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## Law librarians report to CALL on "cool things"

By Jean Cumming  
Toronto

Law librarians from across Canada and abroad will be sharing success stories at "Cool Things I Am Doing in My Law Library" on May 16 at the annual meeting of the Canadian Association of Law Libraries/Association Canadienne des Bibliothèques De Droit (CALL/ABCD). This year the CALL/ABCD meeting will be held in St. John's.

According to the meeting's program, these success stories will include:

- Jane Parkinson, Manager of Library Services at Stikeman Elliott LLP in Calgary and Shaunna Mireau, Library Manager for Field LLP in Edmonton

will tell the crowd about the Edmonton Law Libraries Association's "Head Start" program, a two-day research event for the city's articling students.

Parkinson and Mireau told *The Lawyers Weekly* that several years ago, Edmonton law librarians began looking for ways their libraries could effectively share their knowledge to provide an initial research presentation to all Edmonton articling students. Before then, "We were all doing the same things," said Parkinson.

The resulting event, held for the first time three years ago, is held at the University of Alberta law library and limited to 60 students.

see ABCD p. 24

## SCC decision on *H.L.* may impact far and wide

By Deana Driver  
Regina

Counsel in the recent Supreme Court decision *H.L. v. Canada* took time with *The Lawyers Weekly* recently to review the decision's meaning and potential impact.

On April 29, the Supreme Court of Canada by majority ruled that the appeal in *H.L. v. Canada* should be allowed in part. "The trial judge's award of pecuniary damages for loss of past earnings is restored, but the award must be reduced to reflect the time H.L. spent in prison and the social assistance he received during the period covered by the award," wrote Justice Morris Fish in the majority judgment.

The court also said the standard of appellate review is no different in Saskatchewan's Court of Appeal than in other appeal courts across Canada with the court

bound to only overturn lower court decisions based on findings of fact when there is palpable and overriding error, as stated in *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235.

H.L. was sexually abused as a teenager by a former administrator of a government-run residential school in Saskatchewan. H.L. was not a student or resident of the school but participated in an after-school boxing club run by the administrator. The administrator was sentenced in 1993 for sexually assaulting 10 male students.

Tony Merchant of the Merchant Law Group in Regina, counsel for H.L., told *The Lawyers Weekly* the impact of the ruling "is quite significant because they're saying from residential school wrongdoing you can have a lifetime effect influencing your earnings for life."

The trial judge had awarded \$407,129 in damages but the

Saskatchewan Court of Appeal removed past and future earnings to reduce the award to \$86,500. The Supreme Court reinstated loss of past earnings but the final award has not yet been declared.

Roslyn Levine, counsel on the case from the Ontario regional office with the Department of Justice (Canada), told *The Lawyers Weekly* the final amount will be "at least half and maybe less than half of the original damages." She noted the court found in three instances the Saskatchewan Court of Appeal was not entitled to overturn the findings and in three instances they were.

"In respect to the qualification of experts and causation and mitigation of damages, the Court of Appeal restored the trial judge's decision. But with respect to dam-

see SCC p. 3

## Does a Saskatchewan Act conflict with *Charter*?

By Deana Driver  
Regina

Saskatchewan's information and privacy commissioner, Gary Dickson, has recommended "that the Legislative Assembly resolve the legal question as to whether section 27(2) of [*The Health Information Protection Act*] HIPA does or does not offend the *Charter*." This came in his recently-released "Investigation Report" on the "Prevention Program for Cervical Cancer" (PPCC).

Dickson reported that his office received more than 100 complaints from women about different aspects of the taking and handling of their personal health information collected in connection with cervical cancer testing.

Dickson reported "that for the most part the PPCC complies with the applicable legislation, [the

HIPA]."

However, he also reported that while the Saskatchewan Cancer Agency had the legal right to collect and disseminate information, it should offer an opt-out provision to patients as other provinces do.

Section 9 of the HIPA, which codifies that an individual has the right to be informed about the anticipated uses and disclosures of health information and outlines a trustee's obligations therein, has also not been met in this program, Dickson said at a news conference.

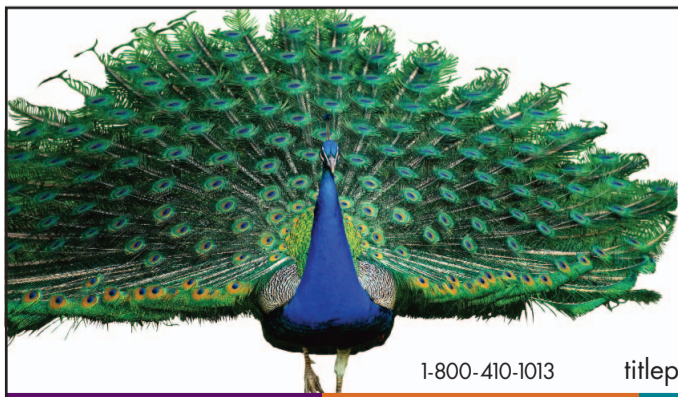
HIPA's section 27(2)(b) states "a subject individual is deemed to consent to the disclosure of personal health information ... for the purpose of arranging, assessing the need for, providing, continuing, or supporting the provision of, a service requested or required by the subject individual."

Dickson reported that "deemed consent is no consent at all" and that Saskatchewan Health should consider amending the section "to substitute 'implied consent' for 'deemed consent' to reflect recent Canadian developments in health information regulation."

Dickson noted that the legislature could take the issue to court pursuant to *The Constitutional Questions Act*.

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