INTRODUCTION

JUSTICE JUNE ROSS* AND DIANA LOWE**
GUEST EDITORS

That litigation is time-consuming, expensive, complex and thus effectively inaccessible to many of those involved in civil disputes, is not a new complaint, nor a merely local one. It is, however, a concern that has received increasing attention in Canada over the last decade. This period has seen some major reports exploring causes and possible solutions for the phenomenon, including the Canadian Bar Association's *Systems of Civil Justice Task Force Report*,[1] and the Ontario *Civil Justice Review*.[2] There has been a burgeoning interest in procedural innovation, with courts and governments from across the country engaging in pilot projects that experiment with court-connected mediation and case management. With change comes reaction, assessment and evaluation. To your editors, the time seemed apropos to collect and share experiences on these topics. Our call for papers therefore asked authors to submit articles on themes related to Civil Justice and Civil Justice Reform.

The sharing of experiences is crucial. The testing of new approaches in one court or jurisdiction will benefit others only if the results of these experiments are readily available to all; historically, this has not been the case. The *Task Force Report* identified information sharing as one of the primary challenges facing those interested in civil justice reform. The Canadian Forum on Civil Justice, headed by one of your editors, is an outgrowth of that concern. It is an organization dedicated to the gathering and sharing of information relating to the civil justice system for the benefit of all persons in Canada concerned with civil justice reform.

One might expect a collection of articles on civil justice to focus on courts and procedure, both of which are, of course, central to our system of civil justice. But, as was recognized in the *Task Force Report*, what is really central is access to justice, and not necessarily access to the courts. In fact, the courts have increasingly turned to the use of alternative dispute resolution as one means of ensuring access. Three of the articles in this collection reflect this trend, evaluating mandatory mediation programs in Saskatchewan and Ontario, and reviewing the development of law school programs in alternative dispute resolution. These articles also develop another theme. Civil justice reform is a form of institutional change, and the optimal method of assessing institutional change requires empirical research — a type of research not overly familiar to law journals and legal professionals in this country. The somewhat sorry state of Canadian literature on this topic is reviewed by one researcher from the Canadian Forum on Civil Justice, while others describe a research program in which they are bringing empirical research literally in through the courthouse doors.

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1 Canadian Bar Association, Task Force on Systems of Civil Justice, *Systems of Civil Justice Task Force Report* (Ottawa: Canadian Bar Association, 1996) [*Task Force Report*].

2 Ontario Civil Justice Review, *Civil Justice Review: Supplemental and Final Report* (Toronto: Ontario Civil Justice Review, 1996).

A broad look at access to justice does not stop at procedure. Substantive issues are also raised. One particularly topical, even "hot button" issue, is the resolution of claims arising from soft tissue injuries incurred as a result of motor vehicle collisions. The Government of Alberta response to these claims is reviewed in two articles, one analyzing the impact of the minor injury cap on access to justice for accident victims suffering from minor injuries, and another examining diagnostic and treatment protocols adopted under the new legislation. The latter raises issues as to the impact of dispute resolution processes on professionals outside the court system, a theme that is also pursued in an article examining the developing role and responsibilities of expert witnesses in Canadian courts.

Courts and procedure do not go unnoticed. Procedural reforms in Alberta, in class action legislation and comprehensive rules revision, are also addressed in this collection. And Professor Sossin's article brings together substance and procedure at a fundamental level, examining the interrelationship of rules reform and principles governing the inherent powers of the courts to control judicial functions, and the constitutional guarantee of access to the courts.

The response to the call for papers was such that we were unable to include all of the worthy submissions in this special edition. Look out for the next issue of the Alberta Law Review, which will include an intriguing article by Peter Bowal and Benjamin Lau, entitled "A Critical Analysis of Civil Procedure Rules 187 and 190: Stringency Without Efficacy."

We think you will agree that this collection of articles will be an invaluable resource for those who seek to meet the challenge of creating a system of civil justice that is accessible, effective, fair and efficient.