

## **REPORT ON NATIONAL CIVIL LITIGATION SECTION MEETING Ottawa – May 23, 2009**

The Chairs for all provincial civil litigation sections and the National Executives met for their annual meeting in Ottawa, Ontario, on May 23, 2009. The agenda was ambitious and several topics of interest were covered. From a national perspective the following items were discussed:

### **1. National Policy Dealing With Class Actions**

The current situation is a messed up confusion of various provincial systems, each with pros and cons but each constituting a legal process to be chosen to the exclusion of and, most of the time, in competition with other provincial systems. This creates a convoluted situation with law firms racing against time to be the first to register in a particular province which, for the matter being considered, is seen as advantageous. The Ontario Bar Association (OBA) has a separate working group that is trying to formulate a national model. The OBA is seeking the assistance of the CBA to create a national working group to include all provincial civil litigation sections to bring forward a national policy. A motion was carried forward in support of the formation of a national working group.

### **2. Class Action Database**

A status update on the CBA's initiative to implement a national database for all class actions was presented. The Quebec branch of the CBA has been extremely compliant in registering all class actions in the database. The provincial representative from Quebec explained that the compliance is the result of a court imposed requirement to have all class actions registered and that a certificate of search be provided within the national database. The Ontario branch has been less compliant and this is partly due to the lack of national policy on this subject. It was felt that the mandate of the soon to be formed national working group would result in better compliance from all provincial counterparts. Nevertheless, the national database initiative is progressing fine with positive results.

### **3. Federal Bench and Bar Liaison Committee**

The national CBA has a Federal Bench and Bar Liaison committee. The focus of the committee is to address issues of concerns by members of the Bar in each province. There is an upcoming meeting on June 25, 2009 and it was requested that any issues of mutual concerns relating to the operation of the Federal Court and Federal Court Rules be communicated to Kerri Froc at CBA national. A recent example of an agenda item is a

common book of authorities for certain practice areas. Therefore any similar concerns by members of CBA-NB should be directed to Kerri Froc at [kerrif@cba.org](mailto:kerrif@cba.org) .

#### **4. National CLE**

With most provincial Law Societies having in place mandatory CLEs or considering the implementation of such a policy, the national civil litigation section is considering holding CLE with a national perspective every two years. The next national CLE will take place on October 23 and 24, 2009 in Banff, Alberta. This is a joint CLE organized with the Insurance Defence section. An agenda for the program will be circulated in June, 2009, and CBA-NB members are being encouraged to participate.

#### **5. Openings on the Executive of the National Civil Litigation**

The departure and resignation of two members on the executive has created vacancies at the executive level. It was decided that the position of secretary, treasurer and communication director would remain vacant until October, 2009, at which time positions would be filled by nomination and/or election. As a result, the following members of the executive will hold the positions listed below in October, 2009:

Chair : Arthur Wilson, Q.C. - Alberta  
Vice-Chair : David O'Brien – New Brunswick  
Past-Chair: Lynn Murray, Q.C. – Prince Edward Island  
Secretary – TBA  
Treasurer – TBA  
Communication Officer - TBA

#### **6. Provincial Reports from the Chairs of Civil Litigation**

All provincial chairs reported on their activities for the past year. Although the agenda in each province are different, a recurring theme appears with most jurisdiction fine tuning their Rules of Procedure to improve access to justice with limited success. The next annual meeting for the Civil Litigation chairs has been set to take place on October 22, 2009, just prior to the upcoming national CLE in Banff, Alberta scheduled for October 23-24, 2009.

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