



Paralegals seek a wider role in justice system

TheStar.com - Ontario

Legal services providers are critical of new rules barring them from work in certain areas of law

August 25, 2008

Peter Small

Courts Bureau

Toronto Star

Tommy Taylor found himself in deep trouble on July 1 when he was charged, for a second time, with driving while under suspension.

When a police officer first charged him in January, he was left with the incorrect impression that paying off an outstanding \$465 speeding ticket and \$150 to reinstate his licence would clear everything up. He didn't know he had a court date June 25, which he missed, sparking another automatic suspension.

On Canada Day, when another officer stopped him for speeding, Taylor was charged once again.

In both cases, notices that his driver's licence was suspended arrived in the mail after he was charged, he says.

Now the 27-year-old non-profit fundraiser is facing a potential \$5,000 fine and jail.

"If you don't know the system, you're screwed," he says.

He decided he couldn't clean up the mess on his own, so he turned to a paralegal firm.

It'll end up costing Taylor at least \$1,300 as he appeals his convictions, money he considers well spent.

"They're the specialists. And this is what they do day in and day out," he says, standing outside Old City Hall provincial traffic court.

For years Ontarians have turned to paralegals as a generally cheaper alternative to lawyers. The problem was that anyone could hang up a shingle with little or no training.

Starting May 1, however, new rules came into effect.

The Law Society of Upper Canada, the body that oversees lawyers, now licenses paralegals.

They must meet minimum standards, follow a code of conduct, carry \$2 million in "errors and omissions" insurance and place clients' retainers in trust accounts.

Unsatisfied consumers can complain to the law society, which will mediate and investigate.

Marian Lippa, one of the paralegals representing Taylor, welcomes the changes.

"It means we're held to a higher standard," she says.

But others among the 1,935 newly licensed paralegals are more critical.

Being regulated by a society dominated by lawyers is like putting the foxes in charge of the henhouse, some say.

Plus they are newly barred from areas where they are experts: real estate, wills, incorporations and powers of attorney. The most significant loss, they say, is family law.

They are stopped from providing what they say are reasonably priced divorces, separations and child custody agreements.

"That is a big, big blow to the public," says Judi Simms, president of the Paralegal Society of Canada. "Many people are going to be clogging up the court system representing themselves."

Malcolm Heins, chief executive of the law society, says paralegals' scope of practice will soon be reviewed and they may be allowed to work, at least in a limited way, in some areas from which they are now barred.

But in the meantime, experienced family law paralegals have left the business, says Susan Koprach, a spokesperson for the Paralegal Society of Ontario.

For paralegals who remain, the changes are expensive – requiring payment of \$845 a year in fees to the Law Society, \$800 to \$1,000 annually for insurance and the significant cost of maintaining trust accounts – forcing some to hike their fees, Koprach says.

But Rick Goodman, who started practising two years ago, welcomes the law society regulation. "I'm proud to be affiliated with a venerable institution."

In a smart, air-conditioned corridor of the Toronto East Court Office at 1530 Markham Rd., Goodman discusses a case with Capt. Derek Collins of Toronto Fire Services' legal unit.

A couple Goodman represents is facing hefty fines. Their small rental property in east Toronto, a single family dwelling divided into two units, was accidentally set ablaze by a drunken tenant in the winter of 2007, causing \$30,000 worth of damage.

Goodman hopes to reduce the number of charges the couple faces – including failing to have proper smoke detectors, fire extinguishers, fire separations and escape routes.

Goodman tells the fire captain that the hard-working couple didn't know the extent to which they had to comply with the 291-page Fire Protection and Prevention Act. "It's a lot of material," he says. Besides, they have since brought the house into full compliance and the tenant admitted to removing the smoke alarm, he says.

Collins says that the fire department wants landlords to be proactive in checking that their tenants still have working fire alarms. "It's such a serious issue."

He is willing to dismiss the charges against one of the pair, since they are joint proprietors, and to suspend the charge of failing to install fire extinguishers. But he wants fines for the other charges, including \$5,000 for failure to have a smoke alarm. The total would be as much as \$10,000.

"They'll have a problem with that," Goodman said.

They agree to adjourn the matter for three weeks.

In an adjoining courtroom, a taxi driver representing himself pleads guilty to charges even though the investigating officer is not in court – meaning the prosecutor could not have proven

his case.

Justice Marvin Zuker, who has presided over family law courts for 18 years and small claims courts for the 12 previous, says the number of people representing themselves seems to be increasing.

"In Family Court at least 50 to 60 per cent of people represent themselves," he says.

Family law is complex and full of confidentiality issues, requiring expertise, Zuker says.

It may be a natural progression, when the law society makes its scheduled review of the regulations, to once again allow paralegals some, perhaps restricted, practice of family law, Zuker says.

"I would hope and I am sure that the law society would revisit everything that's happening now," Zuker says.

"Certainly in terms of assurance and protection of the public, I think we are moving in the right direction in terms of licensing paralegals."

A MORE AFFORDABLE COURTROOM ADVOCATE

PARALEGAL BASICS ...

Where they can represent you:

- Small Claims Court
- Traffic Court
- Provincial Offences Court
- Criminal Court for minor offences (i.e. summary conviction offences with a maximum penalty up to a \$2,000 fine and/or six months in jail)
- Tribunals such as the Landlord and Tenant Board, and the Workplace Safety and Insurance Board

What they can't do:

- Family law (i.e. divorce, child custody)
- Wills, powers of attorney and estate matters
- Real estate

What they can do:

- Give legal advice
- Draft or help in drafting documents for use in a legal proceeding
- Negotiate for parties in a proceeding

Where you can find them:

- The Law Society of Upper Canada; 416-947-3315 or 1-800-668-7380, ext. 3315; www.lsuc.on.ca
- Yellow Pages www.yellowpages.ca/search/si/1/paralegal/toronto

How much they cost:

- Paralegals' fees range from \$75 to \$150 per hour
- Lawyers charge between \$100 and \$800 an hour