

# Ontario Deputy Judges Association

Spring/Summer  
2021

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## INSIDE THIS ISSUE

- 1) From the Editor
- 2) President's Report
- 4) Goodbye to a Deputy Judge
- 5) Helping Us Get Ahead of the Curve



## From the Editor

*By Beverley A. Martel*

Welcome to the Spring/Summer issue of ODJA's newsletter.

Welcome as well to our new president, Lai-King Hum. Her president's report clearly demonstrates that Lai hit the ground running. While she has pretty big shoes to fill in succeeding Janis Criger I have no doubt, at least from what I have seen so far, that she is up to the task and will serve us well. As past president Janis continues to sit on the Board, sharing her wisdom and experience. Accordingly, on behalf of the entire ODJA membership I wish to thank Janis for her hard work and dedication, especially during the pandemic suspension of our court and in person judicial duties.

While I am doling out thank you's on behalf of the membership, let me also thank Sandra Meir, our wonderfully talented and hard-working executive assistant, for her contribution to ODJA. As our sole employee, Sandra kept busy not only fielding board and member inquiries and dealing with day to day administration, but handling big picture items as well, like overseeing membership and managing our website (which has proven to be problematic\* in more ways than one). Whatever your problem Sandra has always been quick to respond and forever cheerful and eager to help. As Lai notes, September 15th was Sandra's last day, which thankfully allowed her time to assemble and disseminate this newsletter. Sandra, you'll be missed.

Finally, welcome to Trish Mongeon, holding the fort during Sandra's absence. Trish needs no introduction to our membership and her reputation for excellence precedes her.

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## HELPING US GET AHEAD OF THE CURVE: WRITING LESS IS MORE

By Deputy Judge Jack Zwicker

Another ODJA Annual Meeting has now come and gone. It struck me that the guidance given to us in the presentation on *'effective point-first judgment writing'* should also be directed to parties and their representatives. Putting aside the backlog of cases that has grown longer since mid March 2020, in addition to the new claims that have been filed since, we all know that many of the court documents that are filed in the normal course of small claims court litigation resemble filings in the Superior Courts of Justice.

Unfortunately, proportionality rules like rule 29 governing discovery plans and productions appear to escape the attention of many counsel at both court levels. All too often pleadings, affidavits in support of motions, document books, and written submissions are disproportionate to the critical issues, let alone their dollar value. You would almost wonder whether legal writing is governed solely by billable hours rather than effective communication.

One of the culprits, at least for lawyers and paralegals, lies in lack of good writing instruction. The last time I quickly looked at the curricula for Canadian law schools, University of Ottawa alone made it mandatory to do three years of writing courses. And the teachers are not lawyers. They are trained writers and broadcasters. It comes as no surprise that U of Ottawa's law school website contains the motto that "strong lawyers are strong writers".

All of us as deputy judges will encounter filings that violate every rule of effective writing. For example,

- 1) Overly long, compound, complex sentences;
- 2) Sentences that look like paragraphs;
- 3) Paragraphs that run for pages;
- 4) Lack of indentation.
- 5) Use of legal speak instead of plain English.
- 6) Encyclopedic writing. Not everything that is relevant is material.

I could go on. But I won't. Suffice it to say that parties and representatives who file materials that violate the rules of effective writing do not do so to deliberately annoy us. It simply doesn't occur to them that we as DJ's have to read this material. And poorly written, ungrammatical, misspelled, over argued documents leave an impression. And it isn't a positive one. Sloppy organization shows lack of attention to editing. And effective writing is not encyclopedic. No should it be. As the Court of Appeal frequently reminds us, if a party can't persuade arguing his most important points, arguing minor points won't help.

One of the particularly brutal features of our Court of Appeal are percussive bells that ring once counsel's allotted time runs out. That and the fact that the speaker's microphone goes silent. It may be brutal. But it is effective. At times I wish that a similar bell system could be installed in our courts that tells parties and their representatives that they have worn out their welcome.

We all know that formal rule change moves at a glacial pace. So the trick may be to prepare a brief, 'style writing memo', handed out by the court at the time any party first accesses the filing system. It might even help if this memo were to contain page limits in caps. That way parties and representatives would know from the outset that we are not interested in reading a volume reminiscent of War and Peace.

Now that I got this off my chest, I feel much better!