



Aboriginal People and the Law Programme

The Native Courtworker and Counselling Association of B.C. put on a special five-day conference in Vancouver from April 11 to 15th for First Nations, Chiefs, Councils and staff to help broaden knowledge on a variety of important issues.



W&Co's **Gary Campo** presented a paper entitled "Reserve Land Interests" on the final day of the conference. The program covered a wide range of topics including Band Governance, Taxation, Family Law, Treaty Rights and Band Funds.

Key note addresses were given by Mary Ellen Turpel-Lafond, B.C. Representative for Children and Youth and Grand Chief Ed John (Akile Ch'oh), First Nations Summit Task Group and North American Representative to the UN Permanent Forum on Indigenous Issues.

...continued on page 2

May Symposium on FN Trusts

Symposium on First Nations' Trusts Donovan Waters, renowned author of the text *Law of Trusts in Canada* and Jack Woodward, author of *Native Law*, will host a noon hour symposium on **May 12th** on the application of trust law to aboriginal situations. This will be an exchange of ideas between two experts in their fields, and responses to questions from the participants. Here are the topics they expect to cover:

1. What special provisions should be in a First Nations or a Métis trust instrument, particular to the needs of First Nations and Métis?
2. Continuity of Trustees. If the Trustees are the elected band council, they will change every two years or so, which may require constant amendment to the instrument. If the Trustees are not the elected band council, accountability issues may arise.
3. Amending the Trust Deed. If a Trust Deed requires a band vote for amendment it can be politically and logistically difficult to assemble the requisite quorum needed to amend the document.
4. Problems with identifying the members of the beneficiary group. The exact list of beneficiaries is a constantly changing group, as members die, are born, and otherwise join and leave the group. Sometimes statutory or common law changes make big differences to the make-up of the group.
5. Is it acceptable for the Trustees to keep aside a reserve fund to cover the contingency that the group is actually bigger than they think? If all the money is distributed, and a new authentic claim for membership is made, how are the Trustees to deal with that?
6. What is the proper stance of the Trustees when faced with a claim for inclusion in the group? Do they fight it in court or do they extend some sympathetic treatment?

...continued on page 2

UPCOMING EVENTS:

May 9 - 11: Nanwakolas Council – 3rd Annual Aboriginal People's Resource Opportunities Conference, Vancouver Island Conference Centre, Nanaimo, BC.

May 30 – 31: 8th Annual Western Canada Aboriginal Law Forum, Four Seasons Hotel, Vancouver, BC. To register, call 1-888-777-1707.

The event wrapped up with a gala dinner honouring Aboriginal people who have contributed to the development of the law in British Columbia, with the Honourable Steven Point, O.B.C., Lieutenant Governor of B.C. as guest speaker.

Organizers hoped that by offering an extensive program, the conference would provide Band Managers/C.E.O.'s, Chief and Council, and Band Committee members with a well rounded general knowledge of Aboriginal people and the law, and lay the foundation for those attending to address issues affecting First Nations and First Nations people. ❖

6. (continued) Is their duty to the existing group or does their duty include the unproven interests of potential members of the group? If the claimant wins should the successful applicant's litigation costs thrown away fighting for inclusion be borne by the Trust?

7. Age of majority issues.

8. Band or Nation issue. Settlements based on aboriginal title or rights, or treaty rights, should be made to the nation, not to the band, (though this rule is rarely followed). There are always people who legitimately claim membership in the nation for the purposes of constitutionally-protected rights but who are not members of the statutorily created band membership list. How does the trust achieve a degree of certainty as to the identity and entitlement of those disenfranchised members of the nation? ❖



RESIDENTIAL SCHOOLS SETTLEMENT CEP DEADLINE

Important Notice: The deadline for applying for the CEP is **September 19, 2011**. If you know someone who attended an Indian Residential School, but has not yet applied for the CEP, please let them know of the deadline. Application forms or information can be found by contacting 1-866-699-1742 (TTY: 1-800-926-9105).

The Common Experience Payment (CEP) is a component of the Indian Residential Schools Settlement Agreement. The CEP recognizes the experience of residing at an Indian Residential School and its impacts.

Eligible applicants may receive \$10,000 for the first school year (or partial school year) of residence at one or more residential schools, plus an additional \$3,000 for each subsequent school year (or partial school year) of residence at one or more residential schools. Eligible recipients will receive a one-time payment of their full CEP entitlement.

There is more information at the Service Canada website:
<http://www.servicecanada.gc.ca/eng/goc/cep/index.shtml> ❖

NEW FACES

We say good-bye this month to **Caleb Behn**, our University of Victoria coop student, and in his place welcome new student **Laura Bonenfant** who joins us May 6th and will work with us through the summer.

In addition, Woodward & Company LLP adds **France Kendall** to our legal support team starting Monday, May 2. France will be providing assistance to Leah Mack and Leigh Anne Baker and managing our corporate files. France joins us with over 14 years of experience in both Alberta and British Columbia.

Please extend a warm welcome to France and Laura when you meet them! ❖