

# Briefly!

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## Glen Ridgway, QC: Our Focus Will Be on Access to Justice

**D**uring his presidency of the Law Society of BC, Glen Ridgway, QC plans to focus on improving Access to Justice. It will continue to be the number one strategic priority. Consistent with his temperament to keep things moving he declared: "The focus of our attention will be the report of our Access to Justice Task Force that will contain concrete steps for the benchers' retreat this June. They may not necessarily be big steps, but we are looking at the role of paralegals and the expanding use of articling students."

A week before Ridgway sat for this interview, on February 4, 2010, Chief Justice Beverley McLachlin addressed the students and the members of the legal profession at UBC. The chief justice reminded the audience that the Supreme Court of Canada is an institution fundamental to maintain Canadian democracy. "It is now a generally accepted in our world, that a strong and independent judiciary is a pre-condition for good governance and democracy."

An advocate for the need for Access to Justice she echoed

the theme of her speech last January 2009, lamenting that we do not provide access to justice as much as we should. She acknowledged that there is no quick fix and that it requires an array of solutions. In the recent years, she has seen many developments: including the rise of pro bono work, the creation of legal hubs, the work of legal aid (despite its huge costs). But she challenged the profession including the courts, to continue to find ways to improve how they treat lay persons who represent themselves and to increase the sharing of information across Canada. Interestingly, much of what Chief Justice McLachlin had identified now exists in BC.

### Looking ahead

Never one to forget his roots, when the subject of the future of lawyers came up, Ridgway said "I come from a small community where lawyers perform more than just legal work." Almost as a counterpoint to the evolving nature of legal work, he was quite thankful that their role will never change. Referring to Susskind's book "*The End of Lawyers?*", he was quite confident that there will still

*"I hope to see incremental improvements to the process so more people can have access to justice."*

be a place for the traditional lawyer. But it will be a very different kettle of fish, he wondered how the law society will go about regulating lawyers who never see their clients because their transactions take place in a digital environment. "Should the law society require lawyers to see their clients at least once?" Further, he wondered about how virtual law offices will affect how practices are going to be run. Not knowing how legal services will be provided twenty five years from now, he was quite comfortable saying "I don't know."

### Our Obligation

Ridgway concluded by

asking his colleagues, specifically the ones who have just started: "to remember your responsibilities to the public, to yourself, to try to find a way to give back to the community, including to the legal community."

Fellow bencher Bruce LeRose, QC has described him "A Man for All Seasons" adding: "If you look at Glen's resume you will see that he is and has been the *Volunteer Extraordinaire*. Just look at his many years of service to School Board, Civic and Regional Councils. Then add his contributions to Professional, Social, Cultural and Sporting organizations. It is men like him that make a small town a wonderful place to live in." !

*The full version of Part 2 appears in the website.*

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**April 17**

**New Civil Rules Module 1 and 4**

**April 22**

**Litigation Practice Basics 101**

**May 1**

**New Civil Rules Module 1 and 2**

**June 5**

**New Civil Rules Module 1 and 6**

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## Paralegal Litigation Users Group Concludes Its Work

On January 9, 2009, an independent province-wide paralegal users group (PLUG) was created to review the proposed Rules of Court. The goal of PLUG, which was initiated and sponsored by the Canadian Paralegal Institute, was to familiarize themselves with the proposed Rules and to examine and comment on them from a procedural perspective.

PLUG concluded its study of the new Civil Rules on February 1, 2010 by tendering its report to the legal profession including:

- Mr. de Jong, Attorney General
- Mr. Loukidelis, Deputy Attorney General
- Chief Justice Bauman, Supreme Court of BC
- Mr. Justice Macaulay, Chair Rules Revision Committee
- Mr. Ridgway, QC, President of the Law Society of British Columbia.

As well, the report was also given to:

- Mr. Oppal, QC
- Mr. Seckel, QC
- Mr. Brenner, QC
- Mr. Turriff, QC.

By undertaking then rather than after the proposed Rules came into force, the users group had an advantageous position to share information with the paralegal community about the Rules and their proper interpretation and implementation, aiding in the acceptance of and transition to the new Rules.

PLUG had seven sub-committees: pleadings, pre-trial proceedings, discovery, applications, experts, trial and



*Dom Bautista, chair of PLUG tendered its report to Chief Justice Bauman of the Supreme Court of British Columbia.*



*In Victoria, Marion Harding-Soare tendered PLUG's report to Mr. Justice Macaulay, the Chair of the Rules Revision Committee.*



*Dom Bautista, chair of PLUG tendered its report to Mr. Ridgway, QC President of the Law Society of British Columbia.*

other proceedings, and orders and post-trial matters.

On behalf of Dee Rogers (Webster & Associates) chair of the subcommittees and Patricia Terlecki (Twining & Short), the secretary of PLUG, we wish to

thank all the members of PLUG for their time and efforts:

- Jasbir Bains (Farris LLP),
- Adrian Carotenuto (rbs LLP),
- Helen Dang (Grant Kovacs Norell)

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- Gail Davies (Stevens Virgin),
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- Ulla Herlev (Branch McMaster),
- Michele McMillan (Quay Law Group)
- Sherri Reilly
- Christina Stock (Dolden Wallace Folick)
- Laura Vogt (Whitelaw Twining)
- Shelley Wamboldt (Jeffery & Calder) !

*Dom Bautista is the Executive Director of Law Courts Center. Write him at dom@lawcourtscenter.com .*

## How the New Civil Rules Series Helps Firms Prepare for July 1, 2010

With this year's Spring Time having arrived, many firms are now busy with their preparation before July 1 arrives and the new Civil and Family Rules will come into effect.

Last November 21, 2009, Law Courts Center and Canadian Paralegal Institute began presenting a series of half-day sessions to introduce the new Supreme Court Civil Rules called: the New Civil Rules Series (NCRS). It is organized into six modules so that practitioners will have a better opportunity to absorb a sub-set of the rules and the associated forms and procedures. Each module will have a particular focus such as discovery, pleadings or trial preparation.

In each module, the changes to the Rules will be highlighted, aspects that remain the same will be noted, and comparisons will be drawn for common litigation procedures.

To make better use of your time, each module has a pre-course work that you are asked to complete. This will enable you to focus on the more substantive portion of the subject. You are expected to be familiar with the existing Rules and to have thoroughly read the new Rules covered by the module the student is attending.

Each half-day course has limited enrollment to ensure that you have an opportunity to interact and participate

in class discussions and exercises. Each module has a post-course work, which will provide another opportunity to validate what you have learnt. The post-course work may include a requirement to produce specific Forms which will be part of your book of precedents, to draft flowcharts and checklists.

Here are the five summaries of the six modules.

### Module 1

Module 1 introduces the Rules from the perspective of starting an action through to the close of pleadings. You will be introduced to the new Notice of Civil Claim and Response to Notice of Civil Claim and compare the content of these new forms to the current pleadings. You will also review personal service and "ordinary service" (previously known as delivery) and discuss how the revisions to the old Rule 12 may impact your practice. Finally, the process of amending pleadings and changing parties will be examined.

### Module 2

Module 2 covers the Rules relating to discovery procedures and chambers practice. These are Part 7: Procedures for Ascertaining Facts and Part 8: Applications. You will examine the changes to the List of Document form and discuss how the changes may impact the scope of document production. The

seminal case, *Peruvian Guano* will be the anchor to the discussions. You will also look at the new limit to the duration of oral discovery, and discuss the principle of proportionality is applied in the new approach to interrogatories. Under the new Rules, the procedure for bringing an application has been streamlined. You will compare the old Rule 51A procedures to the new approach and you will receive a flowchart for the new timeline involved in chamber applications.

### Module 3

Module 3 covers a variety of Rules including forms, time, multiple claims and the procedure for changing lawyers. You will also review settlement conferences, striking pleadings, Summary Judgment and Summary Trial. Most importantly, you will review the new Rules as they apply to experts, their reports and their evidence at trial. Emphasis will be placed on the new time requirements for service of expert opinion reports.

### Module 4

Module 4 covers two Parts of the new Rules: Part 5 - Case Planning and Part 12 - Trial.

This module includes a thorough introduction to the new Case Planning Program. You will review the process involved in initiating a case planning conference and consider the

scope of authority available to a judge in the types of orders that can be made in a case planning order. Module 4 will also review the Rules applicable to trial, which builds on the processes and Rules covered in Module 3 (Pre-Trial Resolution Procedures and Experts).

### Module 5

Module 5 covers three Parts of the new Rules: Part 20 - Special Rules, Part 14 - Costs and Part 15 - Fast Track Litigation.

This Module examines two rules under Part 20 (Special Rules) being the rules that relate to persons under a disability and indigent litigants. You will review the new rules as they relate to Costs (Part 14) and become acquainted with the new "Fast Track Litigation" process that allows parties to initiate an expedited process for those actions with an anticipated value of \$100,000 or less and which can be heard within 3 days. This new process incorporates aspects of both Rule 66 and Rule 68 procedure.

The value of the NCRS lies in preparing ahead of time, if you want us to facilitate your preparation, just register online. !

Lawyers can register at: [lawcourtscenter.com](http://lawcourtscenter.com)

Support staff can register at: [canadianparalegalinstitute.com](http://canadianparalegalinstitute.com)

## Did Lawyer's E-Mail Goof Land \$1B Settlement ?

Every one of you likely uses email every single day. You use it at home to keep up with your friends and family. You use it to manage your bank accounts, to book vacations, to find the perfect recipe or the book or magazine or movie you can not locate in the store at the corner.

You use email at work for everything from booking reporters to arranging meetings, for requesting or providing information, for sending letters and accounts and copies of transcripts.

There are days when you send what feels like hundreds of emails, when you receive new emails every minute and your inbox feels like a monster chasing you down a mountain. And those are the days when you need to be careful.

Email has, in some ways, made working lives easier, but email also comes with all kinds of risks. One of the things everyone – assistants, lawyers, clients - needs to learn to do is to manage those risks.

Before you shake your head, put down this article because the risks so obviously outweigh the rewards, think about this headline (from an article by Debra Cassens Weiss in *abajournal.com* dated March 5, 2010) referring to a New York Times article: *Did Lawyer's E-Mail Goof Land \$1B Settlement on NYT's Front Page?*

This goof may not have been what got the article on the front page, but once the law firm saw the headline they did

some checking and a lawyer did, in fact, send an email meant for one person to another, who just happened to be a reporter. How did this happen? The same way it is probably happened to you. There were two people with the same last name in the lawyer's address book and it mistakenly ended up with the reporter rather than co-counsel.

*One small mistake, one huge bad result.*

Here is a list of some of the ways emails can cause problems – from small to large – and why this is so, including the one that caused the goof mentioned above:

- Email is not, even with the best IT department in the world, totally secure. This means that your correspondence can end up hacked.
- There is too much of it. Your mailboxes, even with the best spam filters there are, end up filling up with junk email and you need to sort through this and make sure that you do not delete anything that is important. It takes time but it's something that must be done. Even a single important email that ends up in your junk email box can change the course of a file.
- Viruses can be delivered by email and, although you all know what to look for – emails that come without a reference line, that ask you to click on a link – you might open one of those emails by accident.
- Email does not happen in real time, though it feels like it does, and email does not always get delivered to the right person. This means

that your email may not be delivered immediately or it might go to the wrong person. The recipient might be away from their desk, one of the services (yours or theirs) might be down, you might have typed the wrong address. If it is important, you must ask them to confirm receipt and if they do not, you need to call them and make sure they have the email.

- Email feels less personal than a face to face meeting or even a telephone call. What this means is that people are tempted to be less polite than they would be in other circumstances. Do not be rude. Just because you can not see the other person's face or hear their voice does not mean they are not a real person.
  - Because email is impersonal, there are certain messages that should still be delivered in person. Complex negotiations are better in person (and this includes dates and scheduling that will need a back and forth) – that way, the negotiations can be concluded much more quickly and satisfactorily to everyone concerned. A good rule of thumb might be that if it has taken you four emails back and forth and you still do not have, say, a date, pick up the phone.
  - All these possible problems, remember, are also problems for the person at the other computer. You are expecting an email and it hasn't arrived? The reason could be as simple as they typed the wrong address, their email server is down, their email is in your junk email box.
- You might want to check out what the Law Society has to say about email and its



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Briefly! is intended to provide information on new developments in litigation and law practice management.

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### Law Courts Center

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potential for difficulties in law firms. Go to [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca) and check out, for starters, the following articles:

- Publications & Forms/Newsletters/Insurance Issues: Risk Management. No. 3 – Fall 2009: *Email: Preventing a maelstrom.*
- Practice Resources: Sample, *Internet and Email Use Policy.*
- Publications & Forms/Newsletters/Benchers' Bulletin: 2009: No. 3 Fall: Email and security issues. !

*Kate Austin will lead a class on Litigation Practice Basics on April 22, 2010.*