



Supreme Court of British Columbia

Annual Report 2005

The Supreme Court of British Columbia
800 Smithe Street
Vancouver, BC V6Z 2E1
www.courts.gov.bc.ca

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JURISDICTION OF THE COURT

The Supreme Court of British Columbia is the province's superior trial court. It is a court of general and inherent jurisdiction and hears both civil and criminal cases as well as appeals from Provincial Court. The Supreme Court is a circuit court in which all the judges and masters travel throughout the province to preside over cases. The Supreme Court sits in eight judicial districts and has resident judges in the following locations: Vancouver, Chilliwack, Cranbrook, Kamloops, Kelowna, Nanaimo, Nelson, New Westminster, Prince George, Prince Rupert and Victoria. The Supreme Court also sits in the following additional locations where there is no resident judge or master: Campbell River, Courtenay, Dawson Creek, Duncan, Fort Nelson, Fort St. John, Golden, Penticton, Port Alberni, Powell River, Quesnel, Revelstoke, Rossland, Salmon Arm, Smithers, Terrace, Vernon and Williams Lake.

The Supreme Court currently consists of the Chief Justice, Associate Chief Justice, 85 full-time and 18 supernumerary judges. Full-time judges are required to sit 32 weeks a year, with 20 non-sitting weeks. Judges who have obtained the age of 65 and have 15 years of service, or who have obtained the age of 70 and have 10 years of service, may elect to continue in office as a supernumerary judge until mandatory retirement at age 75. Supernumerary judges are required to sit for 16 weeks per year. New judges are appointed upon the retirement of a full-time judge or when a full-time judge elects supernumerary status. Appointments are made by the Governor-in-Council on the recommendation of the Federal Minister of Justice. The Commissioner for Federal Judicial Affairs oversees the appointment process on behalf of the Minister of Justice.

The Supreme Court also has 13 Masters. Masters are judicial officers appointed by Provincial Order-in-Council on the recommendation of the Attorney General after consultation with the Chief Justice. Masters preside in civil chambers and registrar hearings and decide on pre-trial motions and procedural orders.

Justices of the Supreme Court of British Columbia

The Honourable Chief Justice Brenner	The Honourable Madam Justice Morrison
The Honourable Associate Chief Justice Dohm	The Honourable Mr. Justice McEwan
The Honourable Mr. Justice Bouck*	The Honourable Madam Justice Beames
The Honourable Mr. Justice Paris*	The Honourable Madam Justice Loo
The Honourable Mr. Justice Lander*	The Honourable Mr. Justice Burnyeat
The Honourable Mr. Justice Cohen*	The Honourable Madam Justice D. Smith
The Honourable Mr. Justice Shaw*	The Honourable Mr. Justice Pitfield
The Honourable Mr. Justice Maczko*	The Honourable Mr. Justice Macaulay
The Honourable Mr. Justice Stewart	The Honourable Mr. Justice Ralph
The Honourable Mr. Justice Hood*	The Honourable Madam Justice Bennett
The Honourable Mr. Justice Fraser*	The Honourable Mr. Justice Chamberlist
The Honourable Mr. Justice R.R. Holmes*	The Honourable Madam Justice Martinson
The Honourable Mr. Justice Parrett	The Honourable Madam Justice L. Smith
The Honourable Mr. Justice Melvin*	The Honourable Mr. Justice Halfyard
The Honourable Mr. Justice Wong	The Honourable Madam Justice Neilson
The Honourable Mr. Justice Lamperson*	The Honourable Mr. Justice Powers
The Honourable Mr. Justice Drost*	The Honourable Mr. Justice Metzger
The Honourable Mr. Justice McKinnon*	The Honourable Mr. Justice Brooke
The Honourable Madam Justice Boyd	The Honourable Mr. Justice Cullen
The Honourable Mr. Justice Curtis	The Honourable Madam Justice Garson
The Honourable Mr. Justice Singh*	The Honourable Madam Justice H. Holmes
The Honourable Mr. Justice Owen-Flood*	The Honourable Madam Justice Ross
The Honourable Mr. Justice Melnick	The Honourable Mr. Justice Slade
The Honourable Mr. Justice Preston*	The Honourable Mr. Justice Joyce
The Honourable Mr. Justice Scarth*	The Honourable Madam Justice Wedge
The Honourable Madam Justice Allan	The Honourable Mr. Justice Crawford
The Honourable Madam Justice Sinclair-Prowse	The Honourable Mr. Justice Goepel
The Honourable Mr. Justice Josephson	The Honourable Madam Justice Gray
The Honourable Madam Justice Gill	The Honourable Mr. Justice Barrow
The Honourable Mr. Justice Warren	The Honourable Mr. Justice Rogers
The Honourable Mr. Justice Meiklem	The Honourable Mr. Justice Groberman
The Honourable Madam Justice Dorgan	The Honourable Madam Justice Brown
The Honourable Mr. Justice Vickers*	The Honourable Mr. Justice Truscott
The Honourable Mr. Justice Blair	The Honourable Madam Justice Gerow
The Honourable Mr. Justice Tysoe	The Honourable Mr. Justice Williams
The Honourable Mr. Justice Shabbits	The Honourable Mr. Justice Masuhara
The Honourable Madam Justice Kirkpatrick†	The Honourable Madam Justice Ballance
The Honourable Madam Justice Koenigsberg	The Honourable Mr. Justice Rice
The Honourable Mr. Justice Edwards	The Honourable Mr. Justice Bernard
The Honourable Madam Justice Baker	The Honourable Mr. Justice Kelleher
The Honourable Mr. Justice R.D. Wilson	The Honourable Mr. Justice Ehrcke
The Honourable Mr. Justice Sigurdson	The Honourable Mr. Justice Johnston
The Honourable Mr. Justice Williamson	The Honourable Mr. Justice Brine
The Honourable Madam Justice Humphries	The Honourable Mr. Justice Silverman
The Honourable Madam Justice Dillon	The Honourable Madam Justice Fisher
The Honourable Mr. Justice A.F. Wilson	The Honourable Madam Justice Arnold-Bailey
The Honourable Mr. Justice Romilly	The Honourable Madam Justice Gropper
The Honourable Mr. Justice Taylor	The Honourable Madam Justice Russell
The Honourable Mr. Justice Davies	The Honourable Mr. Justice N. H. Smith
The Honourable Madam Justice Satanove	The Honourable Mr. Justice Groves
The Honourable Madam Justice Stromberg-Stein	The Honourable Mr. Justice Leask
The Honourable Mr. Justice Cole	The Honourable Mr. Justice Myers
The Honourable Madam Justice MacKenzie	
The Honourable Mr. Justice Grist	
The Honourable Mr. Justice Bauman	

* Supernumerary

† Appointed to the Court of Appeal – June 2, 2005

Masters of the Supreme Court

Master Donaldson
Master McCallum
Master Patterson
Master Bolton

Master Barber
Master Tokarek
Master Bishop
Master Nitikman

Master Baker
Master Groves[‡]
Master Scarth
Master Hyslop

Master Keighley
Master Caldwell
Master Taylor

[‡] Appointed to the
Supreme Court May
20, 2005

Judicial Staff of British Columbia Supreme Court

Office of the Chief Justice and Associate Chief Justice

Linda Larson	Executive Assistant to the Chief Justice
Lois McLean	Executive Assistant to the Associate Chief Justice
Judith Hoffman	Law Officer
Jill Leacock	Law Officer

Judicial Administration

Alix Campbell	Director
Margaret Neuhaus	Manager of Support Services
Colin Sharwood	Manager of Information Technology and Finance

Tammy McCullough	Secretary
Yvonne Samek	Secretary
Michelle Sam	Secretary

Registrars

William McCallum	Master and Registrar of the Supreme Court
Carolyn Bouck	District Registrar (Victoria)
Murray Blok	District Registrar (Vancouver)
Kathryn Sainty	District Registrar (New Westminster)
Dawn Levert	Deputy District Registrar/Manager, Provincial Registrar's Program

Information Analyst & Statistician

Dr. Shihong Mu

Judicial Administrative Assistants

Vancouver	Adrien Amadeo, Monelle Clements, Sharon Dunn, Tannes Gentner, Felipa Ibarrola, Joanne Ivans, Wanda Lam, Beverlee Lea, Pat Lloyd Linda Mann, Evelyn Mathesius, Linda Peter Samantha Servis, Rita Wikkerink, Wanda Wilk, Mary Williams, Gail Woods, Stefanie Wyer Laura Burgess Jeanne Brock Jane Raggatt Lana Pardue, Sharon LeBlanc Pat McKeeman, Patricia Robison Kathie Pereverzoff Margaret Henderson, Brenda McPhee, Stella Phillip, Brenda Vawda, Susan Johns Norma Heke Karen Gurney, Sandra Smith, Cherry Luscombe, Victoria Osborne-Hughes
Chilliwack	
Cranbrook	
Kamloops	
Kelowna	
Nanaimo	
Nelson	
New Westminster	
Prince George	
Prince Rupert	
Victoria	

Trial Coordination

Cindy Friesen	Manager, Trial Coordination
Krystal Mason	Assistant to Manager, Trial Coordination

Vancouver

Sue Smolen	Civil Trial Coordinator
Mary Ellen Pearce	Criminal Trial Coordinator

Allison Donnelly	Assistant Trial Coordinator
Kim Gunn	Assistant Trial Coordinator
Christine Hutton	Assistant Trial Coordinator
Cary Ann Moore	Assistant Trial Coordinator
Rhona Ogston	Assistant Trial Coordinator
Carmen Pascuzzi	Assistant Trial Coordinator

Kamloops (Salmon Arm, Revelstoke)

Dave McCoy	Trial Coordinator
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Kelowna (Vernon, Penticton)

Barb Turik	Trial Coordinator
Laura Weniger	Assistant Trial Coordinator

Nanaimo (Courtenay, Campbell River)

Cheryl Turner	Trial Coordinator
Carin VanderLaan	Acting Assistant Trial Coordinator

New Westminster (Chilliwack)

Tanya Andres	Trial Coordinator
Irene McLeod	Assistant Trial Coordinator
Debbie Soroka	Assistant Trial Coordinator

Prince George (Williams Lake, Fort St. John, Dawson Creek, Quesnel)

Pamela Wallin	Trial Coordinator
Kelly Parmar	Assistant Trial Coordinator

Prince Rupert (Terrace)

Crystal Foerster	Trial Coordinator
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Victoria

Dianne Lezetc	Trial Coordinator
Tania Linkes	Assistant Trial Coordinator

Judges Library

Diane Lemieux	Librarian
Carmen De Olazaval	Annotator
Angela Allwood	Library Technician

Judgment Office

Heidi Hoefner	Judgment Clerk
Shera Lee	Reserve Judgment Clerk

Supreme Court Ushers

Donna Cox
Gerry Cumming
David O'Brien

IT Consultant

Steve Blanchard

Changes in the Court's Complement

The Honourable Mr. Justice James D. Taylor died suddenly on January 8, 2006. Mr. Justice Taylor was born in Regina in 1943, but moved to Saanichton as a teenage. He earned a Bachelor of Arts in Political Science from the University of Victoria in 1964 and then left to travel in Europe. He received his law degree from the University of British Columbia in 1968 and articled in Vancouver at the law firm known as Sutton Braidwood. Mr. Justice Taylor joined the Nanaimo firm of Buzz Heath and Rafe Hutchison and practiced with that firm until 1983 when he moved over to the Crown. He was appointed Queen's Counsel in 1987. In 1993 he left the Crown to return to private practice where he remained until his appointment to this Court in 1995. Prior to his appointment, Mr. Justice Taylor was active in his community: he lectured in criminal law, he was a long-serving governor of the Law Foundation and he was one of the original directors of the Legal Aid Society. He was a member of the Society for the Reform of Criminal Justice and a board member of the Provincial Judicial Advisory Committee. Mr. Justice Taylor was equally active after his appointment to the bench: he served on a number of this Court's committees including, most recently, the Executive Committee.

In 2005, two members retired from the bench:

The Honourable Mr. Justice I. Drost was born in 1930. Mr. Justice Drost received his law degree from the University of British Columbia in 1955 and was called to the Bar of British Columbia in 1956. He was appointed to the County Court of Westminster in 1985 and then the County Court of Vancouver in 1986. On July 1, 1990 he was appointed to the Supreme Court at Vancouver. At the time of his appointment, Mr. Justice Drost practiced in Vancouver doing general civil and commercial litigation. Mr. Justice Drost elected to become a supernumerary judge in 2000 and retired on September 30, 2005.

The Honourable Mr. Justice R. Paris was born in 1935. Mr. Justice Paris received his law degree from the University of British Columbia in 1960 and was called to the Bar of British Columbia in 1961. Mr. Justice Paris was appointed to the County Court of Vancouver in 1974 and in 1980 was appointed to the Supreme Court. At the time of his appointment, Mr. Justice Paris was a partner in the law firm of Sigalet, Clark & Paris where he practiced primarily in the area of criminal law. Mr. Justice Paris was also an active member of the Vancouver Bar Association. Mr. Justice Paris elected to become a supernumerary judge in 2000 and retired on December 31, 2005.

In 2005 one member of our court was appointed to the Court of Appeal:

The Honourable P. A. Kirkpatrick was appointed to the Court of Appeal on June 3, 2005. Madam Justice Kirkpatrick received her law degree from the University of British Columbia in 1977 and was admitted to the Bar of British Columbia in 1978. Madam Justice Kirkpatrick practiced at the firm of Shrum Liddle Hebenton (later known as McCarthy Tetrault) until she was appointed a Master of the Supreme Court in 1989. In 1992 Madam Justice Kirkpatrick was appointed to the Supreme Court in Vancouver. Until her appointment to the Court of Appeal, Madam Justice Kirkpatrick was active on many of the Court's committees including the Executive Committee, the Rules Revision Committee and the Law Clerks Committee.

In 2005, seven new judges and two new masters were welcomed to the bench:

The Honourable Madam Justice E. Arnold-Bailey was appointed to the Supreme Court at Vancouver on April 15, 2005. Madam Justice Arnold-Bailey replaces Mr. Justice R.R. Holmes who elected to become a supernumerary judge. Madam Justice Arnold-Bailey received her law degree from the University of British Columbia in 1978 and was admitted to the Bar of British Columbia in 1979. Madam Justice Arnold-Bailey was appointed to the Provincial Court of British Columbia in 1990 where she presided over the Criminal Courts at 222 Main Street. Prior to her appointment, Madam Justice Arnold-Bailey served as General Counsel to the Legal Services Society of British Columbia, General Counsel to the Ombudsmen of British Columbia and Director of the Vancouver Ombudsman Office. Madam Justice Arnold-Bailey was also a faculty member of the Faculty of Law at the University of British Columbia from 1986-1988.

The Honourable Madam Justice J. M. Gropper was appointed to the Supreme Court at New Westminster on April 15, 2005. Madam Justice Gropper replaces Mr. Justice D.H. Vickers who elected to become a supernumerary judge. Madam Justice Gropper received her law degree from the University of Victoria in 1979. Madam Justice Gropper clerked in this court for Mr. Justice Esson (as he then was) and Justices Munroe, Murray, Mackoff, Gould and Toy. After her clerkship, Madam Justice Gropper completed her articles at Russell & DuMoulin (now Fasken Martineau DuMoulin) and was called to the Bar of British Columbia in 1981. At the time of her appointment, Madam Justice Gropper was a partner in the firm of Black, Gropper and Company. During her time in private practice, Madam Justice Gropper practiced primarily in the area of labour and administrative law. Madam Justice Gropper served as a member of the Ministry of Labour's Labour Relations Review Board and is a former director of the B.C. Courthouse Library Society. Madam Justice Gropper also served as a past Vice-Chair and Member of the Liquor Appeals Board and the Commercial Appeals Commission.

The Honourable Madam Justice L. D. Russell was appointed to the Supreme Court at Vancouver on April 15, 2006. Madam Justice Russell replaces Mr Justice G. P. Fraser who elected to become a supernumerary judge. Madam Justice Russell received her law degree from the University of British Columbia in 1980 and was admitted to the Bar of British Columbia in 1981. Madam Justice Russell practised with Madam Justice Koenigsberg prior her appointment to the bench in 1992. Madam Justice Russell practised primarily in the areas of employment law, human rights, products liability and administrative law. Madam Justice Russell was a frequent contributor to the Continuing Legal Education Society.

The Honourable Mr. Justice N. H. Smith was appointed to the Supreme Court at Vancouver on May 20, 2005. Mr. Justice Smith received his law degree from the University of British Columbia in 1981 and was admitted to the Bar of British Columbia in 1982. Mr. Justice Smith was appointed Queen's Counsel in 1999. At the time of his appointment, Mr. Justice Smith was a sole practitioner practising primarily in the area of medical malpractice. Mr. Justice Smith was a member of the Attorney General's Rules Revision Committee. Mr. Justice Smith was also a Governor and Past President of the Trial Lawyers Association of British Columbia and was a frequent lecturer.

The Honourable Mr. Justice J. R. Groves was appointed to the Supreme Court at Vancouver on May 20, 2005. Mr. Justice Groves received his law degree from the University of Victoria in 1984 and was admitted to the Bar of British Columbia in 1985. At the time of his appointment, Mr. Justice Groves was a Master of the Supreme Court in Vancouver; a position to which he had been appointed in 2000. Prior to his appointment, Mr. Justice Groves was a partner in the law firm of Gillespie Renkema Barnett Broadway where he practised primarily in the areas of family law and civil litigation. Mr. Justice Groves served on the Advisory Board of CCH Canadian Family Law Guide and is a past member and President of the Kamloops Bar Association.

The Honourable Mr. Justice P. Leask was appointed to the Supreme Court at Vancouver on November 23, 2005. Mr. Justice Leask replaces Madam Justice Kirkpatrick who was appointed to the Court of Appeal. Mr. Justice Leask received his law degree from Harvard University in 1966 and was admitted to the Bar of British Columbia in 1969 and the Bar of the Yukon in 1985. Mr. Justice Leask was appointed Queen's Counsel in 1988. At the time of his appointment, Mr. Justice Leask was a partner with the law firm of Leask Bahen where he practised primarily in the areas of criminal and administrative law. Mr. Justice Leask is a former Bencher and Treasurer of the Law Society of British Columbia. At the time of his appointment, Mr. Justice Leask was the National Chair of the Canadian Bar Association's Legal Aid Committee. Prior to his appointment, Mr. Justice Leask was appointed to the Justice Review Task Force, the Street Crime Working Group and the Mega Trials Working Group; he continues to be a member of these groups.

The Honourable Mr. Justice E. Myers was appointed to the Supreme Court at Vancouver on November 23, 2005. Mr. Justice Myers replaces Mr. Justice B.I. Cohen who elected to become a supernumerary judge. Mr. Justice Myers received a Bachelor of Laws from Oxford University in 1978 and a second Bachelor of Laws from Dalhousie University in 1979. He was admitted to the Bar of British Columbia in 1980. At the time of his appointment, Mr. Justice Myers was a partner in the law firm of Bull Housser Tupper where he practised primarily in the areas of commercial litigation and product liability. Mr. Justice Myers was an associate member of the American Bar Association, a member of the International Bar Association and of the American Trial Lawyers Association. Prior to his appointment Mr. Justice Myers served as *pro bono* legal counsel to the B.C. Civil Liberties Association.

Master I. W. Caldwell was appointed Master of the Supreme Court in New Westminster on April 18, 2005. Master Caldwell received his law degree from the University of British Columbia in 1984 and was admitted to the Bar of British Columbia in 1985. Prior to his appointment Master Caldwell was in private practice with a focus on civil litigation including family law. Master Caldwell is a member of the Board of Governors of the Law Foundation of British Columbia.

Master G. C. Taylor was appointed Master of the Supreme Court in Vancouver on July 29, 2005. Master Taylor received his law degree from the University of British Columbia in 1973 and was admitted to the Bar of British Columbia in 1975. Master Taylor was appointed Queen's Counsel in 2004. Prior to his appointment he was a sole practitioner practising primarily in the area of family law. At the time of his appointment, Master Taylor was a Bencher of the Law Society of British Columbia and a contributor to the Continuing Legal Education Society of British Columbia.

Report of the Chief Justice

The Annual Report provides me with the opportunity to review the activities of the court in 2005. As in previous years, 2005 has seen a number of new initiatives undertaken in respect of the administration and work of the Court. A principal driver of these is our ongoing concern that the cost of resolving disputes through the courts continues to be unaffordable for many litigants and that our court system is increasingly becoming a dispute resolution mechanism available only to a decreasing number. As the information contained in Figure 1 reveals (please see Management and Statistical Information, Figure 1 at p.17) the number of civil lawsuits commenced in British Columbia continues to decline although the decrease abated somewhat in 2005 over the prior year. Our Court remains committed to reform initiatives that are designed to ensure that parties wishing to use the court system to resolve disputes can do so in a timely and cost effective manner.

Judicial Reform Initiatives

In 2005, I continued to be involved in the Justice Review Task Force that is identifying a wide range of reform ideas and initiatives that may help us make the justice system more responsive, accessible and cost-effective. The Task Force has four working groups: Civil Justice Reform, Family Justice Reform, Street Crime and Mega Trials.

The Family Justice Reform Working Group of which Madam Justice Beames is this Court's representative released a comprehensive report aimed at improving the family justice system and the manner in which family law is delivered in British Columbia. The Working Group's recommendations will build on the already successful family law reforms initiated by our Court in the last several years. The Working Group has recommended that Family Justice Information Hubs be created to offer information and referrals to other services, the mandatory implementation of a dispute resolution system before contested proceedings in court, and the development of simplified procedures for family law including new court rules, less formal hearings and online forms.

The Street Crime Working Group of which Mr. Justice Leask was a member prior to his appointment to this Court also released a report which recommended a comprehensive approach to chronic offenders involving the creation of a community court and wrap around services that address the social and health issues of chronic offenders in an effort to break the cycle of crime.

I co-chair the Civil Justice Reform Working Group with Deputy Attorney General Allan Seckel Q.C. Madam Justice Gerow and Master McCallum of our Court are also members. The Civil Justice Reform Working Group released a number of discussions papers in 2005 which addressed a range of topics including the effect of "legal culture" on judicial reform initiatives, the issue of proportionality, and whether

lawyers' concerns about professional negligence claims results in increased costs for legal services. The final report of the Civil Justice Reform Working Group will be delivered to the Judicial Review Task Force in July 2006.

Rule 68 – Expedited Litigation Pilot Project

One of the exciting initiatives undertaken by this Court involves the implementation of Rule 68 which creates expedited procedures for claims valued at less than \$100,000.00. Taken in conjunction with the recent increase of the monetary jurisdiction of the Small Claims Court, Rule 68 is an important initiative designed to improve access to our courts for litigants with lower valued claims.

Rule 68 came into effect on September 1, 2005 in four registries: Vancouver, Victoria, Prince George and Nelson. It will be operated as a pilot project until September 2007. The philosophy of Rule 68 is that the availability of pre-trial procedures ought to be proportional to the value of the case. The Rule 68 procedures are an effort to level the playing field among litigants so that well funded litigants are limited in their ability to use pre-trial procedures which can have the effect of discouraging less well funded litigants from pursuing legitimate claims. The Court is currently in the process of gathering and analyzing information to evaluate the impact of Rule 68 and to determine whether Rule 68 achieves the purpose for which it has been implemented: reducing the cost of litigation and reducing the length of time litigants have to wait to have their cases determined. The evaluation will assist the Court in determining whether the Rule 68 procedures should be redrafted, abandoned or expanded to additional registries.

Court Services Online, Electronic Searches and Electronic Filing

Court Services is continuing to roll out its electronic service initiative known as Court Services Online. In 2005, in addition to permitting members of the public to search for court record information online, Court Services began a project which permits the electronic filing of documents. Currently, this service is only available on a pilot basis to a number of registered users in a limited number of registries; however, as experience with the system is gained, the number of registries where this service is located will be increased throughout 2006. Early feedback from the pilot users is very positive. As improvements are made to the infrastructure which supports electronic filing, its availability will be expanded.

As I reported in 2004, while providing increased electronic court services enhances access to our Court, these developments also raise challenges and issues which require a consideration of the proper balance between open access to courts and individual privacy. Our Court, like other courts across Canada, continues to address issues raised by the fact that technological improvements have made access to court records much more efficient, easy and inexpensive. The ease with which court

records can be searched has raised issues as to what, if any, limits should be placed on remote access to court record information to maintain the proper balance between openness and privacy. The Joint Courts Technology Committee and the Access Policy Working Group are reviewing the Canadian Judicial Council's *Model Policy for Access to Court Records in Canada* to assist in the development of an *Electronic Access Policy* for BC.

Media Relations: Publication Ban Pilot Project & Journalist Accreditation Process

In 2005, we have continued to increase communication between our court and the media to assist the media in its important role of accurately informing the public about proceedings before the court. In September 2005 our court implemented the Publication Ban Pilot Project in respect of criminal matters in Vancouver. This is designed to provide electronic notification to media outlets of applications for discretionary orders to ban publication or to close the courtroom. The Publication Ban Pilot Project also includes a website which identifies cases in which discretionary publication bans have been issued. In addition, the Public Affairs Committee chaired by Mr. Justice Williamson finalized the Accreditation Process for Journalists which permits accredited journalists to bring recording devices into the Supreme Court's courtrooms for the sole purpose of verifying their notes.

2005 Practice Directions

The Court also issued a number of Practice Directions designed to improve the Court's operation and to improve access. In addition to the Practice Direction which provided for the Publication Ban Project, the court issued a Practice Direction announcing a new procedure to deal with requests to appear back before a specific judge or master. The new procedure requires counsel or self-represented litigants to complete a form which is available on our website. The form can be completed electronically and e-mailed directly to the registry. Alternatively it can be faxed or mailed. Early reports from our trial coordination staff and the bar indicate that this new procedure is working well.

Publication of Family Law Judgments

In 2006 the Court resumed the publication of family law judgments on the Court's website. In 2002 the Court stopped publishing family law judgments on its website although these judgments continued to be sent to legal publishers and were available from the Courthouse Library. The Court received a large number of complaints that the non-publication of the judgments was impeding access to these judgments and hence the ability of litigants, particularly self-represented litigants, to prepare their cases. The Court decided that the resolution of the competing issues of protection of privacy and ensuring access to the court and its processes favoured a resumption of the publication of family law judgment on the Court's website.

B.C. Supreme Court Self-Help Centre

As in previous years, the number of self-represented litigants appearing before our Court continues to increase. In addition to our own initiatives, this Court continues to support the efforts of the B.C. Supreme Court Self-Help Centre. It provides information about the court process and resources for legal information and advice as well as providing assistance in locating and completing relevant court forms. It is our hope that the Centre will be able to continue to perform its vital and valuable work for self-represented litigants appearing before our Court in Vancouver and that its services can ultimately be extended throughout the province.

Technological Enhancements

To ensure that our Court is responsive to the needs of litigants, we continue to modernize our systems and take advantage of technology. In 2005 we continued the roll out of the Supreme Court Scheduling System ("SCSS") which we created and introduced in 2004. SCSS is presently used to schedule matters in 25 of the 29 locations where the Supreme Court sits; by the end of 2006 we intend to complete the implementation of SCSS in the four remaining court locations.

SCSS has enabled us to continue to improve the scheduling process. In 2004, 436 trials were heard in Vancouver and 19 scheduled trials were bumped. In 2005, 389 trials were heard in Vancouver, but only 6 scheduled trials were bumped. In 2004, 639 Long Chambers applications were heard while 45 were bumped. In 2005, 738 Long Chambers Applications were heard, but only 27 were bumped (please see Management and Statistical Information, Figure 4-5 at p.19). We also continue to work to implement enhancements to SCSS to further streamline the scheduling of matters before the Court and the rota assignments of members of the Court.

Looking Forward to 2006

In looking forward to 2006, we continue to be involved in initiatives designed to improve access to our Court. We are currently working on a Practice Direction dealing with the use of technology for the preparation and management of civil litigation and the default standard for managing and storing electronic documents. The development of this Practice Direction is unique: it was drafted after a week of consultations with members of the bar, representatives of court services and the public. The draft has been published on our website and we are actively seeking input from members of the public. We expect to issue the practice direction later in 2006.

Conclusion

In closing, I wish to thank the staff employed by Judicial Administration and the members of Court Services as without their support and dedication the work of our Court would not be possible. I also wish to express my gratitude and thanks to all of

my colleagues, the judges and masters of our Court. They continue to provide me with their generous support and invaluable advice to assist in the administration of the Court.

Management & Statistical Information

The charts and graphs in this section provide statistical information regarding the filings in the Supreme Court in respect of new proceedings, trials and chambers applications.

New Filings in B.C. Supreme Court from 1994-2005

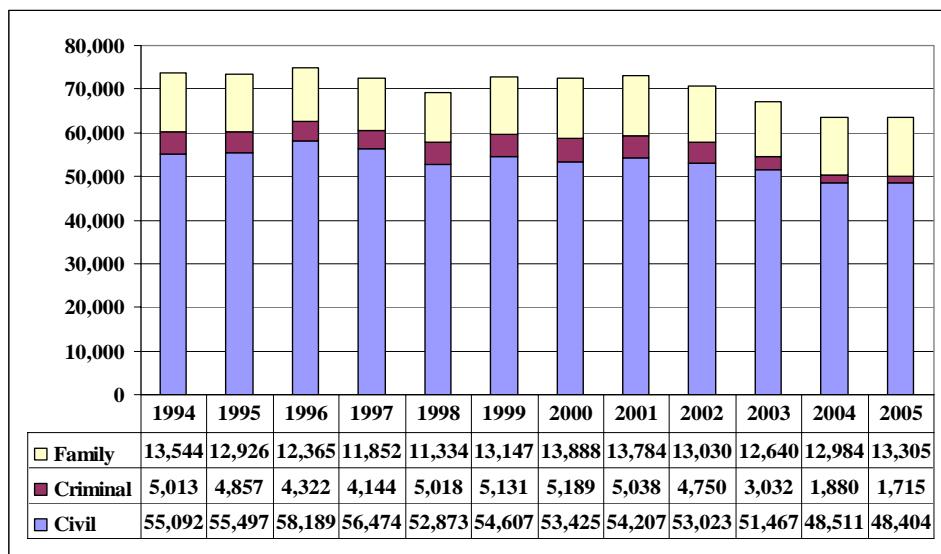


Figure 1

The "Civil" category includes all general civil cases such as motor vehicle, bodily injury, debt collection, breach of contract, foreclosures, adoptions, bankruptcies and *Business Corporations Act* matters. Prior to September 1, 1998, *Family Relations Act* proceedings are included in the "Civil" category and *Divorce Act* proceedings are included in the "Family" category. After September 1, 1998, *Divorce Act* proceedings and *Family Relations Act* proceedings are included in the "Family" category.

New Filings by category in B.C. Supreme Court in 2005

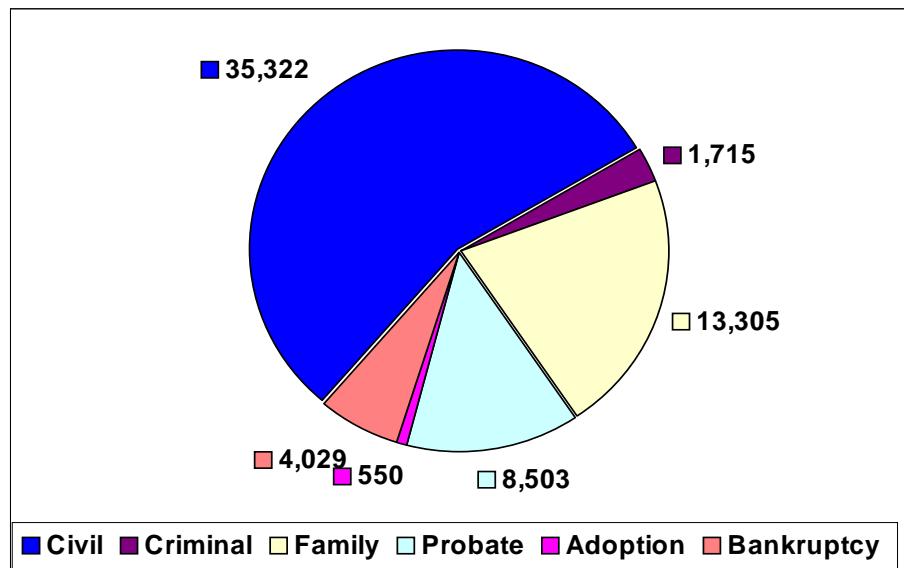


Figure 2

Figure 2 provides greater detail regarding the categories of new filings received by the Supreme Court in 2005. Again, the Family category includes *Divorce Act* and *Family Relations Act* proceedings.

Trials and Long Chambers Applications Scheduled in Vancouver in 2005

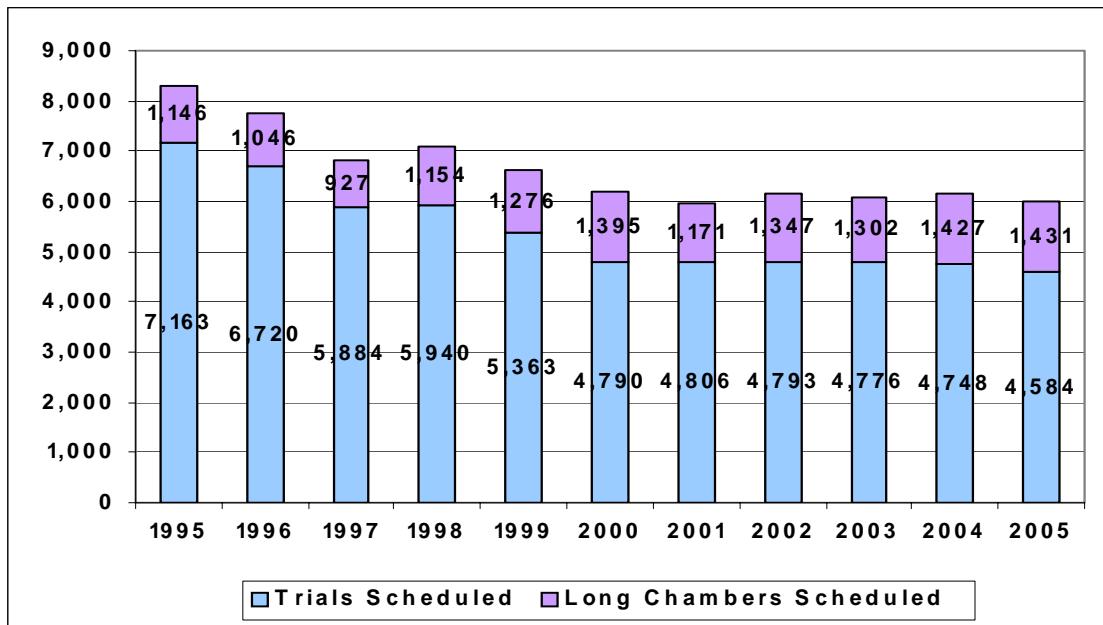


Figure 3

Figure 3 shows the number of trials and long chambers applications (chambers applications with time estimates in excess of 2 hours) scheduled in Vancouver in 2005.

Trials Heard and Bumped in Vancouver 1995-2005

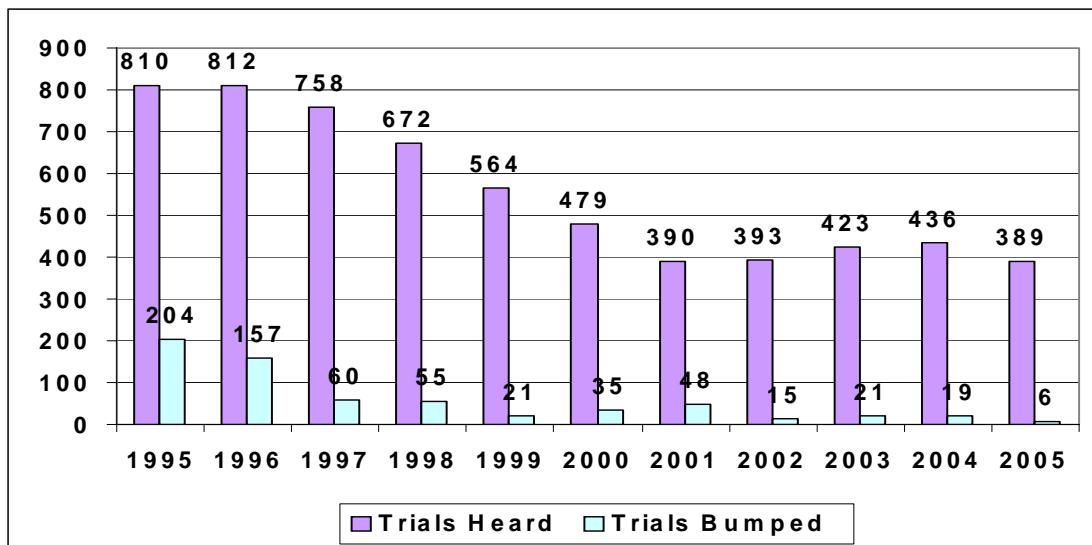


Figure 4

Figure 4 shows the number of trials heard and bumped in Vancouver from 1995 to 2005.

Long Chambers Applications Heard and Bumped in Vancouver 1995-2005

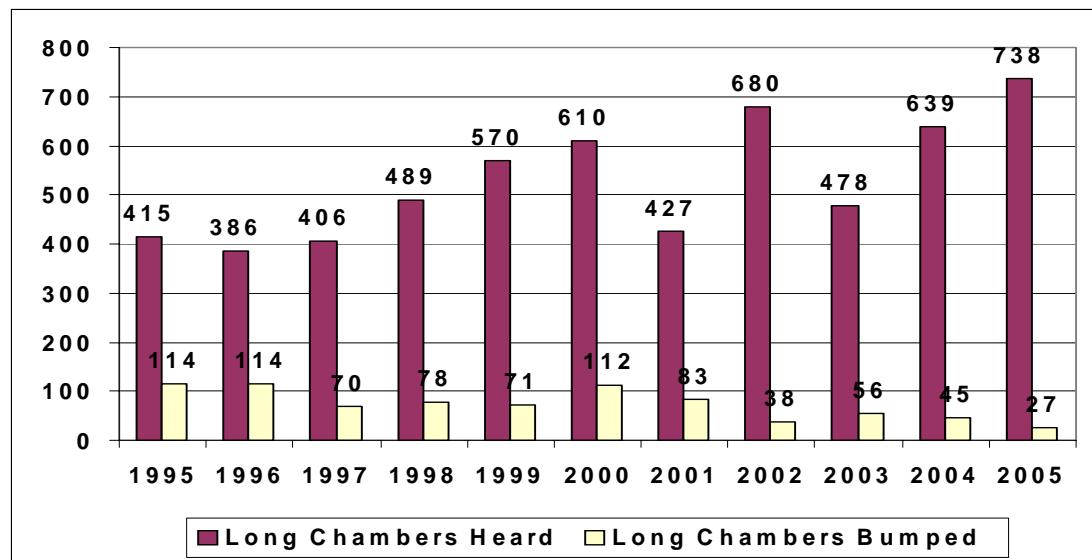


Figure 5

Figure 5 shows the number of long chambers applications heard and bumped in Vancouver from 1995 to 2005.

Quarterly Volume of Civil (excluding Family) Chambers Applications Scheduled and Heard in Vancouver 1996-2005

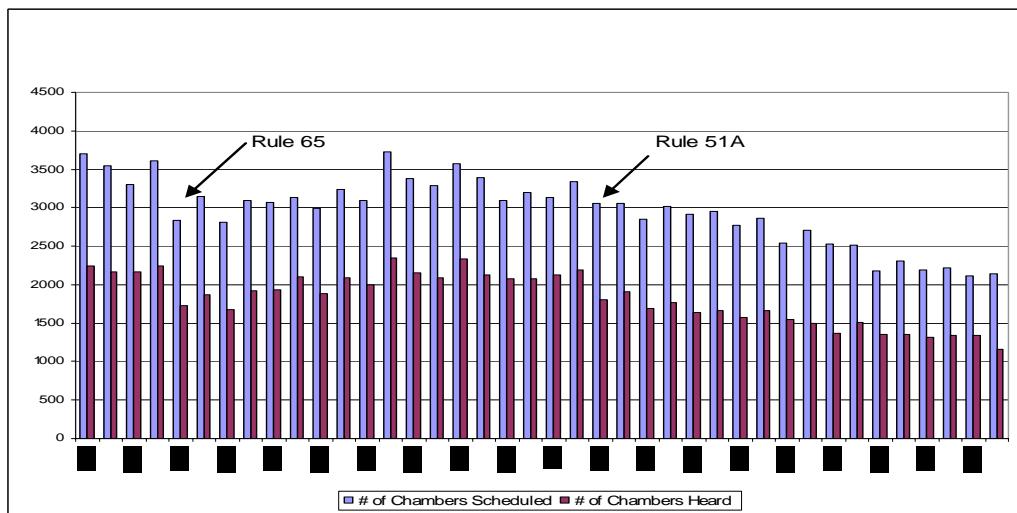


Figure 6

Figure 6 shows the quarterly volume of civil chambers applications (excluding family) scheduled and heard in Vancouver from 1996 to 2005. Figure 6 demonstrates the impact of the introduction of Rule 65 which was only in effect in Vancouver as a pilot project and Rule 51A which replaced Rule 65 and was in effect across the province.

Quarterly Volume of Family Chambers Scheduled and Heard in Vancouver 1996 to 2005

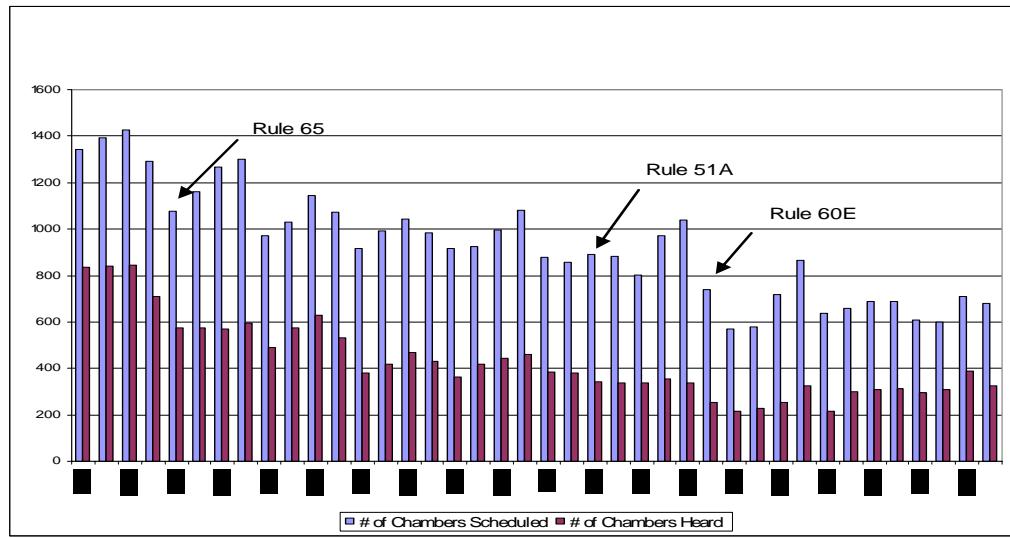


Figure 7

Figure 7 shows the quarterly volume of family chambers applications scheduled and heard in Vancouver from 1996 to 2005 and demonstrates the impact of the introduction of Rule 65 which was only in effect in Vancouver as a pilot project, Rule 51A which replaced Rule 65 and was in effect across the province and Rule 60E which implemented Judicial Case Conferences in family matters.

Quarterly Volume of Civil (excluding Family) Chambers Applications Scheduled and Heard in New Westminster 1996-2005

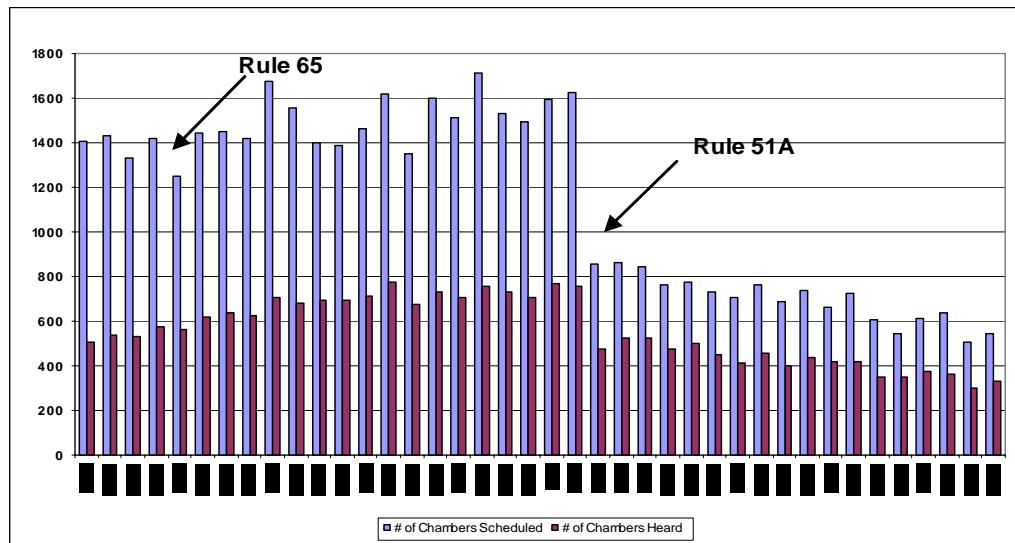


Figure 8

Figure 8 shows the quarterly volume of civil chambers applications (excluding family) scheduled and heard in New Westminster from 1996 to 2005. Figure 8 demonstrates the dramatic impact of the introduction of Rule 51A.

Quarterly Volume of Family Chambers Scheduled and Heard in New Westminster 1996 to 2005

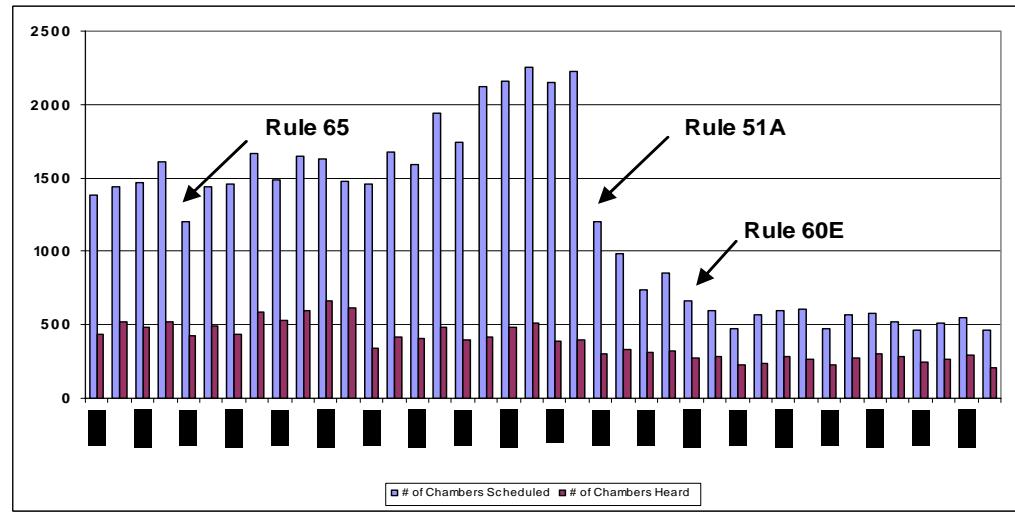


Figure 9

Figure 9 shows the quarterly volume of family chambers applications scheduled and heard in New Westminster from 1996 to 2005 and demonstrates the impact of the introduction of Rule 51A which was implemented across the province and Rule 60E which implemented Judicial Case Conferences in family matters. Again, Figure 9 demonstrates the dramatic impact of the introduction of Rule 51A .

JUDICIAL ACCESS POLICY WORKING COMMITTEE

Members: *Jennifer Jordan, Registrar, Court of Appeal (Chair)
Alix Campbell, Director Judicial Administration
Virginia Day, Director, Business Development and
Change Management, Court Services
Meg Gaily, Law Officer, Court of Appeal
Jill Leacock, Law Officer, Court of Appeal
Judith Hoffman, Law Officer, Supreme Court
Gene Jamieson, Legal Officer, Provincial Court
Mike Smith, Director Judicial Administration, Provincial Court
Kathryn Thomson, Legal Policy Consultant*

Mandate of the Committee

The Committee is a joint Committee consisting of Judicial and Court Services members. The working group develops draft policies and interacts with the various court committees, seeking guidance and approval for the draft policies relating to access to court records, specifically in electronic format. The Chief Justices and Chief Judge are consulted before a policy is adopted. In addition to the policy work, the Committee also reviews access applications for those seeking bulk access to court information.

In 2005, the work of this Committee revolved around issues relating to the advent of electronic filing through CSOnline which commenced in the fall of 2005. The initial e-filing project was in Kelowna and included Provincial Court and Supreme Court civil filings. The project will be expanded throughout the province in 2006.

Work of the Committee

In 2005 the Committee, which meets monthly, was involved in several requests relating to access to court record information. The Committee also reviewed proposals relating to specific topics which need further investigation in the electronic world. The following is a partial list which demonstrates the types of issues considered:

- Consultation with the public regarding public access to specified electronically filed court documents;
- Information available to the public in court lists appearing on the internet;
- Electronic signatures on court orders and how to capture the electronic document;
- Judicial module for judges receiving electronic documents from the registry;
- Electronic registry module for the processing of court documents filed electronically;

- Authentication of e-filing user agreed upon as login and password;
- Display information on criminal JUSTIN public terminals, specifically with respect to publication bans;
- Review of Canadian Judicial Council's *Model Policy for Access to Court Records in Canada* with a view to comparing it to the *BC Electronic Access Policy*;
- Review of access applications to the civil case tracking system (CEIS) from the Family Maintenance Program, Child Support Recalculation Services, Maintenance, Enforcement and Locate Services Division, Prevention and Loss Management Services Branch, Child & Youth Officer;
- Review of proposals for a new definition of "record in a court file" in Freedom of Information and Protection of Privacy Act;
- Discuss policy regarding access to audio recordings once Digital Audio Recording Equipment is installed in BC courtrooms; and
- Discuss proposed membership in and structure of Electronic Court Committee

JOINT COURTS TECHNOLOGY COMMITTEE

Members: *Mr. Justice Tysoe (Chair)*
Mr. Justice Groberman (New Chair)
Mr. Justice Masuhara (New Vice-Chair)
Madam Justice Boyd
Madam Justice Levine
Jennifer Jordan, Registrar, B.C. Court of Appeal
Alix Campbell, Director, Judicial Administration
Colin Sharwood, Manager, Information Technology
Cindy Friesen, Manager, Trial Coordination
Judith Hoffman, Supreme Court Law Officer
Jill Leacock, Supreme Court Law Officer

Committee Changes

At the end of 2005, Mr. Justice Tysoe retired as chair of the Technology Committee and Mr. Justice Groberman assumed the chair. Mr. Justice Tysoe will continue as a member of the Committee as long as he represents B.C. on the Judiserve Committee. Mr. Justice Masuhara was welcomed as a new member on the Committee. The Committee bid farewell to Judith Hoffman in 2005. Her replacement, Jill Leacock, was welcomed to the Committee in December, 2005.

Laptop Rollout

The desktop computers for all Superior Court judges were scheduled for replacement by laptops, docking stations and flat screens. The IT group gave a presentation to the Committee about the various models of laptops which could be chosen for the courts. The differences include a lightweight model for those judges who travel a lot and a larger screen model, which includes a DVD player. Rollout was substantially completed in 2005. Judges were given their choice of laptop. Visiting chambers throughout the province (including Vancouver) will retain the old desktop as well as provide a docking station for those judges who travel with their laptop. The scope of the laptop project was broadened to include the distribution of LCD screens for most staff users. This was completed province-wide in December 2005.

SPAM

The IT Department purchased a product called Sybari SPAM Manager product. The Committee approved a change in the management of the SPAM by creating a centralized system. The Committee also approved a change in the handling of SPAM, where blocked material was not being reviewed by IT. The IT department will now read all email which has been identified as SPAM rather than simply isolating the suspected spam email and forwarding it to the recipient judge for his or her review. Preceding the implementation of the new system, Mr. Hujanen circulated an email to the judiciary advising of the acquisition of the new SPAM manager program

and explaining that the IT Department will assume all responsibility for reviewing all potential SPAM.

Courtroom Access to the Network

There are connections to the network on all the benches in the Vancouver courtrooms. However, the connections are mostly found on the floor under the benches. There is a recommendation that the benches be refitted with an outlet at the desktop level. This initiative will also impact the ergonomic bench initiative. Mr. Sharwood will be the liaison with Court Services as the courtrooms get upgraded.

Technology Conferences

There have been a number of court and legal technology conferences in the fall. The *Court Technology Conference* of the National Center for State Courts was held in Seattle in September. The Canadian Institute for the Administration of Justice sponsored the *Technology, Privacy and Justice Conference* in Toronto at the end of September and the *Pacific Legal Technology Conference* for lawyers was held in October in Vancouver and the Association of Canadian Court Administrators held their yearly conference in Victoria in November.

Electronic Evidence

The Committee hosted, along with the Canadian Bar Association, a dinner featuring Sandra Potter, an international expert in electronic evidence standards. The dinner was well attended. Ms. Potter will return to Vancouver in 2006 to assist in the drafting of a Practice Direction on Electronic Evidence Standards for British Columbia. It is anticipated that members of the bar will participate in information gathering workshops and that eventually there will be a committee responsible for the approval and implementation of the Practice Direction.

Court Services Online

A number of Court Services personnel gave a presentation on the model for electronic filing with a view to receiving comments from judges on how they might use this in their daily work. During the course of the demonstration of Court Services Online ("CSO"), various issues were raised including:

- the need for a future seamless interface of all systems including intranet, SCSS, and CSO;
- a judge's need to actually handle documents so as to be able to highlight and make margin notes;
- the need for access to electronic versions of court file documents in Chambers; and
- The need to keep the overall vision of the project in focus. Will the electronic handling of documents and the focus on a multiplicity of

monitors in Chambers and courtrooms detract from the work at hand—that is, a consideration of the individual litigants and the disputes which come before the court for legal resolution.

Digital Auto Recording System (DARS)

Court Services will be equipping courtrooms with Digital Audio Recording Systems in 2006. The Superior Court Judiciary has taken ownership of DARS for the Court of Appeal and will be doing a separate installation. There was a general discussion about a policy regarding access by litigants to the audio recording. Currently the litigant may request a time to come to the registry to listen to part of a tape. For the Supreme Court, the Committee generally agreed that any party to a proceeding should be entitled to access to the audio recording, provided such access was subject to certain conditions. The proposal is where parties are represented by counsel, such conditions could be part of an overall undertaking by counsel. In cases where an in-person litigant was involved, that individual's access would be subject to conditions which could be set out in a consent desk order. Further consultation with the Supreme Court needs to take place before a policy is approved. There is a separate discussion underway in the Court of Appeal with judges of the Planning Committee.

Wireless Hotspots in Courthouses

Groberman J. advised that some time ago a lawyer requested that Chief Justice Brenner arrange to have a wireless “hotspot” developed in the Courthouse. IT Services looked into the possibility of preparing a cost estimate. While it was agreed it was a good idea for hotspots to be developed in public areas within the Courthouse, it was also agreed no hotspots should be installed in any courtrooms and that “hotspot” development was ultimately a matter for Court Services to address. This matter has been referred to Court Services.

Use of Summation

The judiciary have a licence for the litigation support software “Summation”. However, the usual practice is for a trial judge to request training on Summation before a trial is about to begin. It is not practical at this point to ask for training for judges as a group. When electronic evidence becomes more available, there might be a greater demand for use of the program.

CIVIL LAW COMMITTEE

Members: *Mr. Justice Bauman (Chair)*
Madam Justice Gray (Vice-Chair)
Mr. Justice Brine
Mr. Justice Davies
Madam Justice Dillon
Madam Justice Dorgan
Mr. Justice Goepel
Mr. Justice Macaulay
Mr. Justice McEwan
Jill Leacock, Supreme Court Law Officer/Secretary

The Civil Law Committee continues to periodically publish the Civil Law Memos which discuss decisions of note from the Court of Appeal and the Supreme Court of Canada.

The Committee is currently engaged in an in-depth review of pre-trial conferences and case management conferences within the court with a view to making these conferences more effective.

The Committee has begun its work with a series of interviews of a cross-section of judges and masters.

CRIMINAL LAW COMMITTEE

Members: *Madam Justice H. Holmes (Chair)*
Madam Justice Bennett (Vice-Chair)
Mr. Justice Cullen
Mr. Justice Ehrcke
Mr. Justice Josephson
Madam Justice Koenigsberg
Madam Justice MacKenzie
Mr. Justice Romilly
Mr. Justice Stewart
Madam Justice Stromberg-Stein
Mr. Justice Williams

The committee's main focus this year was the concerns and welfare of jurors and potential jurors in criminal trials. The demands of jury service can be high, and the court considers that it should do what it can to reduce or eliminate any unnecessary difficulties or frustrations for jurors and those who attend for jury selection.

MacKenzie J., for the committee, met with senior Sheriff officers who work closely with jurors and potential jurors to identify concerns that frequently arise in the jury selection and jury trial processes. Key concerns relate to:

- availability to sit as a juror – concern about the effect of selection as a juror on employment, family obligations, travel plans, health-related matters, and other commitments;
- uncertainty as to court procedures, including the jury selection process;
- the financial consequences of attending for jury selection and, if selected, of serving as a juror;
- pressures from employers to return to work;
- stress resulting from the nature of the evidence or the public profile of the case;
- the unique demands of the deliberation process and sequestration; and
- anticipated or actual post-trial stress.

Sheriff officers also generously attended one of the court's educational sessions and recounted their experience with these and other juror concerns. Members of the court canvassed various ways in which the court as a whole and individual judges can help improve the quality of jurors' experiences in the jury selection process and in the trial. These relate to a range of matters, including information given to jurors and potential jurors about the court processes and the requirements placed on jurors, to trial scheduling (especially in lengthy trials), and to support for jurors after the trial.

Assistance is now available through the court to help with post-trial stress or related problems arising from jury service.

The Chief Justice supported the work of the committee by putting forward its suggestion that compensation be reinstated for the travel/parking costs of jury panel members who attend court for jury selection. At present those persons receive no compensation for their attendance.

Once again, Stewart J. and Bennett J. are to be thanked for continuing to provide members of the court with bulletins about significant appellate and legislative developments in criminal law.

EDUCATION COMMITTEE REPORT

Members: *Mr. Justice Davies (Chair)
Madam Justice Beames (Vice-Chair)
Mr. Justice Romilly (Vice-Chair)
Mr. Justice Barrow
Madam Justice Bennett
Mr. Justice Cullen
Mr. Justice Goepel
Mr. Justice Groberman
Mr. Justice Groves
Mr. Justice Kelleher
Madam Justice Neilson
Madam Justice Ross
Madam Justice Satanove
Mr. Justice Sigurdson (Ex-Officio)
Mr. Justice Slade
Master Baker
Judith Hoffman, Supreme Court Law Officer/Secretary
Jill Leacock, Supreme Court Law Officer/Secretary*

The mandate of the Education Committee is to assist members of the court to stay informed about developments in the law and to organize regular educational conferences addressing topics of interest. In 2005, two very successful educational conferences were held. The May conference was held in Whistler; the November conference in Vancouver.

In addition to the two conferences, the Committee also organizes informal education sessions which take place bi-monthly during the noon recess. Judges outside Vancouver attend these sessions via teleconference. Several such sessions were held in 2005.

There were changes to the membership of the Committee in 2005. At the end of 2005, Mr. Justice Sigurdson resigned as chair of the Committee after a number of years at the helm. The Committee is grateful to Mr. Justice Sigurdson for his work. Mr. Justice Davies will replace Mr. Justice Sigurdson as chair, and the latter has agreed to remain as an *ex officio* member of the Committee for 2006. Madam Justice Beames and Mr. Justice Romilly will act as vice-chairs. Other members of the court who resigned from the Committee in 2005 are Madam Justice Loo, Madam Justice Martinson and Madam Justice Smith. The Committee is grateful to them for their valuable contributions to the Committee. In addition to the incoming chair and vice-chairs, respectively, Mr. Justice Davies and Mr. Justice Romilly, other members of the court who joined the Committee in 2005 are Madam Justice Bennett, Mr. Justice Groberman and Mr. Justice Kelleher.

The National Judicial Institute continues to provide tremendous support to the Education Committee by way of organizational, planning and logistical assistance for the court's educational conferences. The Committee is most appreciative of this support.

FAMILY LAW COMMITTEE

Members: *Mr. Justice Joyce (Chair)*
 Master Donaldson (Vice Chair)
 Mr. Justice Barrow
 Madam Justice Beames
 Mr. Justice Chamberlist
 Mr. Justice Cole
 Madam Justice Loo
 Mr. Justice Preston
 Mr. Justice Ralph
 Master Scarth
 Jill Leacock, Supreme Court Law Officer

In 2005, the Committee completed its review and analysis of information collected in the context of the evaluation of Rule 60E, the Judicial Case Conference Pilot Project Rule. The Committee developed preliminary recommendations for changes to Judicial Case Conferences. The preliminary recommendations were circulated for comment to the Court, the Bar, and the public generally. A report of the recommendations was made to the Court at its meeting in May 2005.

The Committee's recommendation that Rule 60E become a permanent rule will be implemented by changes to the Rules of Court in 2006.

During the year, the availability of Duty Counsel has been of assistance to members of the public with Supreme Court matters at the Vancouver courthouse. It is hoped that this program will be expanded. In addition, self represented litigants in family law cases have also been able to obtain legal information at the Supreme Court Self Help Centre which opened in April 2005.

In light of his impending retirement Master Patterson resigned from the Committee. The Committee is grateful for the many years of service that Master Patterson gave to the work of the Committee.

Madam Justice Beames, Madam Justice Loo and Master Scarth have joined the Committee. Madam Justice Beames is also the Court's representative on the Family Justice Reform Working Group which issued its report in June 2005.

The Committee continues to provide members of the Court with memoranda of topical issues in family law, and with reports of significant family law cases.

LAW CLERK COMMITTEE

Members: *Madam Justice Humphries (Chair)*
Mr. Justice Barrow
Mr. Justice Curtis
Madam Justice Kirkpatrick
Mr. Justice Shabbits
Judith Hoffman, Supreme Court Law Officer/Secretary
Jill Leacock, Supreme Court Law Officer/Secretary

Each year the Supreme Court hires law school graduates who have not yet been called to serve as law clerks to the judges of the Supreme Court. The clerks serve for 12 month terms commencing in September. In September 2005, eighteen law clerks began their clerkships. Of these, fourteen were located in Vancouver, two in New Westminster and two in Victoria. Each law clerk is assigned to a complement of five to seven judges.

Of the eighteen law clerks who commenced their clerkships with the Supreme Court in September 2005, ten are graduates of the University of British Columbia, five are graduates of the University of Victoria, and the remaining clerks graduated from Dalhousie, the University of Alberta, and the University of Saskatchewan.

For the term commencing September 2005, the Supreme Court law clerks are:

Vancouver:	New Westminster:	Victoria:
Shawna Barkley	Nadia Khan	Rhonda Bender
Rebecca Botting	Dino Rossi	Emma Ferguson
Chris Dafoe		
Jennifer Dagsvik		
Susie Do		
Cameron Elder		
Lisa Laird		
Katey Grist		
Owen James		
Andrew Majawa		
Peter Morley		
Shannon Salter		
Lindsay Scott-Moncrief		
Anila Srivastava		

In January 2005, Jill Leacock, Law Officer of the Court of Appeal and Judith Hoffman, Law Officer of the Supreme Court received 85 applications for the 29 law clerk positions at the Court of Appeal and the Supreme Court for the 2006/07 term. After reviewing the applications, the Law Officers interviewed most of the candidates

during February 2005. Of these candidates, the Supreme Court Law Clerk Committee interviewed 26 and selected 18 law clerks for the 2006/07 term.

In terms of recruitment activities for the 2007/08 clerkship term, in September 2005, notices were sent to law schools across the country advising of the details of the clerkship program. In addition, information about the clerking program was posted on the Court's website. In November 2005, several judges, current clerks and the Law Officers from the Supreme Court and the Court of Appeal attended the Faculties of Law at the University of British Columbia and the University of Victoria to speak to law students about the clerking program and the benefits of clerking. Both of these events were well attended.

There were changes to the membership of the Committee in 2005. Madam Justice Kirkpatrick resigned from the Committee upon her appointment to the Court of Appeal. Madam Justice Kirkpatrick served on the Law Clerks Committee for most of the time that she was a member of this Court and the Committee is grateful for her valuable contributions and leadership. In addition, Madam Justice Humphries and Mr. Justice Shabbits resigned. Madam Justice Humphries was another of the Committee's long-serving members while Mr. Justice Shabbits was one of the Committee's newer members. The Committee is grateful for the contributions of both. With the resignation of Madam Justice Humphries, Mr. Justice Curtis has taken on the role of Chair of the Committee. The Committee also welcomed new members: Madam Justice Dillon, Mr. Justice Pitfield and Mr. Justice Barrow. Finally, Judith Hoffman resigned as the Law Officer for the Court and as secretary to the Committee in October 2005 and was replaced by Jill Leacock.

The Committee members wish to thank Ms. Gaily, Ms. Leacock and Ms. Hoffman for their assistance during the year. The Committee also extends its gratitude to the law clerks who continue the fine tradition of providing much appreciated assistance to the judges and masters of the Court.

LIBRARY COMMITTEE REPORT

Members: *Madam Justice Newbury (Chair)*
Mr. Justice Hood
Madam Justice Humphries
Madam Justice D. Smith
Alix Campbell
Diane Lemieux

As usual, our Library staff have been busy this year coping with the continuing development of electronic systems, but balancing them with the printed word wherever possible. Early in the year we finalized an agreement with the Queen's Printer, and then made QP LegalEze training available in early March for our judges, masters, registrars, legal officers, law clerks, and other judicial staff members of the Superior Law Courts. QP LegalEze, is the web-based subscription service to the current laws and regulations of British Columbia. These 90-minute sessions were graciously offered and taught by the Queen's Printer representative in-house and were well-attended. Training will continue to be provided on an on-going basis at the start of each fall season or as demand requires.

A major overhaul of the Victoria Judges' Library was accomplished during the summer month of August. Although the library had "good bones" -- with sturdy shelving and natural lighting -- the space was starting to look cramped. Duplicative material was weeded out and recycled, and spent and obsolete items were disposed of. With a little elbow grease provided by three library staff members and a new and improved arrangement of materials, the Judges' Library in the Victoria Law Courts is now more inviting as ever.

In Vancouver, the Judges' Library has undergone a few changes as well. At the end of the year, the staff who are involved in the distribution of judgments were all moved to a central location within the library. A full-time librarian, library technician, and a part-time annotator are now able to work closely with the judgment clerks, making for a more cohesive and efficient group who will not only be able to back each other up, but will make it much easier for those needing help in finding past and recent judgments.

The cost factor in providing loose-leaf services is another area which is being looked at "strategically" throughout the year. With the number of releases per year increasing in some circumstances and a general rise in cost, it has become important to look at all our subscriptions on a case-by-case basis. This occurs not only with textbooks, but with legislative materials as well. Following a survey sent to our Supreme Court judges, where we examined the number of loose-leaf provincial statutes (RSBC) available for their use, we decided to cancel three sets. While online sources will continue to improve our quick access to legal materials, the general consensus continues to be that a balanced approach is still necessary. Factors including proximity to materials, ease of perusal, electronic and paper

formats, and cost will all continue to play important roles in any future decisions related to the purchase of library materials.

Although the trend among the legal community seems to be to the cancellation of law reporters in lieu of online sources, we continue to subscribe to national, provincial, and topical law reporters that are relevant to the needs of our library users. These reports include the Supreme Court Reports, Dominion Law Reports, Western Weekly Reports, and the British Columbia Law Reports. As online usage increases, however, the cancellation of law reporters will continue to be a possibility. With the cost of the average law reporter exceeding \$200.00 per volume, it has become imperative that we keep abreast of research trends not only among ourselves but with the legal community as a whole. Our ability to focus on current research trends in the present will lead us to our vision for the future.

*Madam Justice M.V. Newbury, Chair,
Judges' Library
February 2, 2006*

PUBLIC AFFAIRS COMMITTEE

Members: *Mr. Justice Williamson (Chair)*
Mr. Justice Blair
Mr. Justice Groves
Madam Justice Wedge
Chief Justice Brenner C. (Ex Officio)

Over the past year, the Public Affairs Committee has continued its work with the media, as well as with other non-judicial groups with whom of necessity the judiciary must have contact. As can be seen from the report of the Chief Justice, the accreditation of journalists, permitting them to be exempted from the rule against recording court proceedings, continues to be monitored. In a major undertaking, indefatigably assisted by Ruth Blomgren from the criminal registry and Mary Lewisch from the court clerks, the Media Notification of Publication Bans pilot project was launched in October in Vancouver. It will continue for a year, and, given its success to date, will likely be expanded throughout the province. The project's forms and directions had to be modified with January's changes to the *Criminal Code*. The Committee again met informally with court clerks over lunch, and will shortly meet again with the working journalists from the Vancouver courthouse. The chair has met with journalists informally, or answered queries, a number of times, and has participated in a number of public forums (as has the Chief Justice who sits *ex officio* on the committee). The chair also acts as liaison with the Law Courts Education Society.

RULES REVISION COMMITTEE

Members: *Mr. Justice Macaulay (Chair)*
Mr. Justice Bauman
Madam Justice Dillon
Mr. Justice Joyce
Master Baker
Master McCallum
Ms. N. Cameron, Q.C.
Mr. K. Downing, Legislative Counsel
Mr. J. E. Gouge, Q.C.
Mr. J. K. McEwan, Q.C.
Ms. G. Dickson, Q.C. (as of January 2006)
Mr. P. Behie (as of January 2006)
Ms. J. Leacock (Law Officer) – Secretary
Mr. Bill Grandage (ex officio)

I. Mandate of the Committee

The *Court Rules Act*, R.S.B.C. 1996, c. 80 provides that the Lieutenant Governor in Council has the power to make rules governing the conduct of litigation in the Supreme Court. The Rules Revision Committee (“Committee”) assists the Attorney General in making recommendations for rule changes to the Lieutenant Governor in Council. The Attorney General appoints the members of the Committee by ministerial order, after consultation with the Chief Justice and the Chair. The Committee includes judges, masters, a representative of Court Services, legislative counsel and members of the private bar. The members of the private bar are chosen for their expertise in civil or family litigation and also broadly represent larger and smaller areas of the province.

The Committee meets regularly in person and by teleconference throughout the year to discuss proposals for rule changes. The Committee initiates much of its own work but, the judiciary, the profession and the Ministry of the Attorney General also report problems with existing rules or, sometimes, propose changes.

The Committee consults widely with members of the private bar, professional organizations such as the Trial Lawyers Association or Canadian Bar Association Subsections as well as some institutional litigants, such as ICBC, as a matter of policy, before recommending significant change. By doing this, we hope to ensure that proposed amendments to the Rules are evaluated in the broadest context. The Chair wishes to take this opportunity to thank the members of the private bar on the Committee who have so generously volunteered their time and commitment as well as the generous contribution by interested lawyers and others who have provided us with invaluable assistance during the consultative process.

Because the work of the Committee is quasi-legislative in nature, the Committee does not circulate its minutes nor inform the judiciary, members of the bar or the public of the details of any recommended rule changes before they are enacted.

After the Committee makes recommendations to the Attorney General regarding proposed amendments, the Attorney General consults with the Chief Justice as is required by the *Court Rules Act*, before presenting the amendments to Cabinet. With the exception of some stand-alone amendments, proposed rule amendments are presented to Cabinet in a package each spring. Upon Cabinet approval, the amendments are enacted by Order-in-Council and are usually effective July 1st.

Copies of the Orders-in-Council giving effect to the amendments as well as the full text of the Rules are available on the court's website at www.courts.gov.bc.ca. From the Supreme Court page click the Rules Amendment link. In addition, invitations for comments on proposed rule changes are often posted on the website. We encourage members of the bar and the public to regularly check the web site for information on rule amendments.

II. Composition of the Committee

Mr. Justice Smith, who had been a practitioner member of the Committee before his appointment to the court, resigned from the Committee in May 2005. Gail Dickson Q.C. and Peter Behie will join the Committee as of January 2006.

III. Work of the Committee in 2005

(a) Expedited Litigation

Rule 68, the Expedited Litigation Pilot Project Rule came into force on September 1, 2005. The enactment of Rule 68 reflects the culmination of an important part of the Committee's focus over the last two years. Rule 68 will operate in four registries, Vancouver, Victoria, Prince George and Nelson, for a two year pilot period. Rule 68 applies to any action commenced in those registries after September 1, 2005 where the total of the monetary claims amount to \$100,000 or less, exclusive of interest and costs. If all parties consent, claims of greater anticipated value can be decided under the rule. Family law proceedings and those commenced under the *Class Proceedings Act* are excluded.

The objective of Rule 68 is to simplify procedures and reduce both the cost to litigants and the time involved in litigation. The touchstone of Rule 68 is proportionality. The rule expressly removes or limits some of the procedures that would otherwise be available in non-expedited litigation. In particular, limits have been placed on when contested chambers applications can be brought, the extent of document disclosure, examinations for discovery and the extent of expert evidence that may be called at trial. Rule 68 requires the parties to engage in an earlier and

more comprehensive exchange of information which includes the exchange of witness lists, summaries of evidence expected to be given by witnesses and trial briefs. The rule also allows for the use of joint experts. Finally, Rule 68 provides for both a case management conference and a trial management conference at which the court can make orders aimed at streamlining the conduct of the proceeding and the trial. In these ways, the rule seeks to remove or reduce the existing complexities.

A separate Committee will evaluate Rule 68 to assist in determining whether the project accomplishes its goal and to inform any decision to expand the pilot project to other registries at the conclusion of the two year pilot period.

(b) Tariff review

In 2005, the Committee continued its extensive review of Appendix B, Party and Party Costs Tariff and considered submissions from members of the bar. The Committee expects to report to the Attorney General and recommend changes in 2006.

(c) Other matters

Other work that occupied the Committee in 2005 included the following:

- Development of a rule for the bringing of stated cases in Supreme Court;
- Consideration of Rule 19 and allegations in pleadings made without reasonable grounds;
- Review of aspects of Rule 37A relating to timing of jury notices;

(d) Amendments passed in 2005

Some of the more substantial rule amendments passed in 2005 included the following:

- Sub Rule 53(4.1) was added to provide registrars with the authority to give directions at a pre-hearing conference for the conduct of a registrar's hearing regardless of whether the hearing will proceed before that registrar or another registrar.
- Rule 60 was amended to provide prescribed forms for joint family law proceedings, and to make clear that the form can be used by common law couples seeking relief from the court under the *Family Relations Act* rather than the *Divorce Act*.

- Rule 69, the Electronic Filing Pilot Project Rule, was enacted to provide for the electronic filing of court documents. The Rule deems the electronically filed document to be the original for purposes of the Supreme Court Rules. Commencing in 2005, the electronic filing pilot project will operate in a limited number of court registries. Rule 69(12) provides that a document which has been electronically authenticated is deemed to have been originally signed for the purposes of the Rules. Rule 69 imposes an obligation on a person who electronically files a document to keep the original paper version until the registrar requests an original or all appeals in the proceeding are completed. To ensure continuity between the original and electronic versions of documents filed for evidentiary purposes (including affidavits), such documents must be accompanied by a statement that the electronic version is a true copy of the original and that the original bears the original signature of the person or persons who have signed the documents. Rule 69 and a consequential amendment to sub-rule 11(6.1) allow for the delivery of documents between parties to a proceeding by email.
- Sub-rule 27(14) was amended to provide that unless the court otherwise orders, an examination for discovery is to take place at the office of an official reporter that is closest to the place where the person being examined resides instead of at the registry closest to the person's residence. This amendment reflects the fact that official court reporters no longer have offices in court registries.
- Rule 60E was amended in 2005 to extend the Family Law Judicial Case Conference Pilot Project for a further year. An evaluation report of the pilot project was released in 2005, one of the recommendations of which is that the Rule 60E should become a permanent rule. The recommendations arising from the evaluation report are currently under consideration, and the extension of Rule 60E for a further year will allow sufficient time for further consultation with the judiciary, members of the profession and the public.
- Form 136A was prescribed for passing of accounts in estate matters subject to Rule 61. The form will bring consistency to the form of accounts presented in estate matters, which previously varied from one registry to the next.
- Rule 67, the Fax Filing Pilot Project Rule was extended for a further year.

IV. Other Matters Currently Under Consideration

Some of the more significant matters currently under active consideration by the Committee include:

- The discoverability of insurance policies under Rule 26.

- The test for production of documents under Rule 26.

The Committee welcomes comments from the Court, members of the bar and the public related to its work. We also appreciate receiving copies of judgments that identify any ambiguities or anomalies in the Rules. Please forward your comments to Mr. Justice Macaulay, Chair, Rules Revision Committee, The Law Courts, 850 Burdett Avenue, Victoria, B.C. V8W 1B4.