



In this issue:

1. [Discharging a Pending Litigation Order](#)
2. [Litigation Guardian Must Have Lawyer](#)
3. [French Language Interpretation in Manitoba Courts](#)
4. [CLE at the Midwinter](#)
5. [Thoughts on Deference](#)

1. Discharging a Pending Litigation Order

The Court of Queen's Bench, in [Ventura Land Company Inc. v. F & L Erb Holdings Ltd. et al.](#), 2007 MBQB 297 (CanLII) confirmed that the test for discharging a pending litigation order is whether there is a triable issue that the plaintiff has a "reasonable claim to the interest in land claimed." The court went on to define what is a "triable issue" in the context of a motion to discharge a pending litigation order and in doing so stated that:

Where, on an application to discharge a pending litigation order, a court determines that there are no relevant issues relating to credibility, inferences or weight, and where, as here, the plaintiff's claim involves no other genuine issues for trial or issues with a "real chance of success", there can exist no "triable issue" respecting a reasonable claim to the interest in the property.

Apart from the careful examination that must be conducted to see if there are obvious or subtle issues relating to credibility, inferences and/or weight, the determination of whether there exists the required triable issue may be assisted in some cases by examining not only the test but also the judicial analysis that is used on motions for summary judgment.

2. Litigation Guardian Must Have Lawyer

The Ontario Superior Court, in [Weidenfeld v. Ontario](#), 2007 CanLII 49494 held that the provision in Rule 7.05(3) of their Rules of Civil Procedure, requiring a litigation guardian to be represented by lawyer is consistent with the *Charter*. Manitoba's [Court of Queen's Bench Rule](#) 7.05(3) is substantially the same as the Ontario Rule.

3. French Language Interpretation in Manitoba Courts

A November 2007 [Notice](#) from the Court of Queen's Bench outlines the procedure for requesting French language interpretation in that court where there is no Crown Attorney involved in the matter. The Notice also includes a useful attachment that provides contact information for Court of Queen's Bench trial coordinators throughout the province. A similar [Notice](#), dated November 2007, has also been posted with respect to the procedure in the Provincial Court.

4. CLE at the Midwinter

The Manitoba Bar Association's [2008 Mid-Winter Conference](#) has a number of CLE programs that will be of particular interest to litigators:

- *Practice Before Administrative Tribunals*
- *A Queen's Bench Rules Primer*
- *JADR and Case Management - Make Them Work for Your Client*

The Mid-Winter takes place at The Fort Garry Hotel on Friday, January 25, 2008. Contact the [Manitoba Bar Association](#) for further details and to register.

5. Thoughts on Deference

CLE B.C. has recently posted the paper, [Some Properly Deferential Thoughts on Deference](#) by Supreme Court Justice, The Honourable Mr. Justice Louis LeBel on the [CLE: Analysis webpage](#). The paper will be of particular interest to lawyers who practice in the field of administrative law.

[Go to the eLaw Archive](#)

The Law Society of Manitoba provides this service solely for the benefit of and to support the competence of its members. Members should exercise their professional judgment in using or adapting any content.