

PBSC Calgary Making Waves!

By Jessica Fernandez, 2L

PBSC Calgary has been making waves after a hugely successful Pro Bono launch event, PBSC Calgary followed up with *"Promoting Access to Justice Through Public Interest Law with Supreme Court of Canada's Justice Rothstein."* This event was popular with both students and faculty alike, who had a good chuckle over Justice Rothstein's email exchanges with his wife over closing the blinds and faded furniture. Justice Rothstein proved that even Supreme Court Judges have a surprisingly good sense of humour! Although witty and entertaining Justice Rothstein's message was clear, pro bono work matters and is needed.

At a time when provincial legal aid systems are overburdened and underfunded, student pro bono work serves to fill the void between those that can pay and those that cannot but do not qualify for legal aid. The number of people excluded from meaningful participation in the legal system due to the inability to pay for legal services is on the rise. The *Calgary Herald* recently reported that changes made to Legal Aid Alberta disqualified thousands low-income clients from obtaining legal aid and thus access to justice.

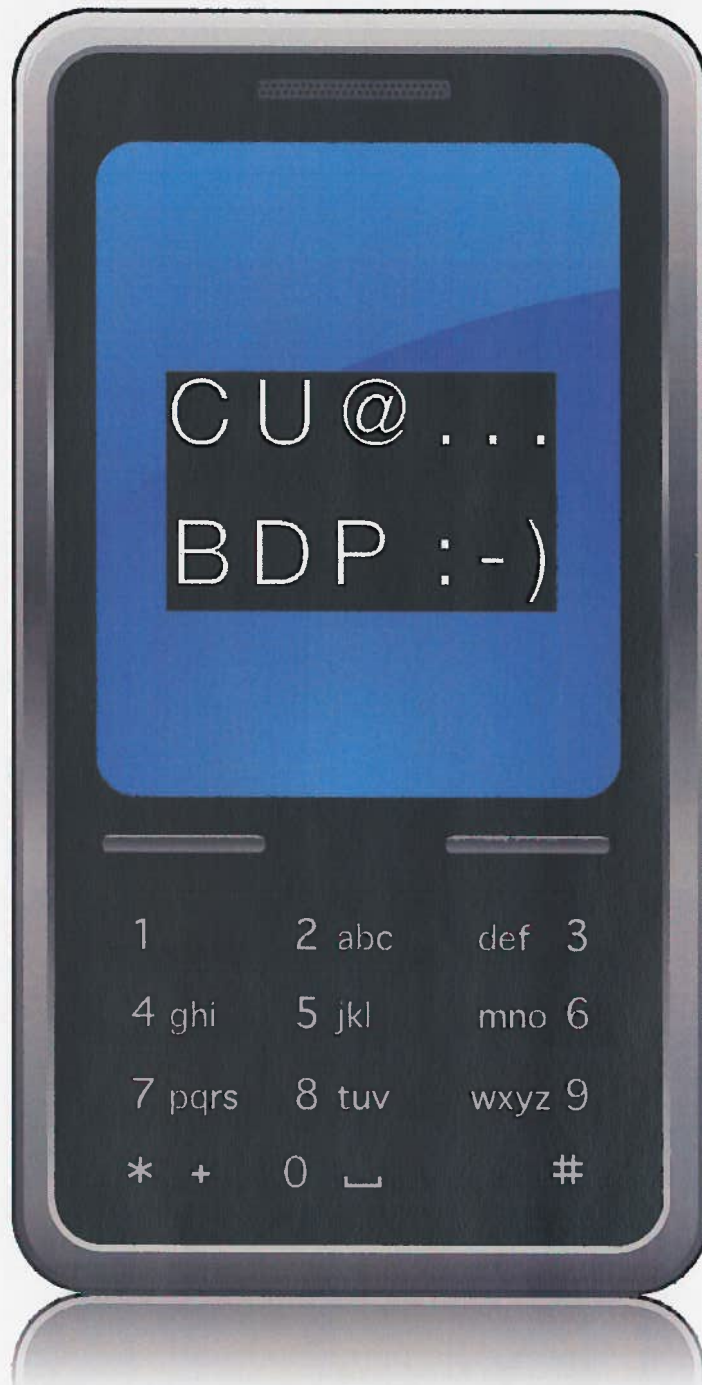
This makes the pro bono work that students do more relevant than ever. The enthusiasm and effort put into this year's projects by PBSC Calgary's volunteers is impressive. Fatima Samhat has undertaken the development and implementation of the *Pro Bono Educational Seminar Series* which provides a forum in which the public can listen to, and ask questions of, knowledgeable and engaging local practitioners of law. The choice of seminar topics is meant to be relevant to the average person and have included: the landlord and tenant relationship in

Alberta, the basics of consumer contracts, basic immigration law and remedies available to people who feel that they have been defrauded. The educational seminars are a great learning opportunity for the public to engage with lawyers, as well as for students to engage with non-lawyers about the law in a positive environment.

Further to that, in an effort to create a positive dialogue between our legal system and Alberta's Aboriginal communities, PBSC volunteers Emma McAuliffe and Karley Scott-Rosowsky have spearheaded the *Aboriginal Youth Radio Project*. During the course of this project the law students will deliver classroom presentations at the Siksika First Nation high school on three areas of the law: *The Charter, The Youth Criminal Justice Act* and *The Indian Act*. Together, the law students and high school students will produce a radio program to be aired on CJSW. The goal of this project is to give Aboriginal youth a chance to explore our justice system in a safe and culturally appropriate way.

In addition to aiding low-income and aboriginal communities PBSC Calgary has partnered with *LEAF at Work* which is an education program created by the Women's Legal Education and Action Fund (LEAF). The purpose of *LEAF at Work* is to prepare youth for equality issues that they may encounter in the workplace, including pay equity, sexual harassment, and discrimination. This is the first time *LEAF at Work* has been implemented in Calgary and we are proud to announce that the first *LEAF at Work* session ran in early January 2011!

PBSC Calgary has had quite an exciting academic year thus far and it is all thanks to its wonderful volunteers. This year's volunteers have worked diligently to improve access to justice for many segments of the population and as Justice Rothstein stated, our help is desperately needed.



We are excited and pleased that the following students will be joining BD&P's summer and articling programs. Looking forward to seeing you soon!

2009 Summer Students

Adrian Etchell
Sylvie Welsh

2009 / 2010 Articling Students

Marika Strobl
Ashley Weldon
Scott Tallman
Kristen Dick
Mark Henderson
Mike Gilchrist
Bronwyn Inkster
Elizabeth Toews
Megan Ross

2010 / 2011 Articling Students

Craig Alcock
Fiana Bakshan
Esther Kim

BD&P | Burnet,
Duckworth
& Palmer LLP
Law Firm
www.bdplaw.com

Letter from the Editors



Hey everyone!

We hope you had a great Reading Week, whether you were sunning yourself on a beach in the Dominican Republic, or chained to your desk studying in the frigid icebox that is Calgary.

Now that we've reached the dreaded halfway point, we present to you, "The Last Half of the Semester by Numbers":

6: the number of weeks left of school

40: the number of days until the last day of class (Friday, April 8) (scary!)

80: the number of hours of class remaining if you have a full course load

64: the number of hours of class remaining if you are taking four courses

23: the date of the Graduation Banquet in Banff if you're graduating this year (that's Saturday, April 23)

12: the date of Convocation if you're graduating this year (that's Thursday, May 12)

0: hopefully the number of hairs you've lost due to stress

0: hopefully the number of pounds you've gained due to stress

Enjoy the issue!

Anylí Patel, Meghan Waters & Kathryn Marshall

Update from the Students' Union: No Plans to Re-propose Market Modifiers

**By Matt Grant, 2L
Law Representative, Student Union**

At the Students' Legislative Council meeting on Tuesday, February 8, we had an interesting meeting with David Johnston, Vice Provost Enrolment and Registrar, and Alan Harrison, the Provost and Vice President Academic. They came to SLC for the annual Students' Union tuition consultation, and discussed a number of things pertinent to us here at Murray Fraser Hall – especially in light of last year's market modifier debate.

Many second and third year students will remember the university administration's attempt to bring in market modifiers, and thereby raise our tuition in several faculties including law. Funds generated by the market modifiers were to be distributed to the faculty affected, university scholarships, and (controversially) to central administration. The administration's market modifier

proposal relating to the Faculty of Law was ultimately rejected by the provincial government.

At SLC one of the Engineering Representatives asked the Provost if the university had any future plans regarding market modifiers. The Provost said that there were no plans. He explained that the provincial government has set out new conditions for future proposals for market modifiers, and the conditions that have to be met are quite stringent. That being said, he did mention that if the university were to propose new market modifiers, they would be in the same places as before (i.e., the Faculty of Law would likely be affected) because, in his view, the conditions requiring market modifiers last year haven't changed. Further, the fact that market modifiers were approved by the provincial government last year in different faculties at the University of Calgary and the University of Alberta has created a "differential" in the various programs that might justify future requests for the provincial government to reconsider this issue.

In short, while the market modifier debate has certainly quieted down since last winter, the University Administration is seemingly still struggling with financial issues. It's obviously prudent to remain vigilant as a group of students that would likely be significantly impacted if market modifiers were to be reintroduced by the university administration.

Interview with a Professor

featuring
Maureen Duffy



What is your idea of happiness?

Time spent in the Rockies, and especially when I am lucky enough to encounter some of the local wildlife ... from a safe distance. The Grizzly I met was way too close!

What is your idea of misery? Winter

What are your favourite qualities in a man?

Courage and compassion, followed closely by a good sense of humour.

What do you appreciate the most in your friends?

That they support me regardless of whether they agree with me.

What quality do you most deplore in others? Cruelty.

I worked in Juvenile Court, with children who had been abused and neglected. I'm still shocked at the horrors some people will inflict on others.

What natural talent would you like to have?

I always wished I could sing or play a musical instrument, but I'm unusually untalented in both areas. I don't let that stop me from singing, loudly and often, to the horror of people around me...

What is your main fault? Fault? Me?

What is your greatest achievement?

Making an out-of-the-box decision to leave my law practice in the U.S. and move to Canada. I'm proud that I became a Canadian citizen a couple of weeks ago.

What is your most treasured possession?

A letter that my grandmother wrote to me shortly before she died. It's a compass for me.

If you were not yourself, who would you be?

Can't think of anybody I'd rather be!

What word or phrase do you most overuse?

"It depends ..."

Who are your favorite heroes in fiction?

Harry Potter and a few others.

What characters in history do you most dislike?

There are too many to list, and obviously anybody involved in human rights abuses. Is it too early to call George W. Bush, Dick Cheney & Co. historical characters?

Who are your heroes in real life? My mother.

What is your present state of mind?

I'm excited and optimistic about a new job in a new city.

What is your motto? I have a couple, both from *Gone With the Wind*, either "tomorrow is another day," or, on the crazier days, "I'll think about that tomorrow!"

"Be It Resolved":

Blackstone Debate 2011

By Heather Beyko, 1L

This year's Blackstone Debate competition brought out some of our law school's brightest talent and dedicated debaters. The competition started in late January, with two nights of preliminary rounds followed by the semi-finals. This year's resolution: "Be it resolved that fast food have health warnings". This topic proved to be fun yet challenging for the twelve competing teams and the judges (practitioners, articling students, and senior students composing of a three-judge panel per team) had a great time judging the debates, reporting that they were both impressed and entertained.

New this year was the introduction of a different resolution for the final round: "Be it resolved that the offence of duelling be abolished from the Criminal Code of Canada!" The final round, judged by

Blackstone Debate supporters and U of C Law alumni Richard Billington, QC (of *Billington Barristers*), Susan Billington, QC (of the *Law Society of Alberta*), and Robert Hawkes (of *JSS Barristers*), was open to the public and had a great turnout. The debate was intense and entertaining all at once, thanks to debaters Roisin Hutchinson and Stephen Kent for the affirmative team and Tahir Chaudhary and Kaitlyn Perrin for the negative team.

A reception followed the debate where the winning team was announced – congratulations to Tahir Chaudhary and Kaitlyn Perrin of the negative team! Also, congratulations go out to Roisin Hutchinson of the affirmative team who received the Baker Billington Cup for best oralist.

A big thank you goes out to Mrs. Blackstone, who continues to sponsor the Blackstone Debate in her husband's honour, as well as the Blackstone Debate Organizing Committee and the Faculty of Law for making this year's competition a success. Hats off again to all the debaters!



THERE'S MORE TO BEING A GREAT LAWYER THAN YOUR GPA.

We're not just looking for exceptional lawyers, we're looking for exceptional people. Visit blg.com/student, read our latest lawyer profiles, and see if BLG is right for you.

Calgary | Montréal | Ottawa | Toronto | Vancouver | Waterloo Region

Lawyers | Patent & Trade-mark Agents | Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.

blg.com

BLG
Borden Ladner Gervais
It begins with service

Masquerade Ball



Law Formal!



Making U of C Law a Better Place



Wilson Chan, 1L

What U of C Law organizations are you involved with and what is your role?

I act as the Legal Needs Coordinator on the SLA Student Executive Committee, which means that I am highly involved with both SLA and the SLA Outreach Clinics. My primary role on the committee is to develop and maintain our presence in the community, in particular, at both the Calgary Drop-in Centre and the Calgary Dream Centre. This year, I was also fortunate enough to get involved with PBSC and the Family Law Project.

How many hours a week do you dedicate to this? Probably more than enough, but less than what I need to get everything done.

Why did you decide to get involved outside of your studies?

I never thought for a moment that I had the option not to join up with either SLA or PBSC. I think both organizations speak to the quintessential core of the law school experience. Simply put, I don't think law school would be law school without the practical experience we get outside of the classroom setting.

Why would you recommend other students get involved?

The best reason I can give for getting involved are the other students that you will be working with. I don't think that I have ever met or worked with a more personable or dedicated group of people.

What have you gained/learned from your involvement?

How to cram before exams. Also, and somewhat related, what it takes to be a great lawyer.

What was your favourite moment or memory of your involvement? I can't say that I have a particular favourite moment or memory from this past semester, although there have been many. But if I had to choose, I think my favourite memory of last semester is getting to know everyone in the SLA office, especially as we all kill some time waiting for that certain someone who's jumped the cue for advising lawyer times. I guess my second favourite memory would be jumping the cue for advising lawyer times. Just kidding. I never breach office protocols.

What do you want to do after graduation?

Let's just get through law school!

Cross Examination



By Geoff Marinangeli, 2L & Jon Ng, 2L

Geoff: Remember how Michael Jackson called his son Blanket?

Jon: That was weird. So anyway, how was your Reading Week?

G: It was great. I was able to get my school-life balance back. I did research for my paper and caught up on my readings while managing do things that are important to me outside of the classroom.

J: I can't agree with you more. Last week I finally closed my single SLA file.

G: You only had one SLA file? How is that possible? Everyone is overloaded with the deserted files left in the wake of the Annual December Caseworker Exodus.

J: This is how I do it: At every intake night I show up early to kiss my group leader's ass, then I promptly go to the washroom for 2 to 3 hours. When I return I am always upset to see that the clients are gone and all of the files have been assigned.

G: You're a model caseworker Jon. I try to be more proactive with my commitments. Take, for example, my devotion to extreme sports. I just competed in a street luge race in Madagascar. Next week I will be accompanying Richard Branson in a pro-am hot air balloon bungee jump. It's for a good cause. You won't find me waiting the washroom for the event to finish.

J: While you were gallivanting in Africa, I spent quality time with my family. It is important remain close to your loved ones and support the little ones during the tumultuous law school years.

G: You have family in Calgary?

J: Well, Okotoks actually. The Court of Queen's Bench requires that I spend at least 48 hours a month with my illegitimate children. They're really cute. And I'm almost caught up with my payments. Not so selfish now, am I?

G: Quite the family man. It's not all sports for me. I like to watch films when I have spare time. There were a lot of high-calibre films this award season, all of which I have seen, but I try not to limit myself to the Hollywood Machine. I recently attended the Anime Expo 2011 in California. The themes explored in this year's crop of anime gems are much deeper and nuanced than "Black Swan" or whatever the Machine is pushing this year.

J: First of all, I have not even heard about this Black Swan. Is that the new Tyler Perry series on Animal Planet? Regardless, I am also a huge film buff. I spend significant time at night streaming the latest updates from a variety of movie websites. The indie market right now is exploding with such titles as "Courtney's Apartment" and "Xscape to Thailand."

G: Veritable classics I'm sure. Balance for me also entails making sure I have enough time to study. My studying technique includes: daily readings, supplemental textbooks, case notes, CAN consolidation, and hourly Facebook updating to remind me where I'm at in my exam prep. But, like I described before, it's important not to let studying take over your life and step out of the school "bubble."

J: So true – Michael Jackson's chimpanzee should be kept out of this.

G: You're glib.

Know Your Legal Non-profit

Calgary Legal Guidance

By Steve Carey, 1L

Know Your Legal Non-profit is a Moot Times monthly feature. Each month we'll focus on a non-profit with a legal bent, and find out about their mission, mandate and projects. If you've got a non-profit in mind or would like to write a column, contact Steve Carey at scarey@ucalgary.ca.

Calgary Legal Guidance provides legal information, advice and advocacy to those who can't afford or access legal services. The organization, located in downtown Calgary, offers a variety of services, from one-on-one advice to group legal clinics.

Faculty of Law Professor Nigel Bankes is the current board chair of the non-profit. He's been involved with the organization since the early 90s.

"I've always thought that poverty law clinics are an important part of access to justice," Bankes says. He served for a few years, and returned to the organization's board three years ago. "It's an organization I'm incredibly proud of. One of the things it does is it makes it possible for others to volunteer. If you don't have this structure — something like CLG — how can you give back to your community? You need a structure, and CLG provides that."

The organization has a pool of 250 volunteers, around 160 of which are lawyers. It has 15 full time employees and 5 part time employees, of which more than 4 are lawyers.

The organization has a budget of \$1.6 million. It receives \$1 million from the Alberta Law Foundation. The remainder of the budget is made up from funding from the province, the United Way, and the City of Calgary, among others. It also receives around \$25,000 per year in individual donations.

This helps fund the programs, such as Dial-A-Law, a province wide legal information phone service, where people call in for legal information; the legal clinics, which include clinics hosted at the downtown office and outreach clinics held around Calgary; and domestic violence legal intervention, which provides victims of domestic violence an opportunity to get resources and help in filing emergency protection orders and restraining orders.

One program in particular is focused on getting people identification. Many services can't be accessed without ID, and without a fixed address or any identifying documents, it's near impossible to get replacement ID without legal help.

"A lot of people that we serve are in that position — not having ID," Bankes says. "These are people who don't have any government IDs... in a lot of cases you have to prove who you say you are to get services, to do certain kinds of transactions, or to rent some space. This lets people swear affidavits, and get their identity confirmed, which helps people get access to services."

Calgary Legal Guidance does have volunteer opportunities for students, such as research and other administrative tasks. The organization also hires a summer student.

Bankes urges legal professionals and students, before or after graduation, to get involved. It's a great way of giving back, he says.

For more information on Calgary Legal Guidance, visit www.clg.ab.ca. Volunteer application forms are also available on the website.

Spotlight on a Legal Decision

Upheld: The Right to Withhold "Secret" Evidence

By Heather Beyko, 1L

The Supreme Court of Canada stated in its ruling of *R. v. Ahmad* on February 10th, 2011 that allowing an accused criminal to walk free is a "lesser evil" than revealing top-secret or sensitive national security information.

The Globe and Mail reported on the unanimous judgment, which is in reference to a challenge that arose in the high profile terrorism case known as the Toronto 18. Before reaching the Supreme Court of Canada, this case was heard by Ontario Superior Court Justice Fletcher Dawson, who following a request from the federal government, was forbidden from allowing secret national security-related evidence into the courtroom. Prosecutors in this case submitted that disclosing particular information to the defence could hurt national security. Justice Dawson reviewed this request and proceeded to strike down s.38 of the *Canada Evidence Act* that gave the Federal Court power to define privilege of withholding evidence. His reasons were that the evidence scheme described in s.38 of the *Act* was unconstitutional as it violated s. 96 of the *Constitution Act* (appointment of Judges), 1867 and s. 7 of the *Charter* (right to life, liberty and security of the person). Regardless of his efforts, the Ontario courts dealing with the case never did hear any evidence considered to be a national security threat.

Following this, the Supreme Court of Canada was asked to determine whether the provisions of the *Canada Evidence Act* in question were constitutional or not. Meanwhile, the Canadian Civil Liberties Association (CCLA), which intervened in the case, sided with Justice Dawson of the Ontario Superior Court expressing their concerns that decisions about the admissibility of evidence could potentially result in unfair proceedings. CCLA's Sukanya Pillay argued that "if an accused person loses the right to know the case against them and to be able to respond and defend themselves, than we no longer have fair trials in our country."

The main issue the Supreme Court of Canada faced in determining the question of constitutionality focused on the question of whether, in keeping s.38 of the *Act*, we could preserve a balance between the need to protect national security *and* the right to a fair trial.

So, is this "balance" possible? Can the right to a fair trial and the protection of national security co-exist? Some have argued that if we allow for the censorship of top-secret national security information which would otherwise act as evidence helpful to the accused, we are hindering their right to a fair trial. On the other hand, others have argued that it would be safer to let a criminal walk than to reveal information that could be a detriment to our national security and safety, the foundation of citizen protection, and because of this we must always choose to favour national security if the two issues come to a clash.

If we rely on these viewpoints, it seems the two cannot co-exist. However, the Supreme Court of Canada attempted to search for this "balance". The court states: "Sometimes the only way to avoid an unfair trial is to have no trial at all." This statement summarizes the court's position that other remedies (besides revealing hush-hush national security information as evidence) should be sought in order to ensure that the accused receives a fundamental fair trial. One of the potential remedies suggested by the Supreme Court of Canada is "if the end, result of non-disclosure by the Crown is that a fair trial cannot be had, then Parliament has determined that in the circumstances a stay of proceedings is the lesser evil". A stay of proceedings is a ruling by the court halting further legal process in a trial. The court can usually lift the stay and resume proceedings, but often a stay in proceedings is used as a device to postpone proceedings indefinitely.

So for now the power of the Federal Court to decide what information lower-court Judges can accept or deny based on national confidentiality is upheld and constitutionally valid. We have learned from Canada's top court... If a fair trial can't be had, don't have one!

Profiles of the Month



Name: Jelena Markovic, 1L

Hometown: Calgary, Alberta

Undergrad studies: Political Science major and French minor

Pre-law employment/volunteer experience: I don't have tons of experience since I came straight from undergrad but I worked various summer jobs including with the Government of Quebec, Government of Alberta and teaching piano. I also did various volunteering jobs including with Amnesty International, teaching ESL and peer tutoring

Exam rituals: Eating pounds of chocolate and then going for a run. It's a nice balance.

What do you do to keep sane? Hang out with my boyfriend!

If you could be any place right now, where would you be?

In Cuba... horseback riding.

What is the scariest thing you've ever done? Applied to law school; the possibility of not getting in is SCARY! Clearly, I'm not that adventurous.

Famous person you look up to and why: Pierre Trudeau because how can you not love the man who gave us the Charter? Sadly, admitting this will severely limit my chances of getting a job in Alberta.

Something no one in law school knows about you: I was born in Bosnia and moved to Canada at the age of 7 because of the civil war. This was less scary than applying for law school.

Name: Stephanie Veronica McLean, 2L

Hometown: Edmonton, Alberta

Undergrad studies: BA in Philosophy with a minor in Religious Studies and Drama from Concordia University College of Alberta

Pre-law employment/volunteer experience: Law related: The Elizabeth Fry Society, volunteered and worked for a summer as a Court Worker. Non-Law: Worked as a cocktail waitress at the River Cree Casino, where I would easily make \$400 in tips a night; it was at this job I learned that no amount of money can make you want to go to work when you hate your job.

Exam rituals: Study, Watch TV, Eat, Sleep, Repeat

What do you do to keep sane? Watch a lot of TV – all downloaded, I don't have cable; I'm very particular about what I watch. I also take 1000 IU of vitamin D daily.

If you could be any place right now, where would you be?

On the beach in the Cayman Islands

What is the scariest thing you've ever done?

I left home when I was 16.

Famous person you look up to and why: Elizabeth Fry. She advocated for prison and social reform. She advocated for women and the poor, the vulnerable members of society.

Something no one in law school knows about you:

Once upon a time I seriously considered becoming a pastor.

Your biggest fashion faux-pas:

I frequently leave the house with wet hair.

