

ISSN 1704 - 9377

Fall 2014

Volume 39, Number 3

Law Matters

Career Perspectives

Back to Basics:

Advice to junior practitioners

Career Trajectories:

Senior practitioners, alternate careers,
becoming a judge

Returning After Maternity Leave



THE CANADIAN
BAR ASSOCIATION
Alberta Branch

EDITOR'S NOTES

By Robert Harvie, QC

Career Perspectives... the topic of this issue brings us an interesting mix of articles from the most senior of lawyers and judges, to the youngest lawyers, to "lawyers" who are lawyers no more.

I recall graduation from UBC in 1985, at a time where articling positions were very hard to come by, and where our Dean offered up the suggestion that a degree in law did not necessarily mean you had to become a lawyer. Clearly, myself and every fellow student, politely listened and then promptly ignored the suggestion that we would do anything other than become a typical lawyer, working in a firm until partnership, and then eventually retiring with a wheel-barrow full of money.

Little did I know.

This issue of Law Matters provides some very interesting perspectives on the breadth of our profession, and the opportunities available to someone with a law degree - far beyond where our imagination may have taken us when we were just leaving law school.

New CBA President Steve Mandziuk, QC provides some insight into the happenings with the CBA - a body which not only represents the interests and concerns of our profession, but also provides a great example of how our profession provides opportunities beyond just practicing law - namely, the ability to volunteer and engage in CBA work which enriches the profession and the public interest greatly, but also enriches the lives of those who volunteer. In that vein, past CBA President Marian De Souza, QC discusses how, oddly enough, "happiness" in our profession matters - and that the things we do, not the stuff we have - are the greatest contributors to our sense of contentment.


Speaking of "the things we do" - Ola Malik introduces us to Victoria Foster. Victoria is an incredible young lawyer practicing in Red Deer, Alberta, who almost immediately following her call to the Bar in 2012, opened her own office, specializing in responding to the needs of an atypical clientele for most lawyers - those who can't afford to pay big retainers. She is certainly a credit to a profession challenged to change its delivery paradigm

to address the needs of the great majority of Canadians who cannot afford to pay exorbitant legal fees to address their issues, but whom encompass a significant demographic in our society. Her efforts may provide a model that other lawyers may want to pay attention to - both from the perspective of the positive satisfaction of helping their community - but, one imagines, potentially serving a very large demographic not well served by our typical legal service delivery paradigm.

Or maybe law isn't the "be all and end all". Witness Judah Busheikin - introduced to us by Cyril Gurevitch, QC. Judah, shortly after having commenced his practice, did a left turn in his career path after eating a cookie. Leading him to apply his skills and education in establishing a franchise, and then becoming the owner of the overall franchise for Cookies by George. His skills have served him well, even though he is now done with the days of being a member of the Alberta Bar.

Melissa Garner provides a unique perspective on "Working for the Other Side" - helping to show us how in many ways, working for "opposing sides" can, in fact, mean finding common goals for the mutual interests of all concerned - a perspective sometimes lost in the stereotypical view of the "adversarial process" of Justice.

For younger lawyers finding their feet in the practice, we have some great pointers regarding practice from Simon Shakibaei, some timely commentary on the use of expert witnesses from Maureen Killoran, QC and Anne Kirker, QC, and some great information on parental leave early in your practice from Rekha McNutt.

All of the contributors, at the end of the day, provide advice on making the most of your career, taking care to maintain a life that is, ultimately, healthy and satisfying - resulting, hopefully, in a "career well-lived" exemplified in the article from Marie Gordon, QC, and the example of recently departed Chief Judge Gail Vickery. At the end of the day, it's not about the "stuff" we amass - it's about making the most of the time we have - and our contributors in this issue provide some great insight into that truism. 

In This Issue...

PRESIDENT'S REPORT.....3	ALTERNATE CAREERS.....12	ALRI.....22
WHAT'S HAPPENING.....4	CBA NATIONAL NEWS.....13	ASSIST.....23
AVOIDING & RESOLVING DISPUTES.5	FRONT AND CENTRE.....14	BECOMING A JUDGE.....24
PRACTICE POINTERS.....6	ALBERTA BRANCH NEWS.....16	IN MEMORIAM.....25
UNsung HERO.....8	HEALTH MATTERS.....17	Hon. Alberta Gail Vickery
ADAPTING TO CHANGE.....9	LESA.....18	JUDICIAL UPDATES.....25
SENIOR PRACTITIONER.....10	PBLA.....19	A VIEW FROM THE BENCH.....26
BACK TO BASICS.....11	CROSS-SECTION.....20	CLASSIFIED ET CETERA.....27
	STUDENT PERSPECTIVE.....21	

Contributing Authors

Kate Bilson	Marie L. Gordon, QC	Peter Lown, QC	Nonye Opara
Lyndsay Butlin	Cyril S. Gurevitch, QC	Ola Malik	Camille Sehn
Siwei Chen	Robert Harvie, QC	Steven N. Mandziuk, QC	Simon Shakibaei
Marian V. De Souza, QC	Hon. Daniel P Hayes, QC	Gillian Marriott, QC	Anthony Strawson
Jennifer L.C. Flynn	Hon. Judge Don Higa	Karen McDougall	Anthony Young, QC
Hon. Judge A.A. Fradsham	Patricia Johnston, QC	Rekha McNutt	
Frank Friesacher	Maureen Killoran, QC	Kelly Moffet-Burima	
Melissa Garner	Anne Kirker, QC	Hon. Justice Mary T. Moreau	

PRESIDENT'S REPORT

By Steven N. Mandziuk, QC



At the conclusion of the 2014 CBA Legal Conference in St. John's, Newfoundland and Labrador, I was honoured to step into my role as the 2014-15 President of the Alberta Branch. I am looking forward to serving my term as President with Vice President Wayne Barkauskas, Treasurer Jeremiah Kowalchuk, Secretary Jenny McMordie, Past President Marian De Souza, QC, and Executive Director Maureen Armitage. I want to extend thanks on behalf

of the branch and the entire Executive Committee to our outgoing Past President Cyril S. Gurevitch, QC, who has served the Alberta Branch over the past five years with enthusiasm. Among other achievements, we will remember Cyril for his dedication to the practitioners in small communities around the province. Look for his introduction in the upcoming Small Centres publication, released by the CBA Alberta Access to Justice Committee, which focuses on issues faced by solo and general practitioners in small communities.

With a busy summer behind us, the CBA continues to be an advocate for the legal profession in a number of different areas. The first of these was the release of the final report from the CBA Legal Futures Initiative titled *Futures: Transforming the Delivery of Legal Services in Canada*. The report outlined a comprehensive list of 22 recommendations for the profession, in areas such as alternative business structures, legal education, diversity, and innovation, and can be viewed in its entirety at www.cbafutures.org. Your Executive Committee will be working in the coming months with stakeholders in the legal profession, including the Law Society of Alberta, to discuss ways in which these recommendations can be implemented.

Provincially, the Alberta Futures Committee is working on a project called "My CBA Stories". The project began with a survey of members on their experience with the CBA, and has now moved on to in-depth interviews by young lawyers to profile typical - and atypical - CBA career paths. The CBA stories collected will be used for insights into strategic membership recruitment and organizational succession planning, and perhaps other purposes, such as awards and recognition.

Another issue highlighted at CLC 2014 was the need to increase awareness about the importance of legal aid programs across Canada. This issue has been at the forefront in Alberta for a number of months, and under the guidance

of now-Past President Marian De Souza, QC, the Executive sent a letter to the Government of Alberta outlining the need for, and benefits of, a fully-funded legal aid program in the province. We were pleased to see funding for Legal Aid Alberta is listed as a priority in Premier Jim Prentice's recent mandate letter to Minister of Justice and Solicitor General Jonathan Denis, QC.

We are continuing to work with all stakeholders to support legal aid and ensure that all Albertans, regardless of income, are able to access the justice system. Part of this work will take place through the ongoing support of the CBA Envisioning Equal Justice Initiative, and the 33 recommendations laid out in the final report *Reaching Equal Justice: An Invitation to Envision and Act*.

At the conclusion of CLC 2014, CBA Alberta Past President Michele Hollins, QC, took her place as CBA National President for the 2014-15 year. Michele has long been a strong proponent of health and wellness in the legal profession, and we have both identified lawyer wellness as a key area of interest for the coming year. We are exploring a number of initiatives both provincially and nationally, and look forward to sharing our progress with our membership and the profession in the coming months.

The theme of health and wellness will be prominent at the upcoming 2015 Alberta Law Conference in Edmonton on January 29 & 30, 2015. The conference will feature some excellent speakers relating to wellness, as well as other leading edge topics. The ALC 2015 organizing committee, led by co-chairs Jessica Buckwold and Michael Kraus, QC, is hard at working organizing an innovative conference that will be the premier event for legal professionals in Alberta. Registration is now open; you can get more information by visiting www.cba-alberta.org and accessing the new ALC microsite, or through the ALC brochure included with your issue of Law Matters.

Another highlight of 2015 will be the National CBA Legal Conference, which the Alberta Branch will host in Calgary August 14 - 16, 2015. Our Local Host Committee, headed by co-chairs Ola Malik and Gillian Marriott, QC are extremely passionate about delivering an incredible conference, with first-rate professional development and networking opportunities for legal professionals from across the country and around the world. We want to see the Alberta Branch out in full force, so mark your calendars now. Registration information will be out in the New Year.

I am looking forward to an exciting year, full of opportunity and buzzing with branch activity. Please stay tuned for more information about exciting ways in which your CBA will be looking to improve continuously, remain the choice professional organization for the legal community in Canada and provide valuable services to its members. Again, it is a thrill to be your President during the coming year, and I hope to meet as many of you as possible in 2014-2015. 🌐

WHAT'S HAPPENING

November

13: The Ontario Bar Association presents *Administrative Law: Annual Update on Judicial Review*. Online. Visit the website at www.oba.org or contact registrations@oba.org.

13: The Ontario Bar Association presents *Anti Money Laundering: Regulatory Updates and Best Practices*. Online. Visit www.oba.org or contact registrations@oba.org.

14: The Ontario Bar Association presents *Advancing Aboriginal Rights and Interests: Choosing the Right Forum*. Twenty Toronto Street Conferences and Events, Toronto, ON and Online. Visit the www.oba.org or contact registrations@oba.org.

18: The Ontario Bar Association presents the *14th Annual Franchise Law Conference Regulation Nation: Franchising in an Era of Increasing Regulation*. Online. Visit www.oba.org or contact registrations@oba.org.

19: The Ontario Bar Association presents *Mental Stress Entitlement at a Crossroads: Assessing the Impact of Decision No. 2157/09*. Online. Visit the website at www.oba.org or contact registrations@oba.org.

19: The Canadian Corporate Counsel Association presents *Practical Solutions to Effectively Manage Your Commercial Real Estate*. Online. Contact Sharon Wilson at cle@ccca-cba.org.

20: The Ontario Bar Association presents *Advanced Trial Preparation*. Online. Visit www.oba.org or contact registrations@oba.org.

20: The Ontario Bar Association presents *Ethical Challenges (and Solutions) in Mediation Arbitration and Collaborative Processes for ADR Practitioners and Counsel*. Online. Visit www.oba.org or contact registrations@oba.org.

25: The Ontario Bar Association presents *Accidental Benefits: A Practical Guide (YLD)*. Online. Visit www.oba.org or contact registrations@oba.org.

25: The Ontario Bar Association presents *What an Ombudsman Can Do For You and Your Clients*. Online. Visit www.oba.org or contact registrations@oba.org.

25: The Ontario Bar Association presents *Complex Passings of Accounts*. Online. Visit www.oba.org or contact registrations@oba.org.

26: The Ontario Bar Association presents *Commercial Agreements Bootcamp: Building Essential Negotiating and Drafting Skills*. Online. Visit www.oba.org or contact registrations@oba.org.

27: The Alberta Branch of Canadian Bar Association presents *Savvy Lawyers Series: News Media and the Law*. Online. Visit www.cba-alberta.org to register.

28-29: The Canadian Bar Association presents the *15th Annual Administrative Law, Labour and Employment Law Conference: Navigating the Future: Emerging Issues for Practitioners in Administrative, Labour and Employment Law*. Westin Ottawa, Ottawa, ON. Contact Tina Ethier at 1-800-267-8860, ext. 198 or tinae@cba.org

December

1: The Ontario Bar Association presents the *6th Annual Class Actions Colloquium*. Online. Visit www.oba.org or contact registrations@oba.org.

3: The Ontario Bar Association presents *Civil Litigation: Professionalism Primer*. Online. Visit www.oba.org or contact registrations@oba.org.

3: The Ontario Bar Association presents *A Strategic Guide to Appearing Before the ERT: Understanding Procedures Drive Results, Anatomy of an Environmental Regulatory Challenge Passport Series Part 2*. Online. Visit www.oba.org or contact registrations@oba.org.

3: The Ontario Bar Association presents *High Risk Terminations*. Online. Visit www.oba.org or contact registrations@oba.org.

4: The Ontario Bar Association presents *Planning and Building on Professionalism: Dos and Don'ts for the Municipal Law Specialist*. Online. Visit www.oba.org or contact registrations@oba.org.

8: The Ontario Bar Association presents *Corporate Tax: An Introduction (YLD)*. Online. Visit www.oba.org or contact registrations@oba.org.

12: The Canadian Institute for the Administration of Justice presents *Ethics and Civility in the Practice of Law*. Toronto, ON. For further details, visit www.ciaj.icaj.ca.

January

21-23: The Canadian Institute for the Administration of Justice presents *Dealing Effectively with Judicial Review: Seminar in Administrative Law*. Banff, AB. For further details, visit www.ciaj.icaj.ca.

29-30: The Alberta Branch of the Canadian Bar Association presents the *2015 Alberta Law Conference*. Fairmont Hotel Macdonald, Edmonton, AB. Visit www.cba-alberta.org for further details. 

Please send your notices to:
Patricia (Patty) Johnston, QC, ICD.D
c/o Alberta Energy Regulator
Phone: 403-297-4439
Email: patricia.johnston@aer.ca



Patricia (Patty) Johnston, QC, is Executive Vice President, Legal & General Counsel at the Alberta Energy Regulator and has been a regular contributor to Law Matters and its predecessor publications for over 20 years.

Collaborative Advocacy (and why more of us should use it)

By Anthony Young, QC

Julie Macfarlane in her book, *The New Lawyer* sums up what is in store for lawyers practicing through the present century:

Practising conflict resolution advocacy changes many aspects of the traditional lawyer-client relationship. The stable assumptions of the traditional model, where the client "instructs" the lawyer by accepting her expert advice, are challenged by a conflict resolution model that seeks to build consensus by drawing on the knowledge and ideas from all sides and all parties. In working toward consensus, whether using negotiation, mediation, collaborative law, or any other facilitated and non-facilitated settlement processes, clients play a very different role than the traditional lawyer-in-charge model allows. The voluntary and institutionalized conflict resolution processes that we see emerging in the twenty-first century require collaboration not only between the sides to a dispute but also between lawyer and her client. This collaboration offers the client the potential for a more active role than ever before, which is a working partnership in both substance and effect.

A number of years ago, when I was taking a course offered at Osgoode Hall about dispute resolution I was asked about what my "default" mode of resolution was. I had to pause and think about what that question meant. I fancied myself as being someone who could work together with others to come to a reasoned and appropriate outcome. This, however, was not the answer to the question. It was more mechanical than that. The question was really about where we, as lawyers automatically turn, when confronted with a client's problem. If answered honestly, the "default" mode for many of us is litigation. We feel comfortable with the adversarial process. We know the rules. If we have information about a matter we figure it out and, eventually, with luck, persuade the decision maker. Collaboration and mediation in such cases are seen simply as being adjunct. The challenge for many who believe in effective advocacy is how to incorporate aspects of collaboration into their practice to make the process more palatable and effective.


Collaboration and mediation necessarily involve the exchange of accurate information with free and forthright discussion with a view to determining what is in the parties' best interests. In most cases the exchange of information and ideas results in one party learning the strengths and weaknesses of the other's case. Ideally, the exchange will result in all parties learning the strengths and weaknesses of the other's case. Unfortunately, some lawyers do not see it as their job to educate an opposing party and lawyer about their cause. I say unfortunately, because if care was taken to educate opposing counsel early in the process about the strengths and weaknesses of the case the opportunity for a fair and early resolution would be increased.

We are all aware that the adversarial process promotes positional

and competitive negotiating. It is not conducive to collaboration. Communication in litigation takes place through pleadings, affidavits and lawyer's correspondence. Litigation heightens tension. Competitive and positional bargaining creates a war like atmosphere where there are winners and losers. One party takes away from the other party. The parties become more and more polarized as the process unfolds. At the end of the proceeding, relationships may be tenuous or in the worst cases totally unsalvageable.

Some litigants and their counsel, for whatever reason, are unable to shift away from "adversarial" mode to "collaborative" mode. Openness is viewed by them as a weakness to be exploited or a position to be debated. They are believers in "positional" and "zero sum" negotiating. This often results in unnecessary protracted and costly litigation. In some cases, there are questionable results.

In all cases, care needs to be taken to ensure that important and perhaps sensitive material exchanged is received in the spirit in which it was intended. Over the years I have gotten a sense of which lawyers are open to the mutual exchange of intelligence about a case. This intelligence may include as yet undisclosed information, evidence, facts and thoughts on the law that help to explain a position taken or shift the view of eventual outcome. The exchange takes place in an environment of respect, frankness and mutual trust. In some cases early settlement is achieved without the need to resort to the Court process.

Many of my colleagues have taken the step toward being a "partner in resolution". They are transparent in the exchange of important information, candid in their analysis, and gracious in their execution of process. In my view, this should be seen as the beginning of a positive transformation from adversary to the modern collaborative advocate. It is not necessary for modern advocates to abdicate litigation to a collaborative process. Rather they can be collaborators in the way in which they litigate. Much in the same way that Julie Macfarlane describes the changing relationship of lawyer to client, so to should the relationship between opposing advocates transform into a "working partnership in both substance and effect" for the effective, fair and timely resolution of each client's dispute. If it is necessary to run the course and have the matter determined before a judge then so be it. On the other hand, if it is possible to have early resolution facilitated by reasoned, informed and polite counsel then surely this must be the most desired result. 



Anthony Young, QC is a partner at Dunphy Best Blocksom LLP in Calgary. In addition to his work with the Canadian Bar Association, Anthony has been a Bencher with the Law Society of Alberta since 2009.

Non-Profit Announcements

FOUNDATION OF ADMINISTRATIVE JUSTICE: the leader in tribunal training. **VISIT OUR WEBSITE:** 2015 dates are posted for Administrative Law Training. www.foaj.ca or 855-466-0501

This text-only section is provided for non-profit organization free of charge. To include your organization's announcement, please contact the CBA Alberta Branch at 403-218-4310, or by email at communications@cba-alberta.org.

Communicating with Testifying Experts: Cautionary Tales

Two recent decisions by the Ontario Superior Court (*Moore v. Getahun*¹ and *Bailey v. Barbour*²) signal a need for more caution in counsel communications with testifying experts than has perhaps been the practice for some lawyers.

In *Barbour*, Madam Justice Healey awarded the plaintiff \$490,000.00 in costs, \$98,000.00 of which was payable by defence counsel personally because he called an expert witness who lacked impartiality leading to wasted court and party resources. The decision was based on Rules 4.1 and 57.07 of *Ontario Rules of Civil Procedure*³ and turned on the conduct of the defendant's expert who, in Justice Healey's opinion, acted as an advocate for the defendant rather than an objective advisor to the court. The expert's questionable conduct included: commenting rudely on the opposing expert's report in e-mails to defence counsel, attending all of the trial except one half day, passing notes to defence counsel suggesting questions for cross-examination, and going beyond the boundaries of his expertise in his testimony. None of his evidence was accepted by the Court.

In finding defence counsel undermined the administration of justice in allowing the expert to act inappropriately, Justice Healey observed:

It defies common sense and reason to accept that a lawyer who receives an e-mail from his expert that refers to another expert's report as a "load of bs", and further states that "my guess is that he [has] never given expert evidence in court before...[h]e thinks he can get away with this crap", could fail to recognize that the expert was too personally involved to objectively comment upon the other expert's methodology and conclusions. These comments being directed at [defence counsel], as well as other like comments, [means] the Court can reach no conclusion other than that he was aware, or should have been, that Mr. Stewart had taken on a role beyond that of an expert witness.

...[T]he decision to provide the Court with expert testimony is part of the role of the lawyer having carriage of the matter, and his or her professional expertise should include an understanding that it undermines the integrity of the justice system to direct a biased expert to step into the witness box. In other words, even if [the defendant] asked that he do it, [defence counsel] cannot shield himself from costs where he has acted in a manner that is contrary to the administration of justice.⁴

¹ 2014 ONSC 237 ("*Moore*").

² 2014 ONSC 3698 ("*Barbour*").

³ RRO 1990, Reg 194, r. 57.07 and r. 4.1. Rule 4.1 states "It is the duty of every expert engaged by or on behalf of a party to provide evidence in relation to a proceeding under these rules, (a) to provide opinion evidence that is fair, objective and non-partisan; (b) to provide opinion evidence that is related only to matters that are within the expert's area of expertise; and (c) to provide such additional assistance as the court may reasonably require to determine a matter in issue". Rule 57.07 states "Where a lawyer for a party has caused costs to be incurred without reasonable cause or to be wasted by undue delay, negligence or other default, the court may make an order, (a) disallowing costs between the lawyer and client or directing the lawyer to repay to the client money paid on account of costs; (b) directing the lawyer to reimburse the client for any costs that the client has been ordered to pay to any other party; and (c) requiring the lawyer personally to pay the costs of any party".

⁴ *Barbour*, *supra* note 2 at paras. 44-45.

By Maureen Killoran, QC and Anne Kirker, QC

While it might be tempting to dismiss the above analysis as involving a rather extreme circumstance and as a unique product of the Ontario rules, that would be a mistake. The Ontario rules codify principles long emphasized by Canadian courts that experts must testify independently and objectively on subject matter that is both necessary and beyond the Court's knowledge and expertise, and that the Court has discretion to disregard expert evidence if it does not qualify as such and to disallow or award costs commensurate with the circumstances.

Justice Healy's decision in *Barbour* came soon after Madam Justice Wilson rendered her decision in *Moore* concluding that:

- (a) it was no longer appropriate for counsel to play any role in the preparation of expert reports;
- (b) experts must prepare and finalize their reports without eliciting, relying upon or incorporating any comments or input from counsel; and
- (c) any exchanges between counsel and experts concerning their reports must be in writing and produced to opposing counsel.⁵

In *Moore*, the issue at trial centered around the defendant physician's liability in applying a full circumferential cast to the plaintiff's wrist following a closed reduction procedure.⁶ The plaintiff challenged the objectivity of the defence expert's opinion based on the presence of multiple draft reports in the expert's file and a one-and-a-half hour telephone call between defence counsel and the defence expert. Following this phone call, the final version of the expert report was produced.⁷

Justice Wilson focused on the single phone call and found that it "involved more than simply superficial, cosmetic changes" and that the expert's opinion was shaped by defence counsel's suggestions during the call.⁸ Justice Wilson held that the phone call was improper and accepted the plaintiff's expert testimony where it conflicted with the defence expert opinion.

The *Moore* decision has been appealed, in part on the basis that the Court went too far in restricting counsel communications with expert witnesses.⁹ The Advocates' Society of Ontario has intervened¹⁰ and will make submissions about the principles that it says should guide counsel and experts in current and future cases.¹¹

The new principles developed by the Advocate's Society recognize the need for counsel to provide limited assistance to experts to ensure their evidence addresses the questions posed to them succinctly and in a readily understandable fashion. In

⁵ *Moore*, *supra* note 1 at paras 50-52 and 298-299.

⁶ *Ibid* at para. 5.

⁷ *Ibid* at paras. 47 and 287.

⁸ *Ibid* at para. 293.

⁹ The Hearing has not yet been scheduled as at the date of this writing.

¹⁰ The Criminal Lawyers Association, the Ontario Trial Lawyers Association, Canadian Defence Lawyers, Holland Group, and the Canadian Institute of Chartered Business Valuators have also been granted intervener status.

¹¹ The Advocates Society, "Position Paper on Communications with Testifying Experts", June 2014, accessed online September 24, 2014: <http://www.advocates.ca/assets/files/pdf/news/The%20Advocates%20Society%20-%20Position%20Paper%20on%20Communications%20with%20Testifying%20Experts.pdf> ("*Advocates Position Paper*"). The Advocates Society is also involved in the appeal of *Moore v. Getahun* as an intervener.

our view, the principles strike a reasonable balance and should serve as a helpful guide for counsel.

Principle 1: ensure the expert report is: i) relevant to the matters at issue, ii) reliable, and iii) clear and comprehensible.¹²

An appropriate degree of consultation is required to ensure the resulting report is relevant, reliable, and comprehensible. The appropriate level of consultation will vary depending on the complexity of the matter. Counsel's job is to ensure that the expert's report complies with formal and substantive requirements, is focused, intelligible and is properly responsive to the questions posed.¹³

Because a poor expert report may be used for impeachment purposes, may restrict the expert's testimony, may expose the expert to unnecessary criticism, and may be unfairly prejudicial to the client's case, appropriate consultation is required for a lawyer to discharge his or her duty to the client and to the court.¹⁴

Principle 2: explain to the expert his or her role at the outset of the engagement.¹⁵

Counsel have a duty to ensure that the expert is aware that his or her role is to assist the court fairly and objectively. Counsel must explain to the expert what may be interpreted as a lack of independence and objectivity, including: selective use of information, the expression of opinions that are beyond the expert's expertise, the use of inflammatory, argumentative or inappropriate language, and any conduct that casts the expert in the role of advocate. It is advisable to provide the expert with a copy of any procedural rules or codes of conduct relating to his or her duties as early in the retainer as possible.¹⁶

Principle 3: do not undermine the expert's objectivity.¹⁷

Counsel must not communicate with an expert witness in any manner that may interfere with the expert's duties of independence and objectivity. Counsel must not put any pressure on the expert witness, or allow his or her client to do so. Counsel must not persuade, or be seen to have persuaded, an expert to express opinions that the expert does not genuinely share or believe.¹⁸

Principle 4: there is no set rule for the appropriate degree of consultation with a testifying expert.¹⁹

The appropriate degree of consultation will depend upon a variety of factors, including the nature of the issue in question and the expert's experience with the litigation process. The degree of consultation may change if there is a consulting expert in addition to the testifying expert. Of paramount importance, however, is ensuring that the expert report represents the conclusions and observations of the expert alone.

Principle 5: ensure the expert has a full understanding of the issue.²⁰

It is best to provide the expert with all records in the litigation or, if the issue is narrow (i.e. liability only), all records related to that issue. Counsel must ensure the expert knows that he or she can question the information and any assumptions provided. Finally,

¹² Advocates Position Paper, *supra* note 10 at 19.

¹³ *Ibid* at 19-21

¹⁴ *Ibid*.

¹⁵ *Ibid* at 21.

¹⁶ *Ibid* at 21-22.

¹⁷ *Ibid* at 22.

¹⁸ *Ibid* at 22-23.

¹⁹ *Ibid* at 23.

²⁰ *Ibid* at 26.

it is important that counsel respond to any questions posed by the expert promptly as a lack of understanding of any pertinent fact can expose the expert (and counsel) to criticism.²¹

Principle 6: protect the expert from unnecessary criticism.²²

Proceed on the basis that communications with experts and draft reports will be disclosed to opposing counsel and the court. Take reasonable steps to reduce the risk that significant changes will have to be made to draft reports by: 1) discouraging the expert from preparing any draft report until he or she properly understands the issues, facts, and assumptions and has all of the relevant information; and, 2) discuss the expected structure and organization of the report with the expert in advance.²³

Principle 7: inform the expert of the possibility of disclosure.²⁴

Counsel should instruct the expert to assume his or her file may be produced to opposing counsel and the court. The expert must be advised not to destroy any relevant records, especially those relating to communications with counsel and the reasons for his or her opinion. Such destruction could result in adverse findings of credibility, the drawing of adverse inferences, or the exclusion of otherwise admissible evidence.²⁵

Principle 8: inform the expert about applicable rules of confidentiality.²⁶

At the outset of the expert's involvement, counsel must inform the expert of the applicable rules governing confidentiality, including the implied undertaking rule (as codified in Rule 5.33 of the *Alberta Rules of Court*²⁷) and any other applicable statutory provisions relating to confidentiality.²⁸

Principle 9: consider a non-disclosure agreement.²⁹

In appropriate cases, counsel may consider entering into an agreement with opposing counsel regarding limits on the disclosure of draft reports and communications with experts, although there are occasions when cross-examination of an expert on the contents of his or her file may be important to demonstrate a lack of objectivity.³⁰

It will be interesting to read the Ontario Court of Appeal's decision in Moore. Stay tuned... 🎧

The authors would like to thank Kelly Moffet-Burima for her assistance in co-authoring this article.

²¹ It can also constitute a breach of counsel's duties to the court and to his or her client.

²² Advocates Position Paper, *supra* note 12 at 27.

²³ *Ibid*.

²⁴ *Ibid* at 28.

²⁵ *Ibid*.

²⁶ *Ibid*.

²⁷ Alta Reg 124/2010.

²⁸ Advocates Position Paper, *supra* note 12 at 28-29.

²⁹ *Ibid* at 29.

³⁰ *Ibid*.



Maureen Killoran QC, is the Managing Partner and Partner in the Litigation Group of Osler, Hoskin and Harcourt LLP in Calgary, a Canadian Bar Association Partner Firm. Maureen has been contributing to the "Practice Pointers" column since 2008.



Anne Kirker, QC is a partner with Norton Rose Fulbright in Calgary, a Canadian Bar Association Partner Firm. She was recently named as the Best Lawyers Lawyer of the Year in the area of Legal Malpractice.

Victoria Foster

By Ola Malik

We are delighted to introduce you to Victoria Foster.

The way in which our profession currently delivers legal services to those who need them has to change. We have known this for years. Studies confirm that the vast majority of Canadians can't afford the basic legal services they require. One wonders whether there is any money left in the Legal Aid budget to cut. Our legal justice system is already being overwhelmed by the ever increasing number of self-represented litigants and the consequential problems they bring. Are the solutions to the challenges we're facing too complex for us to solve? Is our justice system beyond repair? Is there nothing we can do?

For Victoria, the answer was personal and simple. Help those who need help. And here's the catch - you don't have to do it for free. When a client walks in the door, find out what they need. If you think they might benefit from some legal information, charge them a nominal fee to attend one of your seminars on topics such as spousal or child support, custody and access, marriage, separation and cohabitation agreements. Don't charge an up-front retainer. Most people can't afford one anyway. Tell them what a service will cost. If the client can handle part of their legal representation, let them. If they need help in certain other areas, help them. If they want to pay but need some time, get them to pay you on a payment plan.

Victoria grew up in Edmonton. Having obtained her Diploma in Police Studies at Grant MacEwan College, and her B.A. in Criminal Justice from Athabasca University, she graduated with her law degree from Dalhousie University. She articulated in Red Deer at the firm of Chapman Riebeek LLP and was called to the Bar in 2012.

Barely a lawyer, she opened her own firm in Red Deer called Foster Legal Services. Why? Because of the devastating impact cuts to Legal Aid and the resulting effect which increasingly stringent eligibility requirements were having on people in desperate need of legal services. With no Legal Aid coverage, where are these people going for help? They don't have enough money for a retainer. They can't afford to hire a lawyer who will only represent them on a full scope retainer basis. And free legal advice clinics, student assistance and pro bono clinics can only do so much.

Foster Legal Services is the kind of law firm that many of us who are engaged in the access to justice area have been talking about as a new model for the delivery of legal services



Victoria Foster

but few have actually seen. Victoria's firm caters to those who are denied Legal Aid coverage and can't afford to hire a lawyer. The services which Victoria offers are tailored to the specific needs of the client and include a mix of traditional and non-traditional services, such as consultations and advice appointments, documentation preparation, agency appearances in court, independent legal advice, travel consent letters, research services, and cohabitation/marriage and separation agreements. Victoria doesn't require up front retainers for any of her clients, but will explore payment plans.

In addition to her busy sole-practitioner law practice, Victoria is deeply committed to improving access to justice and legal services for Albertans. She is a volunteer lawyer with the Central Alberta Community Legal Clinic, sits as a member on the Joint Action Forum which is exploring how to improve access to Alberta's civil and family justice system, sits on

the Legal Aid Appeals Committee, participates in The Reforming the Family Justice System initiative which is a collaboration between government, the Courts, and a number of organizations, academics, and professionals that work within the family justice system in Alberta, and she provides free legal information through the Red Deer schools community program.

This feature titled "Unsung Hero" is intended to introduce a member of our profession who has demonstrated extraordinary leadership, innovation, commitment, or made significant contributions to social justice and community affairs.

Victoria is courageous. She is a trailblazer. She is leading by example. She is setting an example for the rest of us by challenging our perception that the access to justice problem is unsolvable, and that there is nothing we can do. As a profession, we celebrate her achievements. Victoria is an "unsung hero" - and she represents some of the finest qualities of our profession. 🇨🇦

Do you know an Unsung Hero? Tell us about them.

If you know a lawyer who deserves to be recognized, please send us an email to newslet@cba-alberta.org with the lawyer's name and the reasons why you believe they are an "unsung hero". The only formal requirements for nomination are that our "unsung hero" be an Alberta Lawyer and a CBA member.



Ola Malik is a Municipal Prosecutor with the City of Calgary, a Canadian Bar Association Partner Organization. He is the chair of the Alberta Branch Access to Justice Committee, and a long-time Law Matters contributor with the "Unsung Hero" column.

Working for the “Other Side”

By Melissa Garner

“What is it like working for the other side?” This is a question I am occasionally asked – and it is one that always perplexes me.

As a First Nation person and an advocate for Aboriginal and Treaty rights, I have represented Aboriginal people and their communities in the legal system with a particular focus on advancing First Nation claims through the specific claims process – a process designed by the federal government to resolve long-standing grievances of First Nations in regard to their reserve lands and Treaty rights. My practice encompassed a historical era replete with inequalities: disparities in bargaining positions that effectively rendered Aboriginal people powerless; an underhanded approach by government officials towards Aboriginals and their interests in lands; the enactment of laws that barred religious ceremonies and prohibited First Nations from retaining legal counsel for their claims against Canada; and a system that relegated Aboriginal people to the inferior status of “the Queen’s children.” It was a sad chapter in Canadian history that has resulted in displacement, landlessness, reductions in reserve land size, and outstanding entitlements to land under Treaties.

My legal practice embodied hindsight redress of past wrongs that began as early as when the first Europeans arrived. While this was one path towards the goal of reconciliation between the assertion of Crown sovereignty and the prior presence of Aboriginal people, it was nonetheless difficult for many to part with the memory of the historical injustice faced by Canada’s first peoples.

I was curious to search for a different path.

And so, in the middle of my second maternity leave, I seized upon the opportunity to become Aboriginal Relations Legal Counsel with TransCanada PipeLines Limited. TransCanada’s positive relationships with Aboriginal people and respect for the diversity of Aboriginal cultures and values were of immediate appeal.

My job is to apply the legal and regulatory framework for the duty to consult. The Crown owes a duty to adequately consult Aboriginal people whenever a decision has the potential to adversely affect the exercise of section 35(1) rights under the *Constitution Act, 1982*. Certain aspects of this duty are delegated to industry, because industry is often in the best position to understand Aboriginal concerns. For the first time in my legal career, I have been able to observe the practical application of good law that places the Crown, proponents, and Aboriginal people on equal footing. Respect, trust, and collaboration are key guiding principles for enduring relationships and mutually satisfactory outcomes.

One year into my new role, two important cases emerged from the Supreme Court of Canada affecting resource development on Aboriginal title and treaty lands. In *Tsilhqot’in*

Nation v. British Columbia, the SCC changed the landscape by ruling that the Crown must obtain the consent of the title-holding Aboriginal group to proposed development on their title lands. Without this consent, development can only proceed if the Crown has discharged its duty to consult and has justified the incursion on title under the Sparrow test. *Tsilhqot’in* will guide the way the Crown and proponents deal with developments on land over which Aboriginal title is asserted. In *Grassy Narrows First Nation v. Ontario (Natural Resources)*, the SCC confirmed that the Province of Ontario must consult and, where appropriate, accommodate First Nations’ interests prior to any taking up of land under Treaty. No federal approval is required.

These cases are emblematic of an exciting era when the legal terrain is constantly evolving, requiring careful and thoughtful navigation to avoid legal liabilities, project delays, and reputational damage.

And so, what is it like working for the other side? Well, what side would that be, exactly? Environmental protection, inclusivity of Aboriginal businesses in resource development, social wellbeing, and prosperity are honourable goals for both Aboriginal people and proponents alike. If there are two sides to this discussion they are merely chronological in nature: I once advanced Aboriginal claims based on past wrongs and today, I am taking meaningful steps to ensure that reparations are not needed again. 🌱

Melissa Garner is Legal Counsel in the Stakeholder Engagement and Environmental Law Group at TransCanada Pipelines Ltd. The opinions expressed in this article are her own and do not necessarily reflect the opinions of TCPL.



Melissa Garner is Legal Counsel in the Stakeholder Engagement and Environment Law Group at TransCanada Pipelines Ltd. She is also a member of the Lac Seul First Nation in Northwestern Ontario and a mother of 2 young children, Henry and Penny.



McCartneyADR Inc.
Jim McCartney
Chartered Mediator
Chartered Arbitrator

www.mccartneyadr.com

Effective Dispute Resolution Processes
Over 600 mediations • Over 100 arbitration appointments

CAREER TRAJECTORIES

From a Senior Practitioner: Careers & Perspectives

By Marie L. Gordon, QC

As I move into my last decade of practising law, I look back and feel so grateful about how I accidentally fell in to this profession, and all the things that flowed from a career in law. I really never thought about becoming a lawyer; I dreamt of being a doctor until I flunked first year chemistry! I had a passion for political science, and was inspired by terrific professors like Charles Taylor who made me think that graduate work and teaching at McGill might be fun. But I'm an Alberta girl at heart, and knew I had to move back west. Law school at University of Alberta was supposed to be a stepping stone to somewhere else, but gee, here I am after all these years!

At law school in the '70's I threw myself into SLS and enjoyed working on the Women's Project (the heady days of fighting for matrimonial property laws, changes in the abortion law etc.), the Legal Reform Project, and the Environmental Law Project. Like so many couples, Jim and I met each other at SLS (him with long hair and grizzled beard; me with purple glasses the size of salad plates and wide bell bottom jeans) and we've been together for 35 years!

Jim and I were so lucky to get a full year of travelling through southeast Asia under our belts before we settled into private practice. Teaching for 7 months in New Zealand, hitchhiking through Malaysia, trekking through Burma and Nepal, and hostelting through Asia was a terrific way to start our life - knowing that work is never just about work - it's also about saving enough money to go explore more parts of the world!

I was one lucky young lawyer when I was invited to join McBean Becker in 1983 and practise family law with an amazing group of women. I was encouraged, mentored, educated and supported every step of the way, and as a

group we created a place of great freedom to tackle the challenges of family law, as well as become politically involved in whatever issues were important to us. There were important family law issues to be litigated, and laws to be changed. It was, by turns both exciting and exhausting, and when combined with a busy home life with two little girls, I sometimes wondered if I could hold it all together.

I remembered writing my first family law paper for a conference years ago, feeling nervous about whether or not I had anything to offer. It's turned into a great side-line activity for me, and made me realize that there are huge opportunities for those who put pen to paper (fingers to keyboard!). When Jean McBean retired from teaching family law at the U of A Faculty of Law, I was eager to join up as a sessional, and have continued to teach since then. It's been the source of great pleasure, and an ongoing connection to the Faculty of Law and all those interesting law students I meet every year.

As with many of us, I had no great design in mind as I moved through my career. Things just folded into one another and opportunities randomly presented themselves. I've had such great friendships and relationships along the way - those have been the best things about a life in the legal profession! Helping clients at a critical transition time in their personal lives has allowed me the privilege of seeing people change, survive, heal and move to a better place. That's the hugely gratifying part of being a family lawyer! 🌍



Marie L. Gordon, QC is a senior practitioner at Gordon Zwaenepoel Barristers & Solicitors in Edmonton, where she has been practicing family law since 1983. Marie is also a session instructor at the University of Alberta Faculty of Law.

At Poole Lawyer we believe that lawyers should serve clients. When they don't, we bring claims against them. Our work means a lot to us. Our art stimulates and facilitates our work.

POOLE
LAWYER

Visit the Poole Lawyer Art Gallery
at www.poolelawyer.com
403 685 2012



Jack Bush (1909-1977)

Low Sun, 1971

Colour Serigraph on Wove Paper
33.5 x 25.3 in (85.3 x 64.1 cm)
Provenance: Nikola Rukaj Gallery

Low Sun is also in the collection of the National Gallery of Canada in Ottawa, Ontario and the collection of the Tate Modern in London, England.

Advice to Junior Practitioners

By Simon Shakibaei

It has often been said that the practice of law has a steep learning curve with many lessons to be learned along the way. I've been lucky to have been mentored by some exceptional lawyers at the beginning of my career. Their knowledge helped me avoid many pitfalls practitioners often face, but not all. Some lessons were still learned the hard way. Here are a few of those lessons I hope will assist those starting out in their careers.

An informed client is a happy client

One of the first lessons I learned was the importance of keeping the client informed of everything on their file, even procedural matters between counsel. The rule at our office was that the client was copied on all correspondence and received a copy of all materials. After attending his recent talk in Edmonton, I was delighted to hear another senior lawyer say the same: "the client's version of the file ought to closely mirror your version of the file".

There is great wisdom in this approach. Lack of communication is an often-cited reason clients file complaints about their lawyer with the Law Society. As stated by the Honourable Justice Côté in *Safe and Effective Practice*, 4 ed (Canadian Lawyers Insurance Association, 2010) at 60:

Most people who sue their lawyers do so because they feel their lawyer has not tried very hard for them. Usually they have no idea of all the things the lawyer has done for them or of the obstacles met, because their lawyer has not told them.

Record all your time on the file and bill your clients regularly

Your time on a file is a reflection of your effort on behalf of your client. If you think you spent too much time conducting research or drafting a particular document, discounts or adjustments on the bill can be made to reflect this. Be sure to bill your client early on in the course of the file and regularly. Often clients do not fully appreciate the full cost, including the disbursements or other charges, of hiring a lawyer. Even if your retainer letter clearly spells out the nature of fees to expect, sending the client a bill early in the process helps avoid surprises. Additionally, there is nothing a client dislikes more than a big legal bill they did not expect. Sometimes this is unavoidable, but billing the client regularly, and early in the engagement helps avoid big bills.

Have a retainer in place before you start work on a file

Do not be shy about seeking a retainer up front, even before the initial meeting. This is particularly true for litigation files (less so for a transactional matter). Working from a retainer is the best way to avoid unremunerated work and at the end of the day you need to be compensated for your work. An often-underappreciated fact is that the infrastructure required to operate a practice – office space, assistants, phones, computers, copiers – all cost money! Working from a retainer in trust helps ensure a smooth financial operation of your office. To this end, choose your pro bono files; don't let pro bono files choose you.

Don't be a slave to precedent

One of the very first things I learned was not to be a slave to precedent. Use precedent as a guide or checklist but make sure you include your own independent thought into the work product. We are not being paid by our clients to simply fill out

forms; we are being paid for our independent thought and this should be reflected in our work product. While it is often not necessary to reinvent the wheel do not be afraid to deviate from your office precedent. In so doing, you will be a solicitor who is better serving your client's interest.

Trust but verify

This is particularly true in litigation matters where there are almost always two sides to a story and often the truth rests somewhere in the middle. While as counsel we want to be strong advocates for our clients, their interests will not be best served if we blindly believe everything they say. Clients can and sometimes will exaggerate the facts if they think it will benefit their position. Spend the extra time with your client to build rapport, verify the facts they've given you and where necessary, tactfully challenge their version of events. Doing so can help avoid surprises at trial.

Time management: the difference between important and urgent

Once again I am referring to the Honourable Justice Côté, in *Safe and Effective Practice* at 8-9. Clients and even senior lawyers often confuse or conflate important and urgent but they are not at all the same thing. Something can be important without being urgent. For example, drafting a share purchase agreement the client is not expecting for a couple more weeks. Urgent means I have a deadline tomorrow but if the matter is of little consequence then it is not important. In setting priorities for effective time management, Justice Côté describe four columns:

1. Important and urgent;
2. Important but not urgent;
3. Urgent but not important; and
4. Neither urgent nor important.

The first column means I have to file this statement of claim tomorrow to avoid missing a limitation period. The long and the short of effective time management is this: you always want to be working in the second column and avoiding the first. You always want to be doing important work and planning your time as such. ☺



Simon Shakibaei is an associate at the West End Legal Centre in Calgary practicing in the areas of civil litigation, personal injury and estate litigation. In addition to contributing to Law Matters, Simon is an active volunteer for the annual CBA Law Day event.



BROLLY

LEGAL RECRUITMENT

Nicholas Milliken BA, BCom, JD
Founder and CEO

LAWYER AND STAFF RECRUITING

587.899.JOBS (5627)

www.brollyrecruitment.com

info@brollyrecruitment.com

Alternate Careers: The life and times of Judah Busheikin

By Cyril S. Gurevitch, QC

Surprisingly, not all lawyers end up being lawyers. At least not practicing lawyers. Some like to make their dough in an entirely different manner. By cooking it and making it into the best cookies in the country! And so it is with Judah Busheikin, owner of "Cookies By George", with its head office in Edmonton, Alberta.

Judah and I started off together in kindergarten in Calgary and followed our common paths through high school and University, beginning at the University of Calgary for two years, and finally ending up at the University of Alberta Law School. Judah graduated in 1979, then took the usual articling program, and followed up by becoming a junior associate in Edmonton for two years. And that's where the commonality ended. Despite all the studying and travails to become a lawyer, he found that private practice was just not his passion. He was not suited for the day to day machinations of being in a law firm.

Upon coming to this realization, Judah began the arduous task of deciding what he wanted to do with the rest of his life. He certainly did not want to get trapped into a profession or lifestyle with which he was unhappy. And while he was married, he did not have children, so the world of possibilities opened up to him. Judah considered numerous possibilities from a government legal position to some other government opportunities or some form of business. As he said, "The world was my oyster." In the end, he became a waiter for a while, and then the first lawyer taxation officer hired by the provincial government. That was a fun job for a year, but again it was not the answer to his ethereal question.

The response came along quite by happenchance when he visited a "Cookies by George" outlet in Vancouver. One bite and he was hooked. Before he left the store, he had asked the attendant how to reach the owners so he could pursue the idea of a franchise. His friends supported and prompted him to jump into the business venture. Judah believes that in this first encounter he found his destiny, something he could see himself doing forever. That was 1983. So he picked up the phone and called the three women who had created the company in the first place. He found they had common ideology and their personalities "just clicked".

He had a decision to make. Remain as a taxation officer or become a cookie company franchisee. He made a commitment for the latter and the rest is history. He engaged in negotiations with the original owners and worked at determining a location for the store. This turned out to be the Edmonton Centre outlet and he bought the franchise on September 15, 1985. His initial idea was to have more than one store in Edmonton and then all franchise operations in that city.

The early years were different than now. While the dough

and other cookie ingredients had to be acquired from head office, the residual products such as napkins, paper products, cups et al were all the responsibility of the franchisee. Today there is a contract with a national distribution company, Gordon Food Services (GFS). Everything is a proprietary product, from the dough to the plastic bags and paper products. GFS purchases and then delivers to all stores, franchisee or corporate alike. It is a much more efficient way to do business.

In 2001, an opportunity again presented itself. The second owners, from eastern Canada, announced their intention to sell the corporation. Again he had a decision to make; accept what could be a change in the direction of the operation as dictated by new ownership, or take control of his destiny and buy the corporation. He chose wisely! And since that time Cookies by George has grown to 12 stores across western Canada, from Edmonton, with its head office and cookie dough facility, to Calgary, Vancouver, Winnipeg and Regina. Slow, conservative growth is Judah's theme. It is obviously working.

Judah reminisced on his past life and how he fell about being out of the law. "It really depends on what day it is", he mused. But I did not get the impression that he would ever go back. And some of his closest friends are lawyers. And lest one believes that all his training went for naught, this is not the case. Judah assured me that he uses his legal training every week, be it in utilizing his problem solving skills or the review of contracts.

And what of the future? While more stores are likely, they will be franchise operations rather than corporate. Plans are already in the works. Judah is not one to rest and sit back on his laurels! ☺



Cyril S. Gurevitch, QC is a solicitor practicing with the Gurevitch Burnham Law firm in Grande Prairie. He is a Past President of the CBA Alberta Branch, where his objective was to create a greater awareness of the challenges of rural and regionally-based practitioners. Cyril is married, and is an empty nester to three grown children.

KUBITZ
— & COMPANY —

Walter Kubitz, Q.C.,

Susan Fisher & Peter Trieu

Phone: 403-250-7100

Calgary, Alberta

CATASTROPHIC INJURY AND WRONGFUL DEATH CLAIMS

FUTURES: WHAT NEXT?

How to bring innovation to the Canadian legal profession is the existential question underlying the CBA Legal Futures Initiative's seminal report *Futures: Transforming the Delivery of Legal Services in Canada*.

What next for the CBA Legal Futures Initiative? Making the report a reality through providing our members with futures-related tools, resources, and PD, building support for our recommendations amongst key stakeholders, and continuing to support innovation in the Canadian legal profession through our new online innovators' showcase, www.dolawdifferent.com, coming soon.

CBA ANTI-CORRUPTION TEAM: GET INVOLVED

With the enormous success that was 2013-2014, the CBA Anti-Corruption Team (CBA-ACT) is inviting CBA members to get involved in this burgeoning area of law. We are also pleased to announce that a new steering committee has been put in place to guide the activities of the team.

CBA-ACT is looking to create a roster of CBA members interested in this area of law. Those on the roster will be canvassed to participate in CBA-ACT activities as they come up. This may include contributing articles to the CBA-ACT website, helping plan or speaking at PD events, participating in advocacy and submissions to government, and liaising with external organizations.

If you would like to get involved in this growing area of law and being added to the roster of participants, please contact Noah Arshinoff at noaha@cba.org.

MEMBER OPPORTUNITIES

The National Pensions & Benefits Law Section is seeking participation in its various committees. These committees provide Section members with the opportunity to comment on proposed changes to legislation and regulatory policies, keep abreast of developments in pensions and benefits law and to network with others with similar interests. Committees need the contribution of Section members to deliver relevant services to members and to prepare submissions to legislative and regulatory bodies that reflect the full range of member perspectives. For more information, visit <http://www.cba.org/CBA/newsletters-enews/2014-articles/09-member.aspx>.

SUBMISSIONS

Between Jan. 1 and Aug. 31 this year, the CBA has made 54 submissions to government - letters and opinions on legislation addressed to ministers, parliamentary committees and Opposition critics - and non-governmental institutions. For the record, that's 19 more than during the same period in 2013.

July's submissions ran the gamut from comments on reviews of the Bankruptcy Act and the Companies' Creditors Arrangement Act as well as the Wage Earners Protection Act, to proposals to improve the Canadian International Trade Tribunal's procedures during Special Import Measures Act inquiries. The Wills, Estates and Trusts Section approached critics from the NDP and Liberal parties to seek support for re-establishing graduated rates of tax for testamentary trusts.

For more information on CBA submissions, visit <http://www.cba.org/CBA/submissions/2014eng/>.



Driven by the driven.

The path to extraordinary is often a path that demands perseverance. But it can open new doors of opportunity, just like the all-new 2015 C-Class with standard 4MATIC™ all-wheel drive. So, step into the perfect combination of refined style, athletic performance and advanced technologies; a visceral experience like no other. As a Canadian Bar Association Alberta branch member, you've gone the extra mile to earn your designation and we've noticed. Let us reward your drive today through our Professional Associations Program with an additional incentive of up to \$1,500. Visit mercedes-benz.ca/cba-ab today to learn more.

A Daimler Brand

© 2014 Mercedes-Benz Canada Inc.



Mercedes-Benz
The best or nothing.

FRONT AND CENTRE

CBA Legal Conference 2014



*CLC 2015 Local Host Committee Co-Chairs
Gillian D. Marriott, QC, and Ola Malik*



*Ola Malik (l) and Gillian D. Marriott, QC (r)
"White Hat" CBA Past President Fred Headon (c)
in advance of CLC 2015 in Calgary*



*2014-15 CBA National President Michele Hollins, QC
accepts the chain of office at the conclusion of
CLC 2014 with daughters Kacie and Jessica*



*CBA Past President Fred Headon (l) and 2014-15 CBA
National President Michele Hollins, QC (r)*



CBC personality Rex Murphy speaks at CLC 2014



*CBA Alberta President Steven N. Mandziuk, QC attends
the meeting of the Board of Directors at CLC 2014*



Alan Doyle of Great Big Sea performs at CLC 2014 in St. John's, Newfoundland and Labrador

Players de Novo present *The Matchmaker*

Players de Novo, the theatrical troupe of Edmonton lawyers and judges, brought down the house on 9th May with its ninth annual gala performance, this year of Thornton Wilder's play, "The Matchmaker", the play that opened in Scotland in 1954 and was followed by its musical adaptation, "Hello Dolly!", with long Broadway runs and eventual movie fame.

Players de Novo veterans Andy Hladyshevsky and Anne Ferguson-Switzer lit up the stage again with their superb performances as the old merchant of Yonkers, Horace Vandergelder and the stylish yet intrepid schemer Dolly Gallagher. Judge Elizabeth Johnson kept the audience in stitches as the ornate yet off-kilter spinster, Flora Van Huysen, while Marissa Tordoff was back as the enchanting yet sensible shop-keeper, Irene Molloy. The entire cast amazed directors and audience alike with their energy-packed performances. Who will forget Justice Stephen Hillier, complete with Irish hat, whiskey and brogue as the irrepressible Malachi Stack, or Paul Govenlock, as Cornelius Hackl, appearing out of the floor and taking off from there? Kudos also to the effervescent supporting cast and musicians: Jillian Gamez, Mark Facundo, Don MacCannell, Stacey Grubb, Deborah Alford, Chris Luchak, Ed Picard, Carrie Sharpe, D'Arcy DePoe, Kerry Hart, Paul Solotki and Terry Hodgkinson. The laughter and applause were ample proof that this annual gala event continues to live up to its reputation for turning out a high quality amateur theatre production.

Award-winning directors Jeff Haslam and Belinda Cornish transformed this diverse and unruly group of amateurs into a finely-tuned team, supported by Gina Moe, stage manager, Brian Bast, set designer, and Nico Van Der Kley, Victoria School's resident lighting design pro. Special thanks go to Kevin Mott, the assistant stage manager and reader of all roles throughout four steady months of twice-weekly rehearsals, for his dedicated commitment each year to the production.

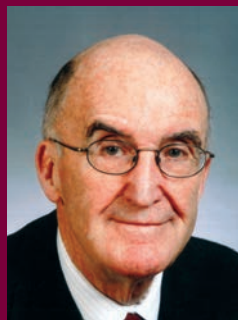
Members of the de Novo troupe enjoyed the collegiality and camaraderie of their stage experience that brings together people from all walks of the profession. The play and post-reception reinforced the warmth and "just the right amount of adventure" that Barnaby Tucker would have advised for a spring outing.

Profits from ticket sales, sponsorships, advertising, silent art auction and donations topped \$90,000 this year - an all-time high for this very proud troupe. Co-beneficiaries this year were Varscona Theatre and the Victoria School Foundation. Over the 9 years of the project, more than \$710,000 has been raised and distributed to Edmonton's theatre community.

Stay tuned for the 10th annual performance in May, 2015. Aspiring actors invited!

The Honourable Madam Justice Mary T. Moreau
Court of Queen's Bench of Alberta

CHOOSE FROM ALBERTA'S TOP MEDIATORS AND ARBITRATORS



The Hon. John C. (Jack)
Major, C.C., Q.C.



The Hon. W. Vaughan
Hembroff, Q.C.



The Hon. Ernest
Marshall, Q.C.



Clint G. Docken, Q.C.



Graham Price, Q.C.



E. David D. Tavender,
Q.C.



Harold W. Veale, Q.C.



ALBERTA BRANCH NEWS

ALBERTA LAW CONFERENCE 2015

Get a jump start on your CLE in 2015 by attending our premier professional development event, the 2015 Alberta Law Conference, January 29 and 30 at the Fairmont Hotel Macdonald in Edmonton. For more information, please see the ALC 2015 brochure enclosed with this edition of Law Matters, or visit www.cba-alberta.org. Conference registration is now open

Schedule at a Glance:

Thursday, January 29, 2015

Morning (8:30am - 11:30am)

Opening Speaker - University of Alberta Faculty of Law Dean Paul Paton

Law Society of Alberta Plenary - Presented by Kevin Feth, QC, Law Society of Alberta President

Lunch (11:30am - 1:30pm)

NJI Joint Session - Law and Happiness 101 presented by Associate Professor Marilyn Poitras of the University of Saskatchewan Faculty of Law

Afternoon (1:45pm - 4:30pm)

Alberta Cities - Open for business
Tools for effective disaster response
Mental health and the practice of law

Evening (4:30pm - 6:30pm)

Exhibitor's Reception

Friday, January 30, 2015

Breakfast (7:30am - 8:45am)

Handling stress without distress - Presented by Dr. Stephen Carter, Ph.D.

Morning (9:00am - 11:30am)

Successful practice starts with people
Harnessing the power of Aboriginal energy partnerships
Succession and tax planning for the family business
The new advocate is not on the trial trail

Lunch (11:30am - 1:30pm)

Distinguished Service Awards Luncheon

Afternoon (1:45pm - 4:30pm)

Deciding on commercial arbitration
Two big deals in labour and employment
What's current in family law
Crime and punishment: What's hot from the top?

Evening (6:30pm)

Friday Night Dinner and Entertainment

SECTION REGISTRATION

The grace period for section registration ended on October 31, meaning that any members who have not registered for 2014-15 sections will no longer receive meeting notices for any sections they were registered for last year.

Section registration is available on our website at www.cba-alberta.org. Please contact Linda Chapman (Calgary/South) at 403-218-4313 or Heather Walsh (Edmonton/North) at 780-428-1230 with any questions about registration.

SMALL CENTRES PUBLICATION

The CBA Alberta Access to Justice Committee is hard at work again this fall on another special electronic publication - this year on "Small Centres". This publication focuses on small and

solo practitioners outside of major cities, and aims to provide resources and best practices to these practitioners who may struggle with transition issues, or attracting summer or articling students for work.

Look for this publication to be released in late 2014.

CALLING ALL SAVVY LAWYERS

The "Savvy Lawyers" series of webcasts has been a hit this fall, and will wrap up with Part III of Doug Mah, QC's Media and the Law Series - "News Media and the Law" - on November 27. Registration is available online at www.cba-alberta.org.

The CBA Alberta Branch is looking forward to continuing this series in the New Year. If you are a "Savvy Lawyer", and would like to share your knowledge by hosting a webinar, please contact Linda Chapman at 403-218-4313.

The Canadian Bar Association - Alberta Branch

will hold its

Annual General Meeting

following the Winter 2015 Meeting of Council

January 28, 2015

at the CBA - Alberta Branch Northern Office
1001, 10235 - 101 Street, Edmonton



THE CANADIAN
BAR ASSOCIATION
Alberta Branch



HIGH QUALITY

Reliable Legal Research
Experienced Research Lawyers

Barbara E. Cotton, B.A., LL.B.

PHONE: (403) 240-3142

barbc@bottomlineresearch.ca

Bottom Line

RESEARCH AND COMMUNICATIONS

Please join my Complimentary Clipping Service

bottomlineresearch.ca

Returning After Maternity Leave

By **Rekha McNutt**

Maternity leave is a “big deal” in any career. A legal practice is no different. Although the impact on a career path is inevitable, whether that impact is positive or negative will depend heavily on the ability of a law firm to adapt to this reality.

To be frank, when you begin your maternity leave, you are leaving one job. When you return, you are returning to two jobs: your “day job” as a lawyer, and your second shift as a mother. It can be exhausting. A law firm that can accommodate this significant change in someone’s life is certainly better for it.

My first exposure to an adaptive firm was the one I articulated in Edmonton. It was a mid-size firm of 15 (or so) lawyers. There were several female partners at this firm, all of whom had young children, and were able to work part-time hours. They were all very successful in their careers. Being very young at the time, and having no thoughts of having babies, I locked this memory away for years, until it came time for my own maternity leave.

My first maternity leave began in January 2010. I had been a lawyer for just over 4 years at that point. Although I was fairly junior, my practice was just starting to pick up steam. My mentors at this firm had always emphasized the importance of building my own practice for the independence that ensued. I was just beginning to see this happening. I was just starting to build a reputation for myself in this industry.

Leaving, even for a few months, sets back your practice. Unfortunately, that is unavoidable, but the impact of your absence can be lessened if dealt with the right way. I was lucky enough that my files and clients were well taken care of.

Good planning in the months prior to a maternity leave will ease the transition back. When it was my turn, I had to give some serious thought to what my maternity leave would look like. I am the primary income earner of my family, and that played a big role in what my return to work plan had to look like. I knew that I would need “some” time off, although the full year was simply not feasible.

I approached my firm about the possibility of an alternate work arrangement and I was told to put together a detailed proposal of what I had in mind. In doing so, I explored the nature of my practice and the types of files I work on. I spent a lot of time thinking about how I could get my work done remotely. Luckily, most of my files were conducive to a remote work arrangement.

I took several months “off”, during which time I did no work. I then returned to work on modified hours, coming into the office 3 days a week, and working from home for the other 2. I was lucky that my husband took the remainder of the year off on parental leave, so he was able to care for our baby when I needed to work. This arrangement allowed me to spend time with my young baby, and still return to work. I had no set hours while at home, and would work when I could. That could be early in the morning, during nap times, or after the baby was asleep. On those days I was in the office, I could arrange for client meetings and to drop off/pick up work to be done at home. I found that being in the office was important for colleagues to start giving me work again. My billing targets and compensation reflected the hours I committed to working, and reduced the “risk” from the firm’s perspective.

I continue to work an ‘alternate’ schedule to this day. My children are now 4.5 and 1.5. My husband drops them off to their day

home, I pick them up. I’m in the office by 7 and out by 4. It has worked out well.

I found that the key to a successful alternate arrangement was buy-in from all parties. Having realistic expectations is also important. Finally, following through with that commitment is essential. This allowed me the opportunity to make similar alternate arrangements the next time around.

Having been accommodated made me feel valued. My firm could have simply said ‘no’. Instead, they agreed to see how my proposal played out. In turn, my sense of loyalty has increased, and I felt in control over my return to work. I believe the firm benefited from having kept on an associate who they had invested in for years, in terms of training and mentoring. Their willingness to accommodate me showed me that they valued me as an associate, and realized that I could still contribute even though it may not be in “usual” way.

I am hopeful that other young mothers at our firm can benefit from similar arrangements, resulting in a less stressful return to an otherwise stressful career! 🙌



Rekha has been practicing Immigration Law at Caron & Partners LLP in Calgary since 2007. She is also the Vice Chair of the CBA Immigration (South) Section. Outside of work, Rekha keeps busy with her husband and two young children, and is an avid motorcyclist (when the babies permit)!

US and cross-border tax is our business.

Let us help you with yours.



US citizens resident in Canada

Cross-border business activities

Canadians with US investments

US tax return preparation

Liz McLeish, CA
Siddhartha Rao, JD | LLM
Warren Dueck, CPA | FCA
Lori Lui, CGA
Steven Flynn, CPA | CA
Daren Raoux, CPA | CA

W. L. Dueck & Co. LLP

US and Cross-Border Tax Solutions

T: 604.448.0200 • Toll Free: 1.855.448.0200
uscrossbordertaxblog.com • wldtax.com

VANCOUVER

RICHMOND

CALGARY

Expand Your Horizons with PD Opportunities

By Jennifer Flynn

This fall LESA staff had the pleasure of participating in the Race the Roof fun run in support of the Edmonton Legal Build (a Habitat for Humanity project supported by the Edmonton legal community). For the second year in a row, I also registered my two young sons. On the drive to the race, I specifically articulated the following ground rules: "THIS YEAR, (a) no going off-course, (b) no knocking over members of the judiciary, and (c) no smack talk." My 8 year old's reply? "But Mom...those are the things I'm best at!"

We all generally prefer to do what we're best at, don't we? And yet, we also recognize that setting the comfortable aside to embrace a new experience can be valuable and rewarding. It expands our horizons. Education and professional development do this for us; they offer us something new and give us the chance to grow. LESA takes pride in the fact that one of the things we do best is offering great professional development opportunities to help you expand your knowledge and give you practical tools to help expand your practice.

Here at LESA, we've also been challenging ourselves to do something new. We've developed a new way to help you hone your skills and knowledge through online self-study with our Seminars on Demand. Available now is the iPad for Lawyers course, where you'll discover how an iPad can help your daily work flow. The course includes a four-part video, course materials, and additional resources. Also watch for Written Advocacy, as well as other seminars-on-demand coming over the next few months.

As always, LESA also has many in-person seminars and workshops for you to attend. Check out the programs offered in the first part of 2015:

- Business Law:
 - Advanced Lender
 - Labour and Employment
 - Buying and Selling a Business
 - Legal Strategies in Private Mergers and Acquisitions
- Criminal Law:
 - Computers in Criminal Law
 - Criminal Advocacy - Summary Disposition and Sentencing Hearings
- Family Law:
 - Matrimonial Property Division
 - All That Touches Family Law
 - Mediation of Family & Divorce Court
- Legal Support Staff:
 - Document Management for LSS
 - New Estate Administration Act for LSS
- Litigation:
 - Running Your First Trial
 - Construction Law
 - Summary Judgment Applications
- Real Estate:
 - Builders' Liens
 - Commercial Real Estate

- Specialized Programs:
 - How to Prepare for Mediation
 - 10 Tips for Clear and Direct Legal Writing
 - The Business of Law
 - Making Business Development a Natural Part of Your Everyday Life
 - 33rd Annual Intensive Advocacy
- Wills & Estates:
 - New Estate Administration Act
 - Drafting Your First Trust
 - 48th Annual Refresher: Wills & Estates

Our capstone event, the 48th Annual Refresher: Wills & Estates, runs April 19 to 21, 2015 in beautiful Lake Louise. Register now to reserve your spot.

We hope you'll take the opportunity to expand your horizons with one of our online or in-person seminars. With so many options to choose from, there is something for everyone. For the most up-to-date information (or to register), please visit www.lesa.org.



Jennifer Flynn is the Executive Director of the Legal Education Society of Alberta and the Director of the CPLED Program in Alberta.

NoPaper.ca

Are you ready to talk paperless office?

Go to **NoPaper.ca** for a **FREE** personalized demo!

Look for our booth **Alberta Law Conference** Jan 29 & 30, 2015!

Spotlight On Non-Profit Programs: The Family Law Project of the Edmonton Community Legal Centre

By Gillian D. Marriott, QC and Nonye Opara

The Family Law Project (FLP) of the Edmonton Community Legal Centre (ECLC) is not your regular pro bono family law clinic and here's why: its service offerings are designed to capture legal and non-legal challenges faced by litigants in family law cases. Now in its third year of operation, the project provides assistance to members of the public on matters relating to: parenting orders, child and spousal support, common law relationships, custody and access, guardianship, Queen's Bench Protection Order hearings, divorce applications and division of property. Although FLP started out by offering free public legal education sessions on key legal issues in family law, its portfolio has grown to include free legal advice clinics and domestic violence assessments.

PUBLIC LEGAL INFORMATION SESSIONS ON FAMILY LAW

These sessions feature weekly presentations on three topics - child custody and parenting; child and spousal support; and division of property. A fourth topic on self-representation in Family Court is also available in booklet format. To facilitate information dissemination at these sessions, FLP has partnered with the Centre for Public Legal Education (CPLA) to produce resource booklets that match each presentation. Additional resource manuals have also been created to clarify family law issues to young parents. What is more, these booklets are written in simple language and are available to the public at no cost during legal information sessions, from the ECLC office and on the website of CPLA. These weekly presentations are facilitated by volunteer lawyers and Student Legal Services (SLS).

FREE LEGAL ADVICE CLINICS

As of April 2014, members of the public who attend free legal information sessions can also request a follow-up meeting with a lawyer at the family law advice clinic. Potential clients go through an intake process with ECLC staff to determine financial eligibility and ascertain the existence of domestic violence. During the clinic, individuals meet with a volunteer lawyer who explains their legal issues, provides legal advice, and outlines steps for self-representation. Each volunteer lawyer is assisted by a law student from SLS in a mentorship partnership. Volunteer law students also perform administrative tasks and provide on-the-spot research assistance. Since start-up, the clinic has assisted over 200 clients.

REFERRALS TO DOMESTIC VIOLENCE AGENCIES

As part of its intake process, FLP assesses every client for domestic violence concerns. Clients are taken through a risk assessment, offered a safety plan and referred to a community domestic violence agency for further follow up. Of the 233 clients that have been assisted through the free legal advice clinic since inception, 33.48% have received services for domestic violence issues. ECLC has also adopted a domestic violence protocol to ensure that clients coming through the clinic are aware of potential safety risks as they move forward with their applications in Family Court. Volunteer lawyers report that they appreciate the adoption of this protocol by ECLC.

VOLUNTEER INVOLVEMENT IN FLP

Like most non-profits, FLP is managed by a team of hardworking staff and dedicated volunteers. These volunteers include lawyers, articling students and law students. Volunteer lawyers can be involved in the public legal information sessions, the free legal advice clinics or both. While there are no fixed time commitments, volunteers are encouraged to sign up at least once a month or once every six weeks in some capacity. In addition,

all preparatory tasks for the public legal information sessions and family law advice clinics are performed for the lawyer and the student. Essentially, volunteers arrive at these sessions and clinics with everything they need so they can spend their valuable time doing what they do best - providing clients with legal advice and education. An ECLC Volunteer Coordinator also ensures that lawyers and students have a rewarding volunteer experience.

WHAT'S IN IT FOR ME?

FLP offers a platform for lawyers and law students to make significant contributions towards alleviating the access to justice crisis in the family law sector. Results from client evaluations attest to the huge impact of FLP services to the growing number of self-represented family law litigants. As one such client put it:

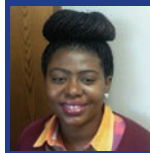
Thank you so much to you and your... group. There is a light at the end of my tunnel and now I know it's not a train! I have a renewed and deeper respect for lawyers after last night. Thanks for giving me hope!

For law students, the project creates opportunities to improve research, writing, speaking and interviewing skills. Law students can also take advantage of mentoring relationships with volunteer lawyers. For lawyers, the practical benefits of assisting clients with heart-breaking family law issues are fulfilling and priceless. Volunteer lawyers at FLP appreciate the screening process for cases with domestic violence and the opportunities for mentoring law students. FLP is a great place for family law lawyers who are retired or temporarily away from practice to keep their fingers in the pot. If you would like to help someone in a practical way on real life issues, FLP is the place to be.

ECLC thanks current FLP volunteers and invites interested lawyers and law students to get on board by contacting Lee Andrus, FLP Manager at landrus@eclc.ca.



Gillian Marriott, QC is a past president of the Canadian Bar Association, Alberta Branch. She is the Executive Director of PBLA, and practices family law with Widdowson Kachur Ostwald Menzies LLP.



Nonye Opara joined the PBLA team as Program Assistant in June 2014. She recently completed the LL.M program at the University of Calgary's Faculty of Law. Nonye was an active volunteer for both the CCDC and QB Amicus projects prior to joining PBLA.

**Long Term Disability Claims?
Call Allan Bayda**

Bayda Law Firm

Now located at:

#9, 1915 - 32 Avenue NE

Calgary, AB T2E 7C8

Ph. (403) 670-0070 or toll-free 1-855-670-0070



**Disability Insurance Claims with CPP,
Group Insurance and Private Plans**

North

Welcome to another great season of CLE in Alberta! Frank Friesacher and I continue as north section coordinators for another year, and are looking forward to helping where as needed. As always, please contact us with any comments, questions, issues or suggestions you may have.

We are delighted to say that the sections seem to have hit the ground running, thanks to the dedicated section chairs and their executives. Happily, that's not news.

What is news, and perhaps still needs more explanation, are the CBA membership options rolled out last season. Stop reading if you have already renewed for this year, and have taken advantage of these great (and money-saving) options. If you haven't yet renewed, this pitch is for you. I can't say it any better than the health law section executive did in a recent email to its membership:

The regular CBA annual membership fee remains as usual. The CBA has also introduced "portfolio plans" whereby you can purchase credits for educational activities at a discount. The two options are:

1. Portfolio Plan: You pay \$200 on top of the regular membership fee. For this, you get \$250 in educational credits, which can be used towards any CBA PD - section memberships, CBA conferences, attending meetings of other sections, etc. You also get a 3% rebate reward, 1 materials section membership, and access to various CBA resources.

2. Portfolio Plus Plan: You pay \$400 on top of the regular membership fee. In exchange, you get \$500 in educational credits, 5% rebate reward, 3 material section memberships, and access to various CBA resources.

By Frank Friesacher and Karen McDougall

The total retail value of the portfolio plans, and the savings are:
Portfolio value: \$335.00. You save \$135.00.
Portfolio Plus value: \$655.00. You save \$255.00.

Get creative with how you use your educational credits. For instance, the health law members will be using their credits toward the health law conference in Banff this year, resulting in a break in conference fees for attendees that are also CBA Portfolio or Portfolio Plus members. You could also use your credits for the upcoming Alberta Law Conference, to be held in Edmonton on January 29 and 30, 2015. (Watch for the conference brochure, coming soon).

There is more information on membership fees on the CBA Alberta website. I know the splendid line-up of CLE on offer this year coupled with the cost-saving Portfolio program is enough encouragement for everybody to renew those memberships. So, get busy! 📢



Frank Friesacher is a partner with McCuaig Desrochers LLP in Edmonton. He is an avid CBA member and volunteer, having previously served as Internet Advisor, Legislative Review Committee member, and more, in addition to acting as North Section Coordinator.



Karen McDougall is the Acting Associate Director of Educational Resources at the Legal Education Society of Alberta, and is a long-time CBA member and volunteer, currently serving her fourth year as North Section Coordinator.

South

We would like to wish a warm welcome to new CBA members (and welcome back existing CBA members) for a new fall term. With the leaves starting to fall it is time to shake out the summer cobwebs and soak in some of the many excellent CBA programs that are available, including from the new Pension and Employee Benefits section and the new (again) Municipal Law section. For more information on the programs that are available, or to register, please refer to the CBA website or contact Linda Chapman at sections@cba-alberta.org.

As sections settle in to the new fiscal year there sometimes are a few bumps along the way. Please do not hesitate to contact either of us if you have any questions about the sections you are involved with, or even just a member of. We certainly cannot promise to have all of the answers, but we do promise to try to help.

The CBA hosted its welcome reception at the University of Calgary on September 10, 2014, where students gathered to test the knowledge of CBA staff and volunteers with questions concerning the CBA. The reception is an annual event that provides information to students about the CBA, as well as a forum for them to meet various people involved with CBA. By all accounts, this year's reception was a success!

By Kate Bilson and Anthony Strawson

We also would like to take this opportunity to thank all of the mentors who are volunteering their time to participate in this year's Mentor Match. The program is invaluable to mentees, and without you it would simply not be possible.

Finally, we would be remiss if we did not express our gratitude for the tireless efforts of Jenny McMordie as a southern Alberta section coordinator for the past year and a half. In typical Jenny fashion, she has managed to increase her dedication and commitment to the CBA, now as a member of the Executive. Jenny, we wish you the best in your new role.

We look forward to seeing you at the new CBA south offices in Calgary at 710, 777 - 8th Avenue S.W.! 📢



Kate Bilson is Senior Legal Counsel, HR and Immigration Law at TransCanada Pipelines Ltd. Kate is a previous chair of the Privacy and Access Law (South) section, and also sits on the Editorial Committee.



Anthony Strawson is a partner with Felesky Flynn LLP, where his practice is restricted to taxation law. Anthony is a frequent speaker and writer on taxation matters.

University of Alberta

The first semester of school has started, and now that September is over, hopefully students have settled into their school routines. The later months in the semester should give way to more opportunities for students to explore the field of law and what it means to be a lawyer. The CBA is able to benefit students in this respect.

This year at the clubs fair, many students signed up for and renewed their memberships with the CBA. Being part of the legal profession requires that students, as well as lawyers, are constantly learning. Luckily the CBA has many options available for learning and for continued professional development once a student has entered the legal field. Getting involved with the CBA as a law student will prove to be invaluable in the future for any good lawyer.

The CBA offers meetings several times throughout each month on various legal topics, and they are free for all law student section members. These meetings expand a student's knowledge outside of the classroom and allow students to hear from experts in their field. Lawyers must fulfill a professional development requirement to ensure ongoing professionalism and competence in the practice of law. CBA meetings can count towards these requirements and allow students who wish to practice law to be great lawyers today.

Attending these meetings can also be networking opportunities that could prove to be essential to a student's future career. One can never have too many mentors in the field of law. The topic of the meeting may not end up being the student's ultimate area of expertise but meeting lawyers who have knowledge about the

By Siwei Chen and Lyndsay Butlin

profession is invaluable. A general understanding of more than one type of law is also essential to any lawyer advising clients with matters that are not usually confined to one area of law.

Mentors are crucial to new lawyers and, fortunately, the CBA has a mentorship program where student members are paired with a practicing lawyer. The mentor relationship allows a student to speak with a lawyer with wisdom and experience. It is an excellent way for students to meet their mentors in an informal setting and learn more about the practice of law and what being a lawyer means. All students are encouraged to take advantage of this excellent program, which starts in January at the Mentor Mixer.

The CBA's section meetings and mentorship program are great for students. Students are encouraged to start building their careers today so as to become a good lawyer tomorrow. Students are invited to attend our student section meetings held both semesters. 🗣️



Siwei Chen is the co-chair of the University of Alberta Law Students section. She is currently in her third year at the Faculty of Law, and will be articling at Bennett Jones in Calgary.



Lyndsay Butlin is a co-chair of the University of Alberta Law Students Section and is currently in her second year at the Faculty of Law. During the summer, she worked as a student at KCY at Law Professional Corporation in Ontario.

University of Calgary

So much of the first year of law school seems so surreal. The moment that the initial shock of actually getting accepted wears off, students barely have a moment to catch their breaths before being bombarded with books, cases, statutes, volunteer opportunities, networking events, and so much more. And, despite the stress, late nights, and inevitable caffeine addiction that come with being a first year law student, we love every minute of it.

And, I have a feeling this is just the beginning. I started my first law-related job this summer and, again, I barely had a moment to process my astonishment before stumbling head-first into the world of client files, research, dry-cleaning bills, and even running real trials. Working at Student Legal Assistance, the summer learning curve is steep and, at times, a little terrifying, but this is by far the best job I have ever had. And, at my last job I got free sushi, so that is saying a lot.

I work alongside a handful of amazing and dedicated individuals providing legal information and representation to low-income Calgarians facing a variety of legal issues. Each new day brings with it new challenges and difficulties, but there is never a shortage of support in the office or in the legal community. The stakes are often quite high, and

By Camille Sehn

we become invested in achieving a positive outcome for our clients. Being able to translate that investment into hard work and effective advocacy is the best feeling in the world.

Entering into my second year of law school, I am excited, nervous, eager, and terrified. I look forward to meeting all the new first year students, learning more about my fields of interest, and continuing my involvement with Student Legal Assistance. I am certain I will continue to find support and encouragement in the legal community as I proceed through the thrills and joys of learning to be an effective advocate. 🗣️



Camille Sehn is a second year law student at the University of Calgary and Chair of the Law Student Section of the CBA. She worked with Student Legal Assistance for the summer of 2014 and will continue her involvement with the clinic during the upcoming year as a Group Leader.

Reform Matters

By Peter Lown, QC

My lawyer friends occasionally greet me with “what have you done to me now?!” All in good sport, but it does remind me that a law reform agency is in the business of change. As our mantra suggests, we are “dedicated to advancing just and effective laws through independent research, consultation and analysis”.

Change does involve time and money and adjustment, so it has to be for good reason, and managed to ensure that it is introduced appropriately and achieves its purposes. ALRI is not the “change agent” since we only “recommend”, but we do work closely with the government of the day as legislation is introduced. Estate Administration is the latest example of major legislation based on ALRI recommendations, along with adjustments to the Surrogate Rules which ALRI wrote in 1995.

Change also happens internally and it is important for ALRI to manage that change just as much. One change we have planned is our move to e-publishing. The first step was to blend our Annual Report with material already available on our website, and which is updated in real time. Legislative implementation charts are easily available on the website, rather than being frozen in time in a hardcopy annual report. The latest annual report is at www.alri.ualberta.ca/docs/2013_annual_report.pdf.


The second step was to move to e-publication of our consultation documents, along with public notices of the documents in newsletters and other publications from bodies such as the Law Society or the CBA Alberta Branch. An interesting document is the background paper we prepared for expert consultation on Non-Profits in 2013, www.alri.ualberta.ca/docs/Web_Paper_Alberta_Non-Profit_Corporations.pdf.

An integral part of this change is the creation of an electronic mailing list to let people know our reports are out and available. We have been developing this list over the last year and will refine it in time for our expected move to complete e-publishing, including final reports, in January 2015. Of course, our publications are not “commercial messages”, but we would like our mailing list to include those who wish to receive our notices and publications. You can do this by following this link: bit.ly/alrisignup.

In this way you can be informed of our consultation issues, provide us with your views if you wish, as well as receive links to all our publications. Our goal is to provide you with reports in the format you find easiest, and as quickly and currently as possible.

Some changes not quite as predictable. We are currently replacing some staff positions for several who have gone on to other positions and agencies. Maria Lavelle went to the Alberta Energy Regulator, Cheryl Hunter Loewen to be in-house counsel with an Edmonton area environmental

company and Shannon Brochu to studies in Toronto. Katherine MacKenzie has joined us as Legal Research Associate in the Edmonton office, and Laura Buckingham will join us in January in the Calgary office. Churn always has an impact on projects but we will try to keep on schedule with consultations planned for fall and early new year.

With your help and participation we will continue to ensure that the law of Alberta is as useful and effective as possible. And next time my friends greet me, they will say, “what have you done for me?” and I will smile and start the elevator speech. 



Website: www.alri.ualberta.ca

Email: reform@alri.ualberta.ca

Twitter: @ablawreform



Peter Lown, QC is Director of the Alberta Law Reform Institute. He is a Professor Emeritus at the University of Alberta Faculty of Law and has been an active member of the Law Society of Alberta since 1973.

SYMPHONY TOWER

STARTING AT \$295,000

\$2.625 MILLION DOLLAR PENTHOUSE SALE:
HIGHEST IN EDMONTON MLS SALES HISTORY

PRE-CONSTRUCTION PRICING
ENDS OCTOBER 2014

OVERLOOKING LEGISLATURE
DOME & GROUNDS

PROTECTED RIVER
VALLEY VIEWS

PANORAMIC FLOOR TO
CEILING GLASS WALLS

10 MINUTE WALK TO
THE LRT STATION

CONDOS, PENTHOUSES
& TOWNHOMES

EUROPEAN
INSPIRED
MASTERPIECE

OVER 43% SOLD!
CONSTRUCTION STARTS OCTOBER 2014

TAKE A VIRTUAL TOUR AT:
SYMPHONYTOWER.CA/SOLD
9704 - 106 STREET, EDMONTON, AB (780)701-0058

We're Only Human

When I share statistics such as 64% of Alberta's legal professionals have experienced stress and burnout, half have experienced anxiety, and a third have suffered emotional distress, depression, or poor physical health, I am often asked whether lawyers are different from everyone else or whether our profession and work is unique.

A recent US study by Lawrence S. Krieger and Kennon M. Sheldon, Ph.D.¹ offers empirical data showing lawyers are just like everyone else when it comes to finding happiness.

As professionals, we may associate our identity with our job. Yet career and life satisfaction are distinct: life satisfaction includes a personal, subjective evaluation of circumstances, explaining why a person may feel "down" and have a good job, finances, etc. and another individual whose circumstances may be less positive still enjoys happiness.

The study considered work and life satisfaction, as well as other factors potentially linked to wellbeing such as experiences in law school, type of work, hours worked and billed, life choices, and demographics. The study concluded that factors having the strongest bearing on happiness were "internal" values such as autonomy, relatedness to others, inner motivation, and competence, in contrast to "extrinsic" values such as power, affluence, and income. The study supports that personal life choices impact wellbeing more than grades, money, and credentials, and that we, as a profession can do things differently to live healthier, happier, successful lives.

The research showed that in predicting happiness, autonomy at work was three and a half times as important as income, and five and a half times more important than law school class rank. Krieger concludes, "The external factors are relatively unimportant for happiness and the internal ones are critical." The study further found that 1) lawyers in "service" jobs showed higher levels of happiness, 2) law students become heavily focused on external factors that have a weak correlation to happiness, and 3) higher grades do not necessarily lead to competence as a lawyer. While this may not be surprising to some, what Krieger found to be remarkable was how strongly the data supported that we may be focusing on the wrong things when it comes to finding happiness.

Krieger emphasizes the importance of developing an environment in law schools and firms that support autonomy, and skills necessary to support autonomy can be learned.² Krieger also refers to workplace guidelines to improve psychological health and wellbeing among

By Marian V. De Souza, QC

legal professionals.³ The guidelines include developing a workplace characterized by trust, fairness, clear leadership and expectations, support for psychological and mental health concerns, in addition to growth and development.

The full study and guidelines can be found at www.albertalawyersassist.ca and an insert to this issue of Law Matters suggests what the study could mean for lawyers, employers, and educators. Why should we be interested? Individually, it could help us achieve happiness as a lawyer, student and employee and keep us in our chosen profession. For the profession, successful legal educators, law schools and managers will develop competent, productive and happy legal professionals serving and advancing justice, and securing a viable future for our profession. 🌐

³ 13 Factors Crucial to Healthy Legal Workplaces, Tristan Jepson Memorial Fund in Australia, (the guidelines were drawn from Canadian workplace standards devised by researchers at Simon Fraser University in Vancouver, Canada.



Marian V. De Souza, QC, is the Executive Director of the Alberta Lawyers' Assistance Society (Assist) and Past President of the CBA Alberta Branch.

DIVORCEMATE
SOFTWARE
Essential Tools for Family Law Professionals

NOW AVAILABLE!

DM CLOUD

ADD FREEDOM & FLEXIBILITY TO YOUR PRACTICE

DM Tools Cloud

Work anywhere, anytime, on any device.
For child and spousal support calculations.

Available for PC, Mac, tablets and smartphones.

For more information, visit
www.divorcemate.com
604.222.3582 | skrieger@divorcemate.com

¹ What Makes Lawyers Happy? Transcending the Anecdotes with data from 6200 lawyers, by Lawrence S. Krieger, with Kennon M. Sheldon, Ph.D.

² Autonomy Support as an Interpersonal Motivating Style: Is it Teachable? By J. Reeve, 23 Contemp. Educ. Psychol. 312 (1998)

Becoming a Judge

By Gillian D. Marriott, QC and The Honourable Judge Don Higa

I was raised in Southern Alberta. I am from Japanese Canadian roots, the sugar beet farms of Southern Alberta being the destination of many families who were forced into internment camps during the Second World War. My Dad was a lawyer and had a "small town" practice. In the late 50's and through the 60's he was often the only lawyer in Taber. Being the sole lawyer in a small town had some challenges, continuously being stopped on the street, at the grocery store and at the arena one of them. As a result, we moved to Lethbridge where a little anonymity could be achieved. The Taber arena burned down a few weeks before we moved. A few years previous I set fire to a neighbour's fence while playing with matches, so avoiding being targeted as an arsonist might have also prompted our move.

I attended high school at LCI in Lethbridge. I received an arts degree from the U of A and went to law school at Queen's.

Where did you article?

Although many from Lethbridge who attended law school moved back to practice, I really didn't think about that option. I articulated at Beaumont Proctor in Calgary, in 1983 it was a "mid-sized" firm of about 20 lawyers. Articling was a bit different then, as I remember assisting a lawyer in party supply shopping, buying Christmas presents for another and picking up a partner's BMW from the shop. That chore came to an end when I was introduced to a concrete pillar, while driving into the office garage. That said, I had great articles as I was in court 3-4 times a week and gained significant litigation experience.

What was your path after articles?

I continued on at what became Beaumont Church for a couple of years, practicing both civil and criminal litigation. I moved to Burnet, Duckworth and Palmer in 1987 and commenced an insolvency and corporate litigation practice. I have fond memories of my time at BDP and the mentoring I received from Brian O'Leary Q.C. and Justices Rooke, McIntyre and Nation.

In the fall of 1992, I started my own firm with friends Brian Evans and Pat Burgess. Evans Higa Burgess was primarily an oil and gas firm and we were thrilled to grow the firm to 13 lawyers. Our firm merged with Blain and Company to form Thackray Burgess in 2000.

Our family moved to Oakville for a couple of years, as my then wife was offered a great opportunity in the "centre of the universe". So I started a new career as a stay at home dad, and becoming admitted to the Law Society of Upper Canada to commence a "lunch" law practice.

You then returned to Calgary?

Yes, the boys and I came back a couple of years later. After being out of practice, I was looking to do something different and was offered a newly created management position at Macleod Dixon (now Norton Rose Fulbright). Macleod Dixon

had a very unique and interesting presence, being a market leader in Western Canada but also having offices in Moscow, Kazakhstan, Bogota, Caracas and Toronto. I was involved in all areas of the global firm: liability insurance, conflicts and law society issues, lawyer HR matters, risk management, lawyer recruitment and firm accounting. It was an incredible opportunity and I truly enjoyed being involved in the fun and challenges of an international law firm.


Tell me about your involvement with the CBA.

I became involved with the Canadian Bar Association in the early 90's and the CBA has been the most important factor and influence in shaping me professionally and to a significant degree personally. I have held many volunteer positions with the CBA both nationally and provincially, becoming President of the Alberta Branch in 2003. The CBA does not get anywhere near the credit it deserves for the extraordinary work it performs, as the voice and champion of the legal profession.

When did you start to think about becoming a judge?

I began thinking about applying when I was embarking upon my return to Calgary. For various reasons, I wasn't considering a return to practice but wished to pursue another type of "legal" career. Prior to moving to Ontario, I was a member of the Provincial Court Nominating Committee. I was continuously impressed with the quality of the judicial candidates and the passionate, thoughtful and humble manner in which those individuals expressed why they sought a judicial appointment. Those sincere expressions motivated me to contemplate pursuing a judicial career.

If you could give any advice to a young lawyer what would it be?

Work hard. Be humble. You are a legal advisor, not a cheerleader. And conduct all causes and matters faithfully and in all things conduct yourself truly and with integrity, just as you swore to do on the day of your call. 



The Honourable Judge Don Higa is a Past President of the CBA Alberta Branch and Judge of the Provincial Court (Civil) in Calgary.

WHAT ABOUT BOB?

ROBERT A. RIVARD

McConnell MacInnes

PLAINTIFF LONG-TERM DISABILITY CLAIMS

(WCB Claims Excluded)

27 years of experience in this field

4, 12110 - 40 Street SE, Calgary, AB T2Z 4K6
Tel: 403-640-1300

Toll Free: 1-866-640-1077
Also serving Edmonton

The Honourable Alberta Gail Vickery

By The Honourable Daniel P. Hayes, P.C.

A moving tribute to Gail Vickery was delivered by Nancy Waterbury at Gail's funeral on September 6th. Nancy was her Assistant at Macleod Dixon 1978 to 1986 and they became life long friends. She described Gail as; "intelligent, hard working, passionate, strong, proud, adventurous, kind, loving and generous. Someone who never forgot her rural Manitoba roots and who always appreciated what she had". Attributes that served Gail well. She was a true pioneer who achieved many remarkable firsts as an engaged citizen, a lawyer, and a Judge, all the while maintaining her relationships with family and friends for which she will be fondly remembered. A Dalhousie Law School graduate, class of 1975, Gail articulated at Macleod Dixon and acquired



her professional skills working with Ritchie Love, Cliff Rae and John Burns, fellow Dalhousie graduates, at their busiest. J.E.A. Macleod, the firm's founder, would have been proud of his alma mater's importance to the firm. Gail stood apart, however, in that she returned to school as an adult and as a result was 33 years old in her articling year. Something that demonstrated her strength and determination, that she drew on again in 1991 when she was diagnosed with breast cancer, a disease she lived with until the end of her life.

In 1984 Gail became a partner which marked a first for the firm. In fact, it is my best understanding that she is the first woman to become a partner in what was regarded as a large Calgary firm at the time. Gail adapted well, the only record of a problem was a broken ankle arising out of an accident at one of the regular firm dinners from which she recovered quickly. Not regarded as something all that unusual at the time.

Gail was a great mentor and, while reserved at times, Gail was what we properly call a people person. In 1995 Gail was given

the opportunity to become a part of the firm's larger international or national objectives. No to Toronto, not surprising for someone whose first name is Alberta, but yes to Almaty, Kazakhstan. This involved moving to a city, not unlike Calgary, in the geographic sense larger and somewhat warmer than Calgary, located on the eastern slopes of the Tien Shan Mountains (much higher than the Rockies). She worked hard on this assignment with the help of her husband Bill Olson. A two year commitment became four. This assignment involved working on an attempt to establish an office in Mongolia, the development of an oil and gas regulatory structure for Uzbekistan on retainer of the European Development Bank, work for Kyrgyzstan on WTO issues, acting for

the government of Kazakhstan on its largest privatisation taken to that date and for the increasing number of international resource entities active in Kazakhstan.

The Government of Alberta invited her to sit on the Family and Youth Court in 2000. She was appointed Assistant Chief Judge of the Provincial Court in 2004 and Chief Judge of the Provincial Court of Alberta in 2006. Gail was the first woman to hold that office. Tribute has been paid to her by her colleagues on the provincial court, other judges from across Canada and by Alberta Ministers with whom she had dealings in her capacity as Chief Judge.

She drew on her rich life experiences in all that she did and when we consider the adversity she overcame during her life and all that she did with that life she is a truly admirable example to us all. Looking back we see a bold and courageous woman who made a difference for the better in many large and small ways. May Alberta Gail Vickery and her example be long remembered. 🕊️

Judicial Updates

PROVINCIAL COURT

Clifton G. Purvis, QC (Edmonton Region) has been appointed as a Provincial Court Judge, effective July 23, 2014
Judge Hugh W.A. Fuller (Edmonton Region/Stony Plain) was appointed as a part-time judge effective August 15, 2014
Laura Kim Stevens, QC (Edmonton Criminal) has been appointed as a Provincial Court Judge, effective September 18, 2014
Justice of the Peace Joyce Lynn Lester (Edmonton Criminal) has been appointed as a Provincial Court Judge, effective September 18, 2014

COURT OF QUEEN'S BENCH

Mr. Justice W. Patrick Sullivan (Calgary) elected to become a supernumerary judge effective August 31, 2014
Mr. Justice M. David Gates (Edmonton) transferred to Calgary Queen's Bench effective August 31, 2014
Mr. Justice L. David Wilkins (Calgary) retired as a supernumerary judge effective September 1, 2014

COURT OF APPEAL

Madam Justice Constance Hunt (Calgary) retired as a supernumerary judge effective August 31, 2014

A VIEW FROM THE BENCH

By The Honourable Judge A.A. Fradsham

"So, how often do you wear that?" asked one of my colleagues as we stood in the beverage queue at a recent conference banquet. It was evident he was referring to the tux I was wearing, and my first thought was that my work of the last 45 minutes before I left my room had come to naught, and bits and pieces were falling out as we stood there. A quick look down at the shirt studs told me that all accessories were present and accounted for, and that this was just a general inquiry as to why I chose to look like a waiter.

Perhaps I should explain my initial wave of panic.

I had attended this judges' conference without Gloria who views attending conferences as a spouse as an event ranking slightly below root canals on the "fun" scale. I assume she means the phrase "as a spouse" to be a generic term, and that she does not mean specifically "as my spouse". I should ask... and maybe I should leave well enough alone.

In any event, there I was at this event, unsupervised, and faced with the task of getting into a tux for the formal dinner. Generally, one would draw the inference that judges, who are entrusted with the awesome responsibility of deciding if people must go to gaol, are capable of dressing themselves. The fact that we can get into judicial attire each day is credible evidence in support of the inference. Indeed, one of my singular accomplishments after 24 years on the bench is that I can put on cuff links with one hand. I am reasonably confident this fact alone would provide great comfort and confidence for the public appearing before me.

So, I rather thought that I could pull off putting on a tux (pull off...putting on...no wonder people find the English language a challenge to learn). I had taken the appropriate precautions before I left the safety of home: (1) I checked to see if the thing still fit... there is a shrinkage problem of endemic proportions with clothes in my closet... I blame global warming; (2) I ensured that the fancy shirt was back from the cleaners; and (3) I actually remembered to put the tux, shirt, and accompanying hardware into my suitcase. I thought this set the scene for success.

Cocktails were to commence at 6 p.m. You will recall that "cocktails" is a term often used to describe that part of the evening when one stands in an ill-defined queue, which has all the class and ambience of a soup-kitchen for the indigent in the Great Depression of the 1930s, for the purpose of purchasing a beverage of limited choice, the price of which seems to have been set by someone trained in the Russian black-market. I digress.

At what seemed an adequate and reasonable time before the designated hour, I commenced my campaign to get into my tux. Cuff-links were a breeze (see above); suspenders were a bit of a challenge as I tried to keep all the straps from twisting (note to self: do not take up the vocation of parachute packing); the cummerbund was fine save I can never determine when it is upside down or right side up; and the bow tie posed no great difficulty since I have never been such a purist as to actually tie my own.

No, all that was manageable. It was the blessed shirt studs which threatened to be my Waterloo (with me playing the part of a non-French speaking Napoleon). I start by observing that

there were (and still are) perfectly good, cooperative, and serviceable buttons on the shirt. However, I had these three shirt studs which I am told are expected in polite society. Each one has a spring operated, retractable arm which is supposed to fit through both button holes while retracted, and then be released so that it prevents the stud from falling to the floor. Great theory.

I twisted and turned the thing. I got it through one hole only to have the spring release before I was able to breach the second hole. I got it through both holes only to have it come back out because I did not get the arm turned perpendicularly to the hole fast enough. It perversely came out much easier than it went in. Meanwhile, I was working up quite a sweat with both my body temperature and blood pressure rising at a heady rate, while the civility of my language plummeted. And that was just the first of these little darlings.

Twenty minutes later, the score was Shirt Studs: 3; Allan: 0. My shirt front was now wrinkled and crushed from my increasingly frustrated efforts to accomplish what I recalled Gloria easily and quickly achieving on other occasions (that memory did nothing to improve my humour or dexterity). The perspiration-drenched shirt looked as though it had been used as a substitute for bubble wrap by someone shipping bone china.

However, just as I was about to admit defeat and foreswear polite society, whatever force of Nature was tormenting me found my exertions no longer entertaining, and I was able to get all three studs in place by pushing their beady, insolent, little black heads up through the holes. It wasn't pretty, it probably wasn't orthodox, but it worked, and off I marched, battered and wrinkled, but not defeated.

Consequently, when I was waiting for a well-earned drink and was asked how often I wore a tux, I was certain that the shame of my incompetence was written all over me, or that one or more of the studs had done a runner. I was most relieved to learn that all he wanted to know was why I chose to look like a waiter... because it is so much fun, of course. ☺



The Honourable Judge A.A. Fradsham is a Provincial Court Judge with the Criminal Court in Calgary. His column "A View From the Bench" has been a highlight in the Canadian Bar Association newsletters for over 15 years.

CLASSIFIED ET CETERA

WILL SEARCH. The Public Trustee of Alberta is seeking the will for Christa Minna Melzer, late of Calgary. Please contact direct: (403) 297-7149 or mail: 900, 444 - 7 Ave SW, Calgary, AB T2P 0X8.

WILL SEARCH. The Public Trustee of Alberta is seeking the will for Erno Nemeth, late of Calgary. Please contact direct: (403) 297-7149 or mail: 900, 444 - 7 Ave SW, Calgary, AB T2P 0X8.

INTELLECTUAL PROPERTY. Let us work with you in protecting your clients. Patents, Trademarks, Copyright. Stemp & Company, Lawyers and Patent Agents, 233, 1100 - 8 Avenue SW, Calgary, AB T2P 3T8.

THOMPSON WOODRUFF INTELLECTUAL PROPERTY LAW. Registered Patent Agents. Practice restricted to Patents, Trademarks, Designs, Copyright and related causes. 200, 10328 - 81 Ave., Edmonton, AB, Canada T6E 1X2 P: 780-448-0600; F: 780-448-7314

ESTABLISHED CENTRAL ALBERTA LAW OFFICE FOR SALE. Well-established law office with large client base located in Innisfail, Alberta. Innisfail is approximately one hour north of Calgary, two hours south of Edmonton, and 15 minutes south of Red Deer. The practice includes real estate, mortgage, corporate, commercial, wills, estates, estate planning, and oil and gas. The law firm is a stable, well-established law firm having basically the same three lawyers for the last 35 years. The firm was established in 1977. We have excellent systems and great long-term staff. We use Amicus Attorney for practice management and Esilaw for accounting. We have an excellent reputation in the area and are looking for a successor to effectively service our clientele. Innisfail is a community of approximately 8000 people, which draws business from a much larger radius. The town has great amenities including a highly-rated golf course, aquatic complex, twin ice surface arena, curling rink and ball diamonds. **Interested parties should contact Joe Lehane or Monty Wild at Miller, Lehane & Wild, 403-227-3361, or email jlelhane50@hotmail.com or mwild@mlwlaw.ca.**

LONDON UK FLAT FOR RENT. Spacious 2 bedroom, 1 bathroom flat for short term rental in Chelsea, close to the Earl's Court tube station. Contact gloria@vinciphillips.com.

NW CALGARY OFFICE SPACE AVAILABLE. Independent Practice - established law office in the Market Mall Professional Centre. Confidential inquiries to Blake Nichol 403-288-6500 x229.

INTERNATIONAL BUSINESS AND ESTATE ASSISTANCE. N. Gregory McNally & Associates Ltd. is a consulting firm staffed by lawyers assisting in establishing international corporate, trust and insurance plans and opening bank accounts worldwide. We have experience in many jurisdictions including Hong Kong, Shanghai, Singapore, Dubai, Switzerland, Panama, the Channel Islands (&IOM) and the Caribbean. www.ngma.ca, greg.prekupec@ngma.ca, (647) 992-3696.

NEED A NEW WEBSITE? TOP OF GOOGLE? We are very good at getting our practice specific, lawyer website to the Top of Google. Then we put your name on them and make them "yours" across the board. Or we build you a whole new website, whatever you like. 100% performance-based billing. Quit anytime. Risk free. Very happy clients! References. Helping Alberta lawyers since 2007, **Keith Perkins, (780) 909-5610, www.Canadian-Lawyer-Websites.ca.**

WILL SEARCH. Aaron Bickman at McLeod Law LLP is seeking the will for George James Kealey, late of Calgary. Please contact (403) 278-9411 or email abickman@mcLeod-law.com.

LAW PRACTICE AVAILABLE TO ASSUME - small town, short drive from Edmonton - wills, estates, real estate, corporations & litigation - includes experienced staff - ideal additional revenue stream for Edmonton lawyer willing to commute 1-2 days/week, also great potential for expansion. Contact rablawprac@gmail.com.

EXCLUSIVE MERCEDES DISCOUNTS. mercedessalesman.com.





Switch and Save!

SWITCH TO THE CBIA HOME AND CAR INSURANCE PROGRAM AND YOU COULD SAVE UP TO \$700¹.

- ✓ Getting a quote or switching your insurance policy is easy.
- ✓ Licensed insurance professionals are ready to assist you with tailoring solutions to your unique needs.
- ✓ You can get a quote online in minutes.

There's no shopping around required, with exclusive rates for Canadian legal professionals which are hard to beat.

CALL 1-877-314-6274 OR VISIT barinsurance.com/homeauto

FOR YOUR CBIA EXCLUSIVE HOME OR AUTO INSURANCE QUOTE.



¹ Approximate amount based on a December 2013 analysis. This amount may vary and cannot be guaranteed. Amounts are calculated in comparison with the rates of other insurers. Discounts and savings are subject to eligibility conditions.

This program is sponsored by the Canadian Bar Insurance Association (CBIA), Canada's only national insurance association exclusive to lawyers, their families and law firm staff. Certain conditions apply. CBIA Sponsored Home & Auto Insurance is underwritten by The Personal Insurance Inc. in Quebec and by The Personal Insurance Company in all other provinces and territories. Certain products and services may not be available in all provinces and territories. CBIA Insurance Services is a division of 3383128 Canada Inc., a licensed insurance broker. Auto insurance not available in Manitoba, Saskatchewan or British Columbia due to government-run plans.

CBA-ALBERTA EXECUTIVE



Savvy Lawyers Series

Media & the Law - Part III: News Media and the Law

November 27, 2014 | 4:30pm - 6:30pm

Register online at:
www.cba-alberta.org



Steven N. Mandziuk, QC



Wayne Barkauskas



Jeremiah Kowalchuk



Jenny McMordie



Marian V. De Souza, QC



Maureen Armitage

RATES

Classified Line Rates

Lawyers, non-profit purposes (i.e. will search)	\$15.00/line
Lawyers, profitable purpose (i.e. lease office space)	\$22.00/line
Commercial, any company or association (except lawyers)	\$33.00/line

Display Rates


Business Card	\$440.00
1/4 Page	\$880.00
1/3 Page	\$1,100.00
1/2 Page	\$1,540.00
Full Page	\$2,970.00

Insertions

Per Piece - Distribution 10,000	\$3,300
Location Specific	Pro-rated

Rates are effective as of February 2011. A 10% discount is applied on a four-issue commitment. GST not included. Visit www.cba-alberta.org, or email communications@cba-alberta.org for more details.

Publication of advertising in Law Matters by the Canadian Bar Association Alberta Branch is not an endorsement of the advertiser or of the product or service advertised. No contractual or other relationship between the advertiser and the publisher is implied merely by publication of any advertisement in Law Matters. For complete advertising information, visit www.cba-alberta.org.

 THE CANADIAN BAR ASSOCIATION
Alberta Branch

Law Matters is published by The Canadian Bar Association Alberta Branch four times annually. Submissions are subject to approval and editing by the Editorial Committee. Law Matters is intended to provide general information only and not specific legal advice. The views and opinions expressed here are those of the writers and do not necessarily reflect the position of the publisher. Direct submissions and enquiries to Law Matters, Southern Office, or email communications@cba-alberta.org.

Southern Office
710, 777 - 8 Avenue SW
Calgary, AB T2P 3R5
Phone: 403-263-3707
Fax: 403-265-8581
mail@cba-alberta.org

Northern Office
1001, 10235 - 101 Street
Edmonton, AB T5J 3G1
Phone: 780-428-1230
Fax: 780-426-6803
edmonton@cba-alberta.org

www.cba-alberta.org



EDITORIAL COMMITTEE

Top Row (L to R): Katherine Bilson (Calgary); Terrence A. Cooper, QC (Fort McMurray); Geoff Ellwand (Calgary); Dragana Sanchez-Glowicki (Edmonton); Melissa Gorrie (Edmonton); Cyril S. Gurevitch, QC (Grande Prairie).

Bottom Row (L to R): ; Robert Harvie, QC (Lethbridge); Gillian Marriott, QC (Calgary); Shannon McGuinty (Calgary); Devin Mylrea (Calgary); Enrique Dubon-Roberts (Calgary); and Anthony G. Young, QC (Calgary).