on a sweltering hot day. Unfortunately, the Budweiser deck included a great view from left field in to home plate, but had no shade whatsoever. We could only last an inning at a time before we had to seek shade (in a location with no view of the field unfortunately) before we had to give it up entirely after the seventh inning.

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Honouring a true friend
BY KEVIN CLEGHORN
SPECIAL TO THE CHRONICLE-JOURNAL
IT WAS the last game. We all knew that. Yet it was not a sad event, nor was it discussed among us at the time. But we all knew it. It took a long time to get to the last game, and involved many years, and many miles.
The journey to the last game began for me in April of 1984. That marked my arrival in Thunder Bay as a newly minted lawyer following the call to the bar ceremony in Ottawa. I began my legal career with the talented and prestigious law firm that is now known as Carrel and Partners. That firm had among its ranks some of the best and brightest lawyers in the city. And that group included John Carrel, Bob Zelinski, Kris Knutsen, Ken Whent, Jack Jamieson, Alex Demeo and Dan Newton. Plus a guy named Nicholas John Pustina.
Nick Pustina seemed too good to be true at first. Jovial, pleasant and welcoming to a fault, he was anxious to make sure that even the new lawyers in the firm felt welcome and included. He had an incredibly busy real estate practice. Nick and Ken seemed to have cornered the market on real estate legal work in the community, and had a dozen administrative assistants to assist their efforts.
It was clear why Nick was so busy. He had deep roots in the Thunder Bay area and was quite beloved throughout the town. He had time for everyone, a smile permanently etched on his face. He was also universally respected among his colleagues for his wisdom and acumen.
Despite Nick's surprising, and disappointing, allegiance to the Hamilton Tiger Cats, we got along well (go Bombers go). He was constantly inviting me as a young associate to social events and to take out of town trips to Duluth, or Minneapolis for sporting events. One thing we could agree on was the Minnesota Vikings

The Last Game Continued

By: *Kevin Cleghorn, Deputy Judge*

To understand Nick Pustina, you must understand the nature of selflessness. He would gift me books and other items unexpectedly, including a large photograph of Babe Ruth talking with several children in the Yankee dugout. You would get the gifts, and a variety of other things too. Like the mugs from various hotel meeting venues that he would hide in your briefcase. Or the times he would pull out your shirt, pull up your underwear from behind, or take apart your tie. He was a lovable, sweet man so he got away with it all, including organizing 50/50 draws wherever he went.

You also must understand his fearlessness and utter lack of shyness. Unable to get Jay Leno tickets in Las Vegas? Just call up Jay on the hotel phone, and then you are invited to Jay's room for a private meeting and VIP, second row tickets suddenly become available (Anita has the photo of the three of them to prove it). I wanted to see a hockey game at old Maple Leaf Gardens for the first time. No problem, said Nick, I know Yolanda Ballard (owner Harold Ballard's spouse) who was originally from Thunder Bay. After persistent calls to the Maple Leafs Gardens switchboard, Nick convinced the operator to put him through to the Ballard suite in the arena. Harold answered and gruffly said "Yolanda can handle that". Before you knew it Yolanda made her two tickets (about twenty rows below the Ballard bunker) available to Nick. Kris Knutsen and I enjoyed the game, courtesy of Yolanda and our friend Nick (in the narrowest seats I have ever sat in for any sporting event).

In his last years, we were able to form a breakfast group with Bob Zelinski and Nick, Silvio Di Gregorio, Bob Tindall, Ross Murray, Ken Whent, Jack Jamieson and me. Of course it had to be at the Hoito. Many of the world's problems were solved there once every month, for several years. The best part of it for all of us was to get to see Nick and Bob, two old, dear and lifelong friends.

As the years took their toll on Nick, Jack Jamieson thought the three of us should all go to the Kansas City-Minnesota Vikings game in Minneapolis in fall of 2015. Anita was concerned as Nick was ailing and had been staying close to home. With the promise to take care of our friend, Jack picked us up and off we drove. Nick was in great spirits and was excited about the contest, being played outdoors at the University of Minnesota stadium while the new Vikings facility was under construction.

There were no problems of any kind. We stayed at a hotel in St. Paul, but Jack was unfamiliar with its precise location. We pulled off the highway to search google maps for it, only to discover that it was fifty feet away from where we pulled over. Nick and I were staying in the back room of the suite, Jack in the front. Perfect, I thought, as Nick wore hearing aids and if I made any noise at night, he wouldn't hear a thing. Wrong. As the sun came up on game day, Nick made it clear that despite throwing a pillow at me from across the room, my snoring kept him up most of the night. I was beginning to wonder how bad my good friend's hearing really was.

The game was terrific on a gorgeous fall day in October. After a hard fought contest, the Vikings prevailed over Kansas City in a squeaker. More importantly, three friends got to experience the enjoyment and the thrill of the game together. It was the last game that Nick ever attended, and you could not remove the smile from his face that afternoon.

As we said goodbye in his driveway, after successfully convincing Anita that absolutely everything had been just fine, he gave me a big hug and said "Thanks. Love you Kevie."

Nicholas John Pustina passed away on September 1, 2019, beloved by all he knew, particularly his wife, his children, his innumerable friends and legal colleagues. A life well lived.

Love you too Nick.

Southwest Regional Report

By: James Branoff, Deputy Judge

The Small Claims Courts in the Southwest Region shutdown (as it did throughout Ontario on March 16, 2020). It is not expected to resume hearings until November 2, 2020, which date is subject to further changes by Order of the Chief Justice or Associate Chief Justice. When the Court resumes, it is not yet known if the hearings will be 'in person', 'by Zoom' or 'by teleconference'. Once a definite date is set for the commencement of hearings, steps will then be taken by administration to set dates and provide the parties with the required 30 day notice of the Hearing, Trial or Conference. Since March, the Court Offices have been open for reduced hours to allow the filing of urgent matters only. In Windsor there was one (1) request for a Motion to be heard on the basis that it was an urgent matter, but the request was denied as it did not satisfy the criteria to warrant a Hearing on an urgent basis. The Administrative Justice advises that he has done a few urgent motions in other centers, Specifically London , Woodstock , Sarnia and Goderich .There certainly have not been very many and he estimates that there have been a total of approximately 8. Justice Campbell thinks there ought to be mention of the most recent expansion. The court will now hear settlement conferences if only one party makes the request . As well any motions which he triages and are found to be urgent will be scheduled to be heard by a deputy judge. However given the uptake on urgent motions so far it's reasonable to expect there will not be many requests.

Caswell Seminars 2020

This year's Caswell seminars are to be conducted via ZOOM. Dates are as follows:

Central South & Central West Regions

Tuesday, September 29th

East Region & Southwest Regions

Wednesday, September 30th

Central East & Toronto Regions

Thursday, October 1st

Northeast & Northwest Regions

Friday, October 2nd

Please contact Joanna Arvanitis at the Deputy Judges Council office for any questions or concerns regarding Caswell 2020. Her contact information is as follows:

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Committees

Compensation/Litigation

Currently being formed and a new chair being appointed.

Ethics

Deputy Judge Ken Hagan
Deputy Judge Marcel Mongeon
Deputy Judge Laura Ntoukas
Deputy Judge Lynn Wheatley
Deputy Judge Jay State

Education

Deputy Judge Marcel Mongeon
Deputy Judge Leslie Ault
Deputy Judge Beverly Martel
Deputy Judge James Branoff
Deputy Judge Avril Farlam
Deputy Judge Derek Friend
Deputy Judge Laurie E. Joe
Deputy Judge Eric Nadler
Deputy Judge Jay State
Deputy Judge Lydia Stewart-Ferreira
Deputy Judge Frankie Wood
Deputy Judge Sherry Darvish
Deputy Judge Tania Perlin

Rules

Deputy Judge Janis Criger
Deputy Judge Bev Martel
Deputy Judge Lynn Wheatley
Deputy Judge Robert Freedman

Research

Deputy Judge Derek Friend
Madam Justice Laura Ntoukas

Nominating and Succession Planning

Deputy Judge Janis Criger
Deputy Judge Ken Hagan
Deputy Judge Lynn Wheatley

Website and Newsletter

Deputy Judge Marty Klein

Want to join a committee? Is your name missing from one of the lists? Do you no longer want to be a member of a committee?

Please contact Sandra Meir at info@odja.ca.

Executive & Board List

Name	Region	Executive	Committees
Derek Friend	Central East		Research (Chair)
Robert Besunder	Central East		
Sherry Darvish	Central East		Education
Janis Criger	Central South	President	Rules (Chair), Education
FayAnn Guilbeault	Central South		
Virginia Mendes da Costa	Central South		
Ken Hagan	Central South	Past-President	Ethics (Chair), Rules
Beverly Martel	Central West		Rules, Education
Eric Nadler	Central West		Education
Marty Klein	Central West		Newsletter, Website & Membership (Chair)
Raj Sharda	Central West	Secretary	
Lyon Gilbert	East		Litigation/Compensation
Robert Freedman	East		Rules, Litigation/Compensation
David Dwoskin	East		
James Young	North East		
Lisa Barazzutti	North East		
Roland Aube	North East		
Kevin Cleghorn	North West	Treasurer	
Paul Brett	North West		
James Branoff	South West		Education
Paul Parlee	South West		
Lai-King Hum	Toronto	Vice President	Litigation/Compensation
Shelley Timms	Toronto		
Kathleen Howes	Toronto		