

COMMUNITY LEGAL EDUCATION ASSOCIATION

LAW PHONE-IN & LAWYER REFERRAL PROGRAM

2015 Report



Introduction

The Law Phone-In & Lawyer Referral Program has been a program of Community Legal Education Association since 1987. The program began in 1975. The Law Society of Manitoba and the Manitoba Law Foundation fund the program. Two lawyers staff the service: Jennifer Dunik and Sean Young. Mary Troszko, the Executive Director of Community Legal Education Association, acts as the supervisor of the service.

We provide a comprehensive service. Callers are given legal information and general advice over the phone, may be referred to an appropriate law-related agency or may be referred to a lawyer. Many provinces have legal information or lawyer referral services and virtually all of the states in the United States have lawyer referral services. Our service is unique because we provide both legal information and lawyer referrals. Also, our staff lawyers have their practicing certificates and are therefore able to field a wider range of calls and actually provide information and summary advice.

Often callers are sent written information to augment the verbal information provided to them. In 2015 we sent out 175 pieces of information, including 18 *Uncontested Divorce Guides*, 32 CLEA brochures, 26 *Women in Abusive Relationships*, 9 *Family Law in Manitoba*, as well as a wide variety of precedents, excerpts of legislation, cases and legal forms (50).

A total of **6,358** calls were handled in 2015. This brings our grand total to over 366,000 calls (366,182), since the service began in 1975.

1,262 of the calls in 2015 were referrals to lawyers listed with the Lawyer Referral Service. Appendix 1 shows the breakdown of referrals by topic.

In 2015 callers were referred to **103** various law-related and other agencies. This also includes referrals to websites and to agencies in other jurisdictions. We have a very comprehensive database of law-related and other agencies that we add to on a regular basis. The Law Phone-In staff lawyers are very adept at finding appropriate agencies and matching callers accordingly. The top agency referred to was Legal Aid (60), with the Law Society of Manitoba in second place (29) and the Consumer Protection Office in third place (15). Referrals to Legal Aid included referrals to various offices, including Public Interest Law Centre, the Poverty Unit and the University of Manitoba Clinic.

Demographics

55% of our callers were female.

77% of our callers were from Winnipeg. The Manitoba calls from outside Winnipeg came from **190** communities all across the province. The following communities generated the most calls: Brandon (168), Portage la Prairie (77), Dauphin (49), Selkirk (49), Steinbach (49), Thompson (34), The Pas (27), Gimli (23), Lac du Bonnet (20), Stonewall (20), Winkler (16), Anola (15) and Flin Flon (15).



There were also **311** calls from outside Manitoba. **248** calls came from other parts of Canada: British Columbia (51), Alberta (64), Saskatchewan (35), Ontario (75), Quebec (10), Nova Scotia (5), New Brunswick (1), Newfoundland (2), Northwest Territories (4), Nunavut (1).

There were **45** calls from 18 states in the United States: Arizona, California, Colorado, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Nevada, New York, Ohio, Texas, Vermont, Washington, and Wisconsin.

Some clients were referred through branches of the American Bar Association or Lawyer Referral Programs in their home province and others had located us online.

18 calls were from around the world: Afghanistan, Albania, Australia, China, England, Europe, Greece, Scotland, United Kingdom. The legal issues in these international calls were in the areas of Immigration Law, Family Law and Wills & Estates. Some of the callers were looking for a lawyer or for information for a matter taking place in Manitoba (estates, divorce, mobility in family law matters, varying child support).

Although most of our contacts were telephone calls, there were also **1,215** e-mail information requests, and **75** walk-in clients (even though we do not have the facilities to offer drop-in services).

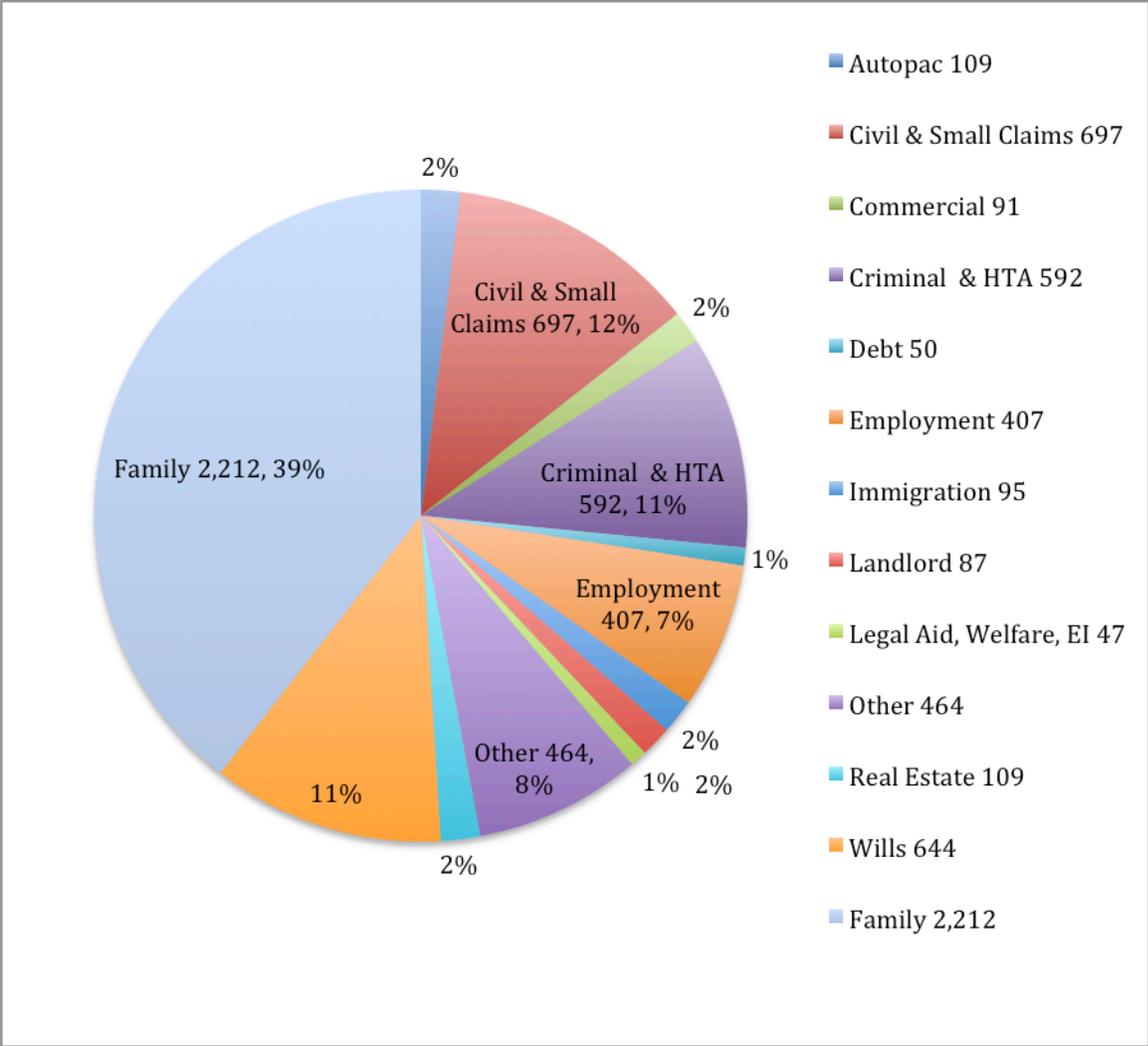
Areas of Law

Family Law continues to be the largest category with 2,212 calls received, over 36% of total calls. There are also a significant number of calls in the areas of Civil Litigation (including Small Claims), Wills and Estates, Employment Law and Criminal Law, comprising another third of total calls.

To appreciate the diversity of the calls, a list of the calls received on a typical day, those received on June 9, 2015, is included as Appendix 3.

The pie chart on the next page shows the breakdown of completed calls by topic.





Trends

Employment calls have been consistently increasing over the years. Last year almost 10% of calls dealt with employment and labour issues. The main issue is whether sufficient notice or pay in lieu of notice has been given for a wrongful dismissal. Additional issues include union complaints, non-competition agreements, and human rights issues, including accommodation requests. The majority of these calls are referred to our program from Employment Standards Branch and the Manitoba Labour Board. Workers Compensation calls are a separate category that also resulted in a significant amount of calls.

There were a number of inquiries about private prosecutions. This was often pursued after reporting matters to the police and being told to apply for a protection order or peace bond rather than the police laying a charge. The prosecutions involved such offences as criminal harassment, uttering threats, assault, harassing telephone calls, perjury, mischief, and theft.



Child protection and medical malpractice calls continue to be significant as well. Those types of calls are usually referred to a lawyer on our panel, unless, in the case of medical malpractice calls they are past the time limitation in *The Medical Act* or have a matter that is more suitable for the College of Physicians and Surgeons.

The category of wills, which includes powers of attorney, committeeship, and health care directives, comprised 10% of calls. Some individuals wanted information or a referral for making a will or administering an estate. Other callers were inquiring about appointing a power of attorney or proxy or had concerns about the actions of a power of attorney and needed guidance.

Self-Represented and Unrepresented Litigants

Who Are They?

Self-represented litigants can be looked at on a continuum. On one end are those that are very sophisticated, have done some research and just need to be pointed in the right direction. Needless to say, these people are in the minority. On the other end of the continuum, we have those who should not be self-representing under any circumstances. Again, that is a fairly small number. The majority is everyone who falls in between these two extremes. What all of them have in common is the problems they encounter. They have no legal background, no legal education and no understanding of the big picture. It is hard to give them information in a vacuum, without that legal framework. They often have no appreciation of the complexity of the law and a total lack of understanding of legal terminology. They have no idea about precedents, various levels of court or jurisdictional issues, and no idea of how to start the process, how to complete the documents and how to present evidence once they get to court. They often need a crash course in law. They encounter a system full of very specific and exacting rules, and special jargon, but a system that is not user friendly and certainly not set up for someone with no legal training.

The following summary was compiled by Jennifer Dunik, one of the Law Phone-In lawyers.

Who are the Self-Represented / Unrepresented Parties of 2015?

- 1) Can't afford legal services. With hourly rates of up to \$500 per hour, what does the person earning \$36,000 per year do?
- 2) No, really, they can't afford to hire a lawyer. No matter how many times they are told to find counsel, they simply can't afford to pay a retainer or afford the hourly rate. When you have suffered a job loss and have found new employment that puts you out of the range of Legal Aid and almost all your income is being garnished and you have no money for rent, there is also no money for legal services.



- 3) They are really broke. They may have previously had counsel and paid tens of thousands of dollars and can get no further loans from banks or family members. They understand the desirability of hiring counsel, as they previously had counsel, but they no longer have any financial means to hire a lawyer.
- 4) They have some money, but lawyers will not take their case. These are the individuals who have gone it alone but know that they should hire counsel and now there is a disastrous file and no one wants to take it. Other reasons lawyers have turned callers down include a difficult party on the other side, an unwillingness to take a file with certain lawyers on the other side, and too many changes of counsel.
- 5) They had a lawyer and were unhappy with the services that they received. They spent a lot of money and thought that they had an order that they could register with Child Support Recalculation Service or have certain provisions enforced through Maintenance Enforcement and it turns out they can't. Even these callers would rather hire another lawyer, however, their finances have been greatly diminished by the legal services they have already paid for.
- 6) They believe that they can legitimately complete some legal matters on their own. For example, the uncontested divorce with no children, support or property issues.
- 7) The callers that have spent a lot of money but still have some money and believe that it is not worthwhile to hire counsel. These are the callers where the case becomes their life and no lawyer is able to offer the sort of services that they would expect, or for which they would be willing to pay.

What are they asking about?

In 2015, about 10% of our calls were from self-represented or unrepresented litigants. The majority of these were in the area of Family Law. The Family Law inquiries ranged from fairly straightforward matters like uncontested divorces to matters that involved numerous issues and spanned many months. Inquiries included questions about amending pleadings, setting aside Protection Orders, filing motion briefs, applying to vary child support, affidavits in response, attending Motions Court, applying to vary custody/access, motions for contempt, appeals to the Court of Appeal, setting case conferences, answers and motions to set aside default, starting family law proceedings, applying for guardianship, numerous questions about affidavits (format and contents), motions in emergency situations, declarations of parentage, filing answers, financial disclosure, and terminating child support for a child over 18 who is no longer going to school and is not dependent in any other way. In total we had 532 calls from 165 individuals. Some called just once, some called several times as their matter proceeded through the courts, a few called far too many times. Even though this represents less than 10% of our calls, the time required to deal with these calls far exceeds 10%.



What Do Self-Represented Litigants Need?

Initially, they need to know whether they have a case. They may have some information about starting a proceeding but don't know whether their situation is supported by case law or legislation. After that, they mainly need help with procedural matters. They are either at the very beginning of their matter and need direction and an overview of the process, or the matter has been going on for a while and they need help with the next step. In either case, they need help with filling out forms, relevant case law, and relevant court rules.

How Law Phone-In Helps Self-Represented Litigants

Lawyers staff the Law Phone-In Program. The Court Registry and court rules and forms are available on-line, therefore, the staff lawyers can:

- see what documents have been filed to date,
- provide procedural information on next steps,
- explain how to fill out forms,
- send out precedents and
- direct self-represented litigants to case law.

We have also developed some self-help booklets (*Uncontested Divorce Guide, Probate Guide*). If clients have this material in front of them, it makes it much easier to guide them through the process.

Who Refers Clients to the Law Phone-In Program?

In 2015, our records show that we received referrals from **100** different sources: various individual contacts, lawyers and law firms, MLA's, community agencies, government departments, organizations, businesses, and as a result of being listed in various publications. The majority of the calls came from **Legal Aid Manitoba (including Public Interest Law Centre, the Brandon Office, the Thompson Office), Legal Help Centre, Employment Standards, The Law Society of Manitoba, the Manitoba Labour Board, Age & Opportunity and various provincial government departments, particularly those under the umbrella of Manitoba Justice, including Court Offices (Small Claims and Queen's Bench)**. This information is based on callers self-identifying who referred them. Appendix 3 provides a list of who referred clients.

The number of email requests remains quite high, 1,215 in 2015, 1,259 in 2014, 1,297 in 2013 and 1,125 in 2012. We have also noticed an increase in callers who are accessing our services through our website and the Internet. CLEA, and therefore Law Phone-In, also comes up as a link on many organizations' websites. Every year we have hundreds of repeat callers, (698) in 2015.



Office Procedure

The Law Phone-In & Lawyer Referral Program operates Monday through Friday from 9 a.m. to 4 p.m. Members of the public are able to reach the Program on two Winnipeg phone lines and one province-wide toll-free line. Callers needing only a referral to a lawyer can contact the service through a third Winnipeg line. Callers are asked to leave a brief message on voice-mail.

Information about each call is recorded on a computer database, using FileMaker Pro 12 software. Each record includes a detailed summary of the caller's problem and the information given, the area of law the call involves, any referrals provided to a lawyer, agency, or government department, the caller's gender, and the time and date the staff lawyer spoke with the caller. Information such as the caller's name, geographic region and address are noted if the caller chooses to provide this information or if the caller is referred to a lawyer.

Personnel

Two lawyers staffed the Law Phone-In and Lawyer Referral Program in 2015: Jennifer Dunik, and Sean Young. Jennifer was called to the Bar in 2002 after articling with Taylor McCaffrey LLP. She joined Law Phone-In in August of 2002. Sean Young received his Call to the Bar in 2011. He articulated at Legal Aid Manitoba and joined Law Phone-In in November of 2011.

Students through the Pro Bono Students Canada Program at the University of Manitoba helped us during the school year. The students handled calls requiring a referral to a lawyer or straightforward information.

The law students who helped us in 2014/15 were Sam Thomson (student lead), Evan Amabile, Amrita Sidhu, Paul Geisler, Omri Plotnik, Sharu Ratnajoithy and Adam Myers. We would also like to thank Julia Ryckman and Anna Solmundson, University of Manitoba Program Coordinators.

The law students who helped us in 2015/16 were Sharu Ratnajoithy (student lead), Adriel Agpalza, Zita De Sousa, Sharyne Hamm, and Rachel Wolfe. We would also like to thank Julia Ryckman and Brendan Mahatoo, University of Manitoba Program Coordinators.

Lawyer Referrals

In 2015, **1,262** referrals were made to lawyers, **101** of these were on a Legal Aid basis. We received 375 evaluation forms from lawyers (a 29.7% return rate).

Based on evaluations received, **77%** of clients attended for an office interview or had a telephone interview with the lawyer referred. **11%** of those clients hired the lawyer. A further **22%** of the lawyers indicated that they may be hired or were not sure at that point



whether they would be hired. Lawyers who actually met with clients were almost three times more likely to be hired. Many of these clients likely would not otherwise have gone to see a lawyer, let alone hired one.

In addition, informal referrals to lawyers were made, for example, clients calling from other jurisdictions requiring the services of a Manitoba lawyer. In those cases, we generally gave the client a few names from the Lawyer Referral list or from the *Manitoba Legal Services Directory*. Informal referrals were also provided in situations where the client needed the name of a lawyer who speaks a language other than English, or where the client was advised to see a lawyer but already knew of a lawyer or for some other reason did not want a formal referral. Referrals were also made to a wide variety of agencies, government departments and Internet resources, **103** in total.

We currently have **125** panel members.

Lawyer Referral Evaluations

We received a total of **19** evaluations from clients (a **1.5%** return rate) and **375** from lawyers (a **29.7%** return rate).

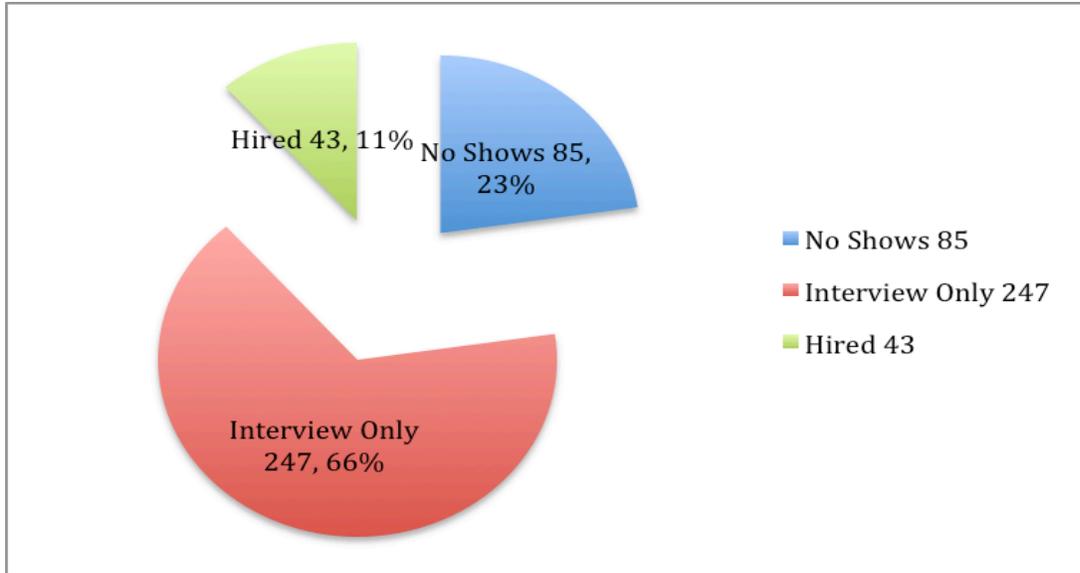
Lawyer Evaluations

375 evaluation forms were received from lawyers. **290** of the clients contacted the lawyers referred to them, either by attending for an office interview or having a telephone interview with the lawyer. The length of the telephone interviews ranged from 4 minutes to 50 minutes. The average length of the interviews was 17 minutes. The length of the office interviews ranged from 10 minutes to 90 minutes with the average length of interview being 40 minutes. **43** of the lawyers reported being hired. An additional **82** indicated that they might be hired in the future or that they were not certain as to whether they would be hired.

Most of the comments from the lawyers explained how they were going to help the client, or were comments about the client's case, that it was an interesting case or that it dealt with an interesting point of law. Often it is difficult for us to gauge a case based on the client's initial phone call to us. Therefore, the lawyers' comments provide important information. Often from the lawyers' comments it was clear that even though the client had not hired them, they were pleased to provide the client with the information or advice requested. Sometimes the lawyers provided comments about the case itself,

The pie chart on the next page depicts what the lawyers told us in their evaluations.





Client Evaluations

Nineteen evaluations were received from clients. Nine of the clients reported hiring the lawyer. Most were happy with the service. Fourteen said they would use the lawyer referred to them again, if the need arose.

Comments about the Law Phone-In & Lawyer Referral Program and staff:

“This was very helpful. Thank you.”

Comments about the lawyers:

“M. was extremely helpful and concerned for my well-being. Impressive!”

“I feel very confident we have someone competent in our corner.”

“He seems to be a great lawyer but didn’t want to take my case unless I give him a \$50,000 retainer.”

“J. was excellent. Thank you.”

“Following the interview he sent info by email that was very helpful.”

“Pleasant and easy to talk to. His advice and explanations were wonderful, and easy to understand.”



Appendix 1 – Referrals by Topic

Topic	Total Referrals	Notes
Family Law	514	Includes 32 Child Protection
Civil Court Action	153	
Wills & Estates	147	
Employment/Labour	133	
Criminal Law	113	Includes 2 Youth
Other	95	*Listed Below
Immigration	34	
Autopac	32	
Real Estate	24	
Commercial/Corporate/Consumer	22	Commercial 2, Corporate 17, Non-Profit 3
Debt	4	Bankruptcy
Landlord & Tenant	1	
Total:	1,262	
*Other Category		
Medical Malpractice	31	
Insurance	15	
Disability Insurance	12	
Workers Compensation	11	
Intellectual Property	7	
Taxation	6	
Human Rights	4	
Administrative Law	2	
Construction	2	
Municipal Law	2	
Appeal Certificate of Incapacity	1	
CPP Appeals	1	
Residential School Personal Credit	1	



Appendix 2 – Who Refers Clients to the Law Phone-In & Lawyer Referral Program

<p>A A Woman's Place Age & Opportunity Alberta Lawyer</p> <p>B Bankruptcy Trustee Better Business Bureau Brandon Court</p> <p>C Canada Revenue Agency Canadian Mental Health Association Canadian Paraplegic Association Charleswood Library Child & Family Services Children's Advocate CJOB College of Physicians & Surgeons Community Financial Counselling Companies Office Consumer Protection Office Counsellor Court of Queen's Bench Crown Attorney</p> <p>D Dauphin Court Daycare Office Deer Lodge Centre</p> <p>E Employment & Income Assistance Employment Standards Branch</p> <p>F Fair Practices Advocate Families First Point Douglas Family Conciliation Family Law in Manitoba Family Law Resource Centre Former Board Member Fort Garry Women's Resource Centre Friend</p> <p>G Geriatric Nurse</p> <p>H Health Sciences Centre</p>	<p>I Independent Legal Resource Centre International Student</p> <p>J Justice – Court of Queen's Bench</p> <p>K Klinik</p> <p>L Labour Board Law Courts Law Day Law Society B.C. Law Society of Manitoba Lawyers Legal Aid Legal Aid Alberta Legal Aid Brandon Legal Aid Thompson Legal Help Centre</p> <p>M MLA Maintenance Enforcement Manitoba Bar Association Manitoba Human Rights Commission Manitoba Public Insurance Manitoba Seniors Guide Mediation Services Men's Resource Centre Minister of Family Services Minister of Justice Mount Carmel Clinic</p> <p>O Ombudsman Oncologist Counsellor Ontario Lawyer</p> <p>P Pastor POINTTS Poster Psychosocial Oncology Clinician Public Health Nurse Public Guardian & Trustee Public Interest Law Centre</p> <p>R RCMP Residential School Settlement Website</p>	<p>Res. Tenancies Branch Retired Teachers Assoc.</p> <p>S Senior Abuse Line Service Canada Small Business MB. Small Claims Court Social Worker Social Worker at Hospital Statutory Publications</p> <p>T The Pas Correctional</p> <p>U Uncontested Divorce Guide University Advisor</p> <p>V Victim Services</p> <p>W Website West Central Resource Centre Winnipeg Police Service Worker Advisor Workers Compensation Brandon Workplace Safety & Health</p>
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Appendix 3 – Calls on a Typical Day – June 9, 2015

- 1) M. had a lawyer. She had questions about a Case Conference and spousal support.
- 2) M. was not able to finish her affidavit in time and wanted to adjourn her hearing for Friday.
- 3) J. needed a lawyer for an estate litigation matter.
- 4) M. needed information about a peace bond and a lawyer who could represent her in court in Selkirk.
- 5) C. needed a referral to a family lawyer. She wanted to get a divorce from her verbally abusive husband. They have two children. C. also had questions about a protection order.
- 6) A. needed information about property division and separation.
- 7) L. had a court hearing the next day. He is facing a motion to have him removed from the home.
- 8) M.'s daughter is over 18 and is still finishing high school. M.'s income has drastically decreased by \$32,000 per year.
- 9) M. had an interim parenting agreement. He needed a lawyer to help proceed to get a court order.
- 10) A. was calling on behalf of his friend who was in a car accident. MPI had determined that he was not at fault, but the other party was suing him in small claims court.
- 11) R. entered into a peace bond and her charges were stayed. R. wanted to terminate the peace bond and reunite with her boyfriend.
- 12) L. and her husband purchased a house. There were a lot of issues with the house and they wanted a lawyer to pursue a claim against the real estate agent and their former lawyer.
- 13) F. needed a lawyer to pursue a civil case against a former lawyer.
- 14) A. wanted a lawyer to pursue a matter against his former employer/union.
- 15) C. was looking for a lawyer for her brother for a family matter. She wanted a lawyer who was comfortable dealing with clients with mental health problems.



- 16) K. needed procedural information about a contested motion.
- 17) C. had questions about timelines for motions, affidavits and motion briefs.
- 18) B. had questions about procedural matters in dealing with spousal support and property division.
- 19) D. had been employed for two months. She had been given two weeks notice but no reason for the termination.
- 20) B. had questions about powers of attorney and committeeeship.
- 21) M. was dealing with an estate and had questions about a number of the forms.
- 22) P. needed the names of lawyers Called to the Bar in Manitoba and Ontario who dealt with insurance law.
- 23) A. needed a more junior lawyer for a family matter.
- 24) C. needed information about his rights regarding a property issue and custody issues.
- 25) P. requested a precedent of an answer where the party says he is not the father of a child and does not agree to any of the relief being claimed.
- 26) B. had questions about breaches of court orders and a consent variation order.
- 27) L. had questions about motions to strike, pre-trials and deadlines for filing.
- 28) L. wanted to discuss laying criminal charges.

