



**VALA EXECUTIVE SENDS DECEMBER 2 LETTER TO SEVER FORMAL AFFILIATION**

# VALA moves beyond ALA with 89% OK

BY ANNIE RONEN,  
PRESIDENT,

BY ALLISON MILROY,  
PRESIDENT ELECT,

AND BY ERNIE GAUVREAU  
VICE-PRESIDENT, MEMBERSHIPS

Current ALA members should now have a letter dated December 30, 2004 from William C. Mignerone, President of ALA, and John J. Michalik, Executive Director of ALA. The letter confirms our Association's decision to cease to be a chapter of ALA effective December 31, 2004.

As your executive, we have spent the last several months working with the ALA board and various representatives in an attempt to resolve our membership non-compliance issues. At the root of our non-compliance is the fact that our British Columbia Association has within its membership approximately 160 Functional Spe-

cialist (Sub-Section Members), who have not been required to maintain a membership in the ALA International organization.

Through our various surveys, you have advised us that the sub-section structure that has been in place for a number of years is an integral part of the success of our association, and is the foundation to the education that is made available to our membership.

Notwithstanding our attempts to convey to the ALA Board the importance of our educational offerings, and the fact that they include Canadian content not available through many of ALA's educational offerings, the ALA Board has maintained its position that all members of our British Columbia Association must be members of ALA International.

During the last few months, we have communicated with our full members through various forums, and have canvassed their opinions as to the current structure. Our membership has made it clear that they do not see the value of having every member of our association become members of ALA International, and wish to maintain the existing structure.

The December 30, 2004 letter advised that the Executive was presented with five different options that would allow our Association to become compliant.

The five options presented did not deviate from the need for everyone in our Association to become full members of ALA International, and in no way acknowl-

edged the unique educational needs that International Chapters such as Canada may have.

The options suggested such alternatives as reducing our Association membership dues, utilizing funds from our vendor-support network to subsidize dues, and charging our members meeting fees to attend sub-section meetings. The options that ALA presented would have resulted in more money being paid by our firms to support the ALA International membership fee.

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## VOICE RECOGNITION... EH?

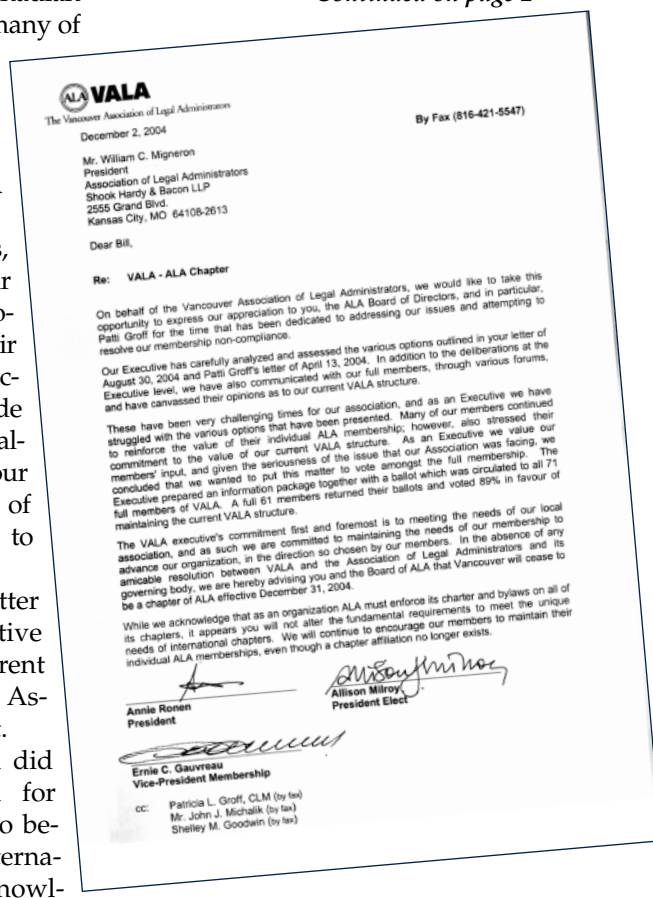
# An experiment in walking the talk

BY JOHN HAWKE,  
DIRECTOR OF ADMINISTRATION,  
HARPER GREY EASTON

Suppose you knew of software that, if applied to your law firm, had the potential for cutting significantly into your administrative costs.

Or, given the increasingly tight job market, the same software might make the activities of skilled legal secretaries more interesting by allowing them to reduce the amount of time spent doing straightforward typing. Would you immediately buy

*Continued on page 2* →



→ VALA vs. ALA: Continued from page 1

So what's next? Many of us will continue to maintain our individual memberships in ALA International, and will continue to avail ourselves of those benefits.

We are aware that many smaller firms in the province have expressed an interest in joining our organization, now that a membership in ALA International is no longer a requirement. This presents some possible growth opportunities for our Association.

As your Executive, we are committed to maintaining our strong subsection structure, and supporting the many educational endeavors that are offered by our sub-sections.

We would like to take this opportunity to thank our members for the support you have given us during these challenging times as an Association. We remain committed to maintaining the needs of our membership to advance our organization in the direction so chosen by our members.

Happy New Year, and may you have a fulfilling 2005.

→ Voice, eh? Continued from page 1

up all the copies you need and deploy it with enforcement orders? Not without testing it on a few people first, using real life activities, you wouldn't. Testing would, after all, be the prudent thing to do, because software has the potential to create significant havoc if its implementation isn't carefully considered. And havoc is not good for business.



JOHN HAWKE

Suppose further, you made a strong effort to ensure the software received a fully supportive test bed—and it turned out it still wasn't ready for prime time, what would you do? You'd likely do exactly what I did.

**WHY WE DID IT** There were a number of reasons why I decided to have Harper Grey Easton get involved in voice-recognition software. The largest cost in running a law firm is salaries. In most firms, this line item comprises anywhere from 50% to 60% of the overall cost structure, so

any time you can make a significant dent in this cost, that goes straight to the bottom line. You can save a bit on coffee, or pens or the like, but it's all peanuts compared with the savings that could be achieved by saving even one salary, so like most firm administrators, I am constantly on the watch for anything that might allow us to use our personnel more efficiently.

Most of our lawyers work on a 3:2 ratio; that is, there are two legal secretaries for every three lawyers and, as I considered voice-recognition software, I was looking for ways to improve that ratio; to move it, eventually, to 2:1.

It is also getting harder and harder to find qualified, trained legal secretaries, as most administrators know. It seems like there are fewer candidates who want to do that job, and who are skilled at it. It's a competitive market, they are stressful jobs with lots of pressure, and you need the right person, with the right skills and temperament to do it well.

Continued on page 6 →

**“ In the future, one will be able to do everything from a single place... ”**



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# Survey indicates that setting up e-invoicing not for the faint of heart nor light of wallet but may be worth it

**BY BONNIE KIRK, CHAIR,  
VALA FINANCIAL SUBSECTION  
LAWSON LUNDELL**

**E**lectronic invoicing has been implemented by a number of law firms in response to client demand.

Last July, Lawnet, Inc., focusing on the costs associated with e-invoicing, also referred to as e-billing, published its first survey on the topic.

Sixty-eight firms from both the US and eastern Canada participated in the survey. Here are highlights of the results, reprinted with LawNet's permission. [Firms belonging to the association can find the complete whitepaper at: <<http://www.peertopeer.org/communications/publications>>.]

**SURVEY CONTENT** The survey's content focused on four major e-billing

areas: initial setup, invoice processing, template maintenance and vendor fees.

Not included in the analysis were costs associated with lawyers choosing Uniform Task-based Management System (UTBM) codes; ongoing maintenance of matter, timekeeper and rate information on vendor's websites, tracking the status of invoices, creating and submitting budgets, setting up clients that switch from one e-billing vendor to another and the reduced hourly rates asked for—and received—by clients using e-billing.

As a supplement to the published survey, I have included comments from Vancouver firms who have implemented e-billing.

**STARTING UP** The initial set-up functions include:

- ✓ Collecting, exchanging and setting

up matter, timekeeper and other information as required by the client;

- ✓ Reviewing, creating, setting up and testing the template to meet client specifications;
- ✓ Training lawyers and support staff; and
- ✓ Performing the initial test submission and resolving subsequent problems.

[Table 2 summarizes the work and expenses associated with the initial setup functions—ed.]

For firms not using templates, the 42 hours represented time spent in meetings with their clients and the testing of system-stored bills.

The out-of-pocket expenses included costs associated with using third-party consultants to create and/or modify templates. Overall, an average of 76 hours and \$711 in out-of-pocket expenses were required to set up one new e-billing client.

Many clients, once they committed to e-invoicing, set a date after which paper invoices would no longer be accepted. [See Table 2] The measurement of how successful the setup functions were can be reflected by the average number of days that lapsed between the deadline date and electronic invoices being accepted for payment.

Only 18% of survey participants

*Continued on page 4 →*

**TABLE 1**

AVERAGE WORK AND EXPENSE ASSOCIATED WITH SETUP	WORK	EXPENSE
COLLECTING, EXCHANGING AND SETTING UP MATTER, TIMEKEEPER AND OTHER INFORMATION	26 HRS	
REVIEWING, CREATING AND TESTING TEMPLATES		
TOTAL IF YOU NEED TO CREATE A NEW TEMPLATE	127 HRS	\$1,485
TOTAL IF YOU NEED A VARIATION OF AN EXISTING TEMPLATE	55 HRS	\$186
TOTAL IF NO TEMPLATE NEEDS TO BE CHANGED OR CREATED	42 HRS	\$0
TRAINING LAWYERS, STAFF: PER CLIENT		
63% OF SURVEY RESPONDENTS	1-5 HRS	
23% OF SURVEY RESPONDENTS	5-10 HRS	
14% OF SURVEY RESPONDENTS	10+ HRS	
PERFORMING INITIAL TEST SUBMISSION AND SUBSEQUENT PROBLEM RESOLUTION	17 HRS	

**TABLE 2**

AVERAGE DAYS BETWEEN DEADLINE DATE AND ACCEPTED E-INVOICE	
47% OF SURVEY RESPONDENTS	30-50 DAYS
17% OF SURVEY RESPONDENTS	50-70 DAYS
17% OF SURVEY RESPONDENTS	70+ DAYS



→ *E-Invoicing: Continued from page 3*

managed to, on average, successfully submit e-invoices within 30 days.

*Vancouver firms' comments:*

- ✓ Several firms experienced communication problems between all parties concerned resulting in excessive delays;
- ✓ Due to clients modifying and/or adding UTBM codes, a standardized list could not be developed. As a result, manual adjustments were required to the opening of each new matter;
- ✓ Some e-vendor software has difficulty handling multi-currency transactions. As they are US products, they do not recognize Canadian dollars;
- ✓ It is important to train everyone in the firm once you have committed to using the new technology. Failure to do so can result in unnecessary delays during the invoice processing.

**ONGOING INVOICE PROCESSING**

These functions include [See table 3]:

- ✓ Preparing the invoice, such as reviewing all time-and-cost entries for correct use of task or activity codes, and transmitting the invoice;
- ✓ Collecting error information from rejected invoices, reversing the invoice and reposting the corrected invoice; and
- ✓ Resubmitting corrected invoices.

Of the survey participants, 18% spent greater than 35 minutes to fix one invoice.

**TABLE 3**

AVERAGE WORK TO PROCESS ELECTRONIC INVOICES	WORK
TOTAL TIME SPENT TO PREPARE AND DELIVER ONE INVOICE ELECTRONICALLY	55 MINUTES
PERCENTAGE OF INVOICES THAT MUST BE SUBMITTED A SECOND TIME	19%
ADDITIONAL TIME SPENT WHEN AN INVOICE IS REJECTED	21 MINUTES
TOTAL TIME SPENT TO SUCCESSFULLY PROCESS ONE INVOICE ELECTRONICALLY, INCLUDING REJECTION AND RESUBMISSION TIME	69 MINUTES
DELAY FROM INVOICE FINALIZATION TO SUCCESSFUL INVOICE DELIVERY	5 DAYS

*Vancouver firms' comments:*

- ✓ A labour-intensive process;
- ✓ New timekeepers entering time to the matter quite often do not take care in entering the proper required task codes. As a result, the time must be manually reversed then re-entered using the proper codes;
- ✓ Clients have strict rules about how time and costs are entered. Unless every 't' is crossed and 'i' is dotted, the invoice will be rejected, causing further delays.

**TEMPLATE UPDATING** The level of maintenance a template requires varies from client to client, and involves changes to acceptable timekeeper classifications as well as additions or modification to codes.

These requests usually trigger a set of functions similar to those triggered by setting up a new template, including requirements-gathering, discussion meetings, template upgrades, testing and the like.

The survey captured the percentage of initial set-up time respondents considered to be duplicated efforts [See Table 4].

*Vancouver firms' comments:*

- ✓ The technology is new, so firms have not experienced many requests to modify templates.

**E-BILLING VENDOR FEES**

Several firms reported that they were asked to share the cost associated with e-vendor services with the client. The cost was either a flat fee or a percentage of the fee value sent through the

e-vendor's system. The latter was more commonplace in the United States. [See also Table 5 on page 5.]

*Vancouver firms' comments:*

- ✓ Local firms have not been approached to assist in the maintenance cost of e-vendors. The client pays for the software and the annual maintenance fees.
- ✓ The most popular e-vendors used are: *Tymetrix, Serengeti Law, Data-Cert and Litigation Advisor.*

**TOTAL COST** The survey concluded that that total cost for the average firm was \$68 per invoice.

For the median firm, the cost of one invoice was \$61. The \$68-per-invoice figure can be broken down along the four components studied in the survey:

- ✓ \$11 per invoice spent in initial client setup
- ✓ \$48 per invoice spent on ongoing invoice processing
- ✓ \$1 per invoice spent in template maintenance
- ✓ \$8 per invoice spent in e-billing vendor fees.

**SUMMARY** Overall, the survey reflected e-billing to be a labour-intensive procedure. Before implementing e-billing, law firms expected the ini-

*Continued on page 5 →*

**TABLE 4**

WORKLOAD ASSOCIATED WITH EACH CHANGE REQUEST (COMPARED TO SETTING UP A COMPLETELY NEW TEMPLATE)	% OF INITIAL SETUP TIME
71% OF RESPONDENTS	5 – 10%
19% OF RESPONDENTS	10 – 15%
4% OF RESPONDENTS	15 – 20%
6% OF RESPONDENTS	25%+

# B.C.'s Corporate Online update: The trials and tribulations

**TABLE 5**

COST PAID TO E-VENDORS IN THE LAST 12 MONTHS	
10% OF RESPONDENTS	UNDER \$1,000
8% OF RESPONDENTS	\$1,001 - \$5,000
30% OF RESPONDENTS	\$5,001 - \$15,000
24% OF RESPONDENTS	\$15,001 - \$30,000

*Note: About 17% of respondents were charged between 2% and 3% of the fee-value billed, but they did not specify amounts and so they are not included in these figures.*

tial setup to be the most time-consuming phase of the project. They assumed that once they were fully operational, the turn-around time associated with billing would decrease and result in a positive impact on cash flows. As you can deduce from the survey highlights, this has not been the case for most firms.

**Vancouver firms' comments:**

- ✓ Overall, Vancouver firms have found the implementation of e-billing programs to be cumbersome and labour-intensive;
- ✓ Firms that do not use task codes or e-vendors find electronic billing to be an efficient way to submit invoices;
- ✓ For the larger firm, the problems multiplied as each client request started the entire process over again;
- ✓ The technology is a make-work endeavour and as a result has created new positions.

The 2004 e-invoicing survey identified many problems with the new technology. Hopefully, as time passes, solutions will be found that will benefit all.

**BY BETTY HONSINGER,  
DYE & DURHAM**

A couple of seasons have passed since the implementation of the new *Business Corporations Act* and the new, associated Corporate Online System, and this seemed an appropriate time to address the trials and tribulations that have arisen.

Here are some observations and hints to help clarify questions or issues encountered over the year that may save you some time and research.

Searches of B.C. companies and extra-provincial firms are done through the new Corporate Online system and are now called *Corporate Summaries*. Searches of societies, co-operatives and partnerships are still done through the usual BC Online system, producing its familiar results.

Copies of documents are still available from the old *Company Act*

files for all paper filings prior to March 29, 2004, as well as any paper filings done after that date.

Copies of electronic confirmations of filings done after that date are available electronically from the new Corporate Online system, once you have paid the corporate-summary fee.

The majority of B.C. company filings are now electronic. Only 10 forms are now filed electronically, but they comprise about 85% of all filings.

Thirty-eight forms are still submitted over the counter to the Corporate Registry in paper format. All *Company Act* forms have been replaced, and all of the new forms are available for download from the Corporate Registry website.

The website has the forms divided by *Business Corporations Act*, *Society*

*Continued on page 7* →

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→ Voice, eh? Continued from page 2

My intention for this software was to identify ways to relieve our secretaries from the more-laborious aspects of typing, and to make them more efficient, so that as we added lawyers, the ratio of lawyers to secretarial help would improve, and the firm would become more efficient as we grew.

A lot of the work done by support staff involves pounding the keyboard; perhaps 60% of their job is typing. Besides reducing the amount of typing, I also wanted to give them more time to do more interesting work, by enhancing the administrative component of their job. To give them more time to administer the lawyer's practice, which provides the firm with higher value: setting up court dates; doing the logistical work of discovery, discussing co-ordination aspects of the file with clients. It would also have the effect, I thought, of making Harper Grey Easton more attractive to qualified legal-secretarial

candidates, because we could offer them a job description that would be more varied and interesting.

**NOT THE FIRST TIME** Although voice-recognition software offered a number of potential benefits, I still wasn't going to be rushed into things. Three years earlier, Harper Grey Easton had experimented with this software on an informal basis. Previously, we had set-up a legal assistant and senior associate with this software in two separate tests. They had both expressed an interest in trying it out with the intention of at least maintaining their current level of productivity, but using less secretarial support.

In both instances, we gave them the software and whatever instructions that came with the package, and asked them to work with it for approximately one or two months. We set the software up on their normal desktop computers, which met the specifications for this software. We found, though, that the computer simply wasn't powerful enough to

run the program; the software was slow and cantankerous, and both individuals quickly became frustrated with it. Even after we upgraded the computers, both felt the software did not adequately adapt to their speech patterns to realize any significant productivity gains. Eventually both the legal assistant and associate returned to the more traditional approach of getting their work done.

By this time, I decided that if HGE was going to get serious about using this software, we would take the lessons learned from our prior experiments and incorporate them into a new, formal project.

**TIME TO DO IT RIGHT** Here's how that went. We purchased top-end laptop computers to facilitate the training process both in the office and at home.

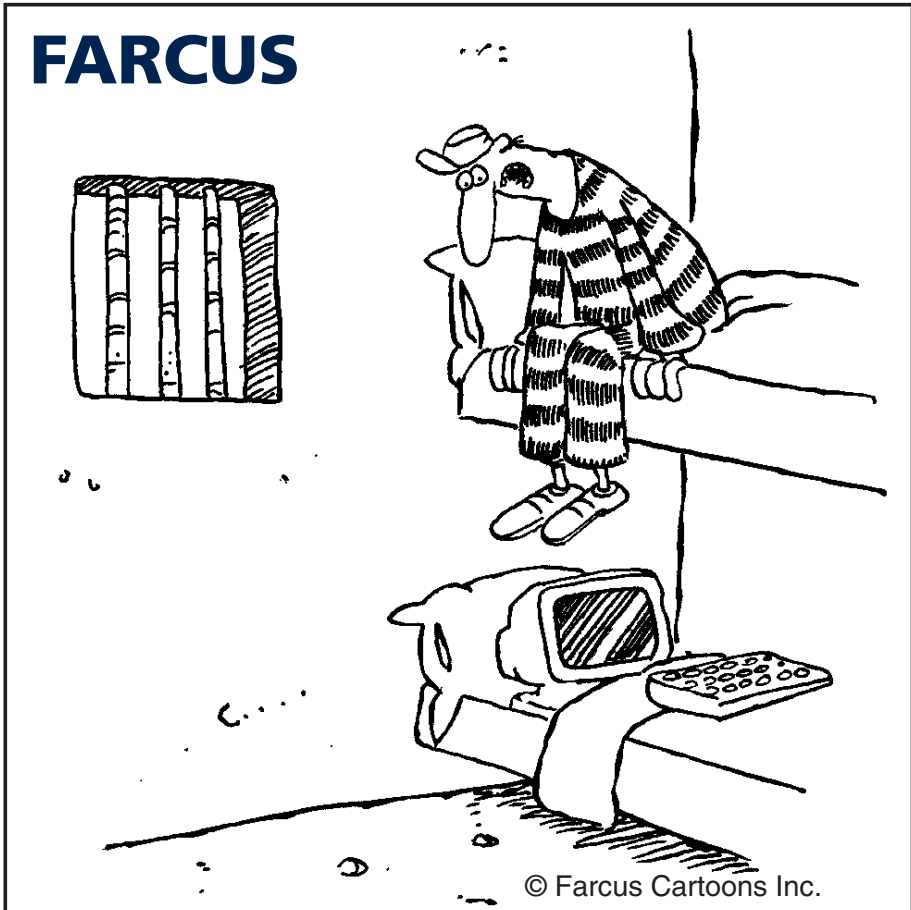
HGE also contracted with a local consulting company that specialized in training on voice-recognition software, to provide one-on-one training for each of the lawyers chosen to participate in the test group. We also asked this company to give a presentation at the beginning of the process to all the lawyers in the firm, so that everybody understood where the software was, in terms of sophistication, and what it might be capable of doing.

The organization's representative gave an impressive presentation. In her demonstration, for instance, she read from a couple of publications and the software dutifully transcribed her words onto the screen. People were impressed, feeling that the technology had come a long way over the last few years.

The software, *Dragon Naturally Speaking Professional Version 7.0*, could not only be used with Microsoft Word, but also *Carpe Diem* (our time-entry package) and *Groupwise* for e-mail. The demonstration whetted everybody's appetite.

We also thought about how people work in our firm, so, after the presentation, we picked two teams. These were not individual lawyers, but a total of six lawyers—four partners and two associates—and their secretaries.

We felt that being in proximity  
Continued on page 10 →



"Yeah, I didn't listen to my lawyer either..."



# Five steps to better profitability involve throwing out the deadwood

BY RICHARD STOCK,  
CATALYST CONSULTING, TORONTO

**F**ew lawyers, and too few clients, understand the economics of their practice and firm beyond the concept of hours x rate = billings.

Production-based models are a treadmill which average the value of legal services because every hour has the same price, except those which are discounted. The dominant culture, the one which represents success in the firm, is usually total billings.

Firms downplay business origination because it is too divisive. Partners and practice leaders take little responsibility for the effective and profitable use of associates, students and paralegal employees. Costs in the firm are almost always assessed across the board as "overhead," and then, too often, are assigned on a per-lawyer basis.

Assigning significant costs for the staff that are actually used—and relying on precise salaries, benefits and infrastructure—is divisive. It is easier to spread such costs across the firm than to really understand the profitability of certain clients, certain practice areas and specific lawyers.

Follow these five steps to harvest

the best value from the legal services your firm is providing in 2005. Most steps can apply to individual practices as well.

**1. TOP 25/5** Identify the firm's top 25 clients and prospects, and the type of work the firm realistically expects to get from them in the next two years.



**YES, PROFITABILITY IS A RACE.  
WAS THERE EVER ANY DOUBT?**

Next, identify the top five for each partner. You now have the beginning of a business plan for the firm.

**2. WHO'S DOING WHAT?** Go one step further and quantify the hours for each category of work for the same two years as in Step 1.

Express this work according to levels of experience needed to complete it, by senior partner, junior partner; entry, mid-level and senior associates; paralegals and students.

Then carefully examine who is actually doing the work. Usually, it is delegated downward by one or two levels.

Next, develop work intake, along with allocation standards and protocols for each practice area. Why? Because failure to do this sacrifices leverage and profitability. It also promotes associate turnover because associates do not get enough challenging work unless these aspects are clear.

**3. PULL UP SOCKS** Rigorously set objectives for billable work for every fee earner (you may have to reintroduce this rigour).

Ensure that cash-in is at least 90% of the standard rate for every fee-earner in the firm. There has been noticeable slippage in targets of firms in recent years.

It is not enough to set billing targets unless these are at the current effective rate for the right number of hours. With the exception of highly leveraged practices, few firms should be satisfied with less than 1,600 hours as economically viable.

Today's cost structures, poor leverage and pressures on rates have driven up the target minimum from where it was 15 years ago.

**4. TRIM WASTE** Perhaps as much as 20% of every billable hour goes to pay for staff, space and other operating costs, other than salaries and benefits for associates and paralegals.

Most firms are overdue to examine their infrastructure and production-support requirements. These could be cut in half—not because there is waste—but because the support functions (document production and stor-

*Continued on page 8* →

→ *OnLine: Continued from page 5*

*Act* and *Extra-Provincial Companies* into those fileable online and those fileable in the paper form. Once you have filed electronically via Corporate Online, you still need to wait for the final confirmation print from the Corporate Registry. Turnaround time to receive final confirmation is currently about one week.

Paper forms are still submitted in the traditional manner, with confirmation in the form of certified copies, if desired. They are available at \$25 for each certified copy requested.

Filing times vary, from about one month for maintenance filings such as society annual reports, to one

week for a restoration. Certified copies take about one week longer.

The Registry is still working through a possible two-to three-month backlog for some of the low-volume filings.

B.C. companies incorporated under the old *Company Act* must file a Transition Application by March 29, 2006. There is no government or BC Online fee if you file the simple Transition form online.

In any event, a technological change was inevitable, as it allows the government to meet its staff reduction and budgetary goals. It is up to the legal profession as a whole to create the environment of co-operation necessary for a smooth transition. ▼

# Planning for succession is a subject that never gets too old for firms

age, arranging meetings with clients and colleagues, and the like) are part of an outdated business model. Few firms have expense-reduction plans

**Available savings represent 10% of every billed hour**

in place and documented, outside of reviewing leases every 10 to 15 years.

For the most part, partners stand in the way of real changes, or they agree to subsidize inefficient practices in other parts of the firm. The available savings represent 10% of every billed hour, and this can amount to a 20% improvement in profits per partner.

## 5. THE PRICE IS RIGHT

The final step is to price the work properly.

Yes, the rates are higher than ever. But they are still chaotic and illogical in many respects. Individual partners are left to control their standard rates, arguing they will lose the work, or that they are prepared to make less money within the firm's compensation system.

Associate rates are copied from other firms, using surveys and benchmarks that bear little relationship to the costs of the associates in your firm. Rates of senior associates and junior partners probably overlap or are severely compressed.

Rates for partners proliferate, with the firm having more interest in its budget requirements than in proper work allocation. And, most importantly, rates do not always reflect the relative complexity of the work.

Institutional clients in particular want to see some correlation between the nature, and complexity, of the work and its cost.

There are no quick fixes in pricing the work and the lawyer. Done well, everybody wins.

*Richard G. Stock, M.A., FCIS, C.Adm., CMC, is a partner with Catalyst Consulting. Richard's contact info: (416) 367.4447; <<http://www.CatalystLegal.com>>.*

**RICK JAGPAL,  
MANAGER, TAX  
WOLRIGE MAHON**

**M**ost successful law firms have a succession plan. However, for others, succession is an issue that only arises when a key partner or rainmaker retires, or leaves suddenly.

With a large number of partners in British Columbia now approaching retirement, succession planning is taking on an added urgency for many law firms.

How a law firm approaches the succession issue will be influenced by the firm's size, historical practices, the personal characteristics and skills of the partners, and the abilities and skills of the associates. However, the key issues to be addressed in any succession plan are uniform from firm to firm.

An effective succession plan will address a broad range of issues. The issues by their nature are long-term, and thus the planning must be done well in advance. Some of the main issues are:

- ✓ Client retention
- ✓ Management and leadership
- ✓ Maintaining legal expertise
- ✓ Business development
- ✓ Ongoing profitability

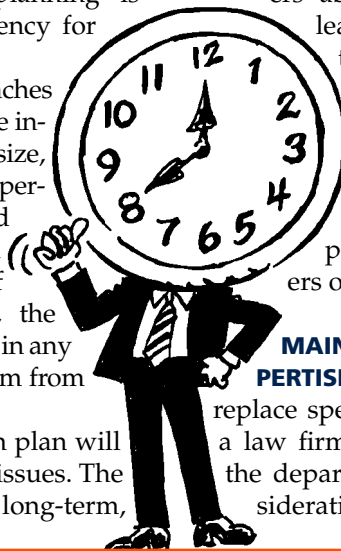
**CLIENT RETENTION** How this is managed depends on the existing relationships. Some clients can be retained easily, and one meeting with the new contact may be sufficient. Other clients may require some time to feel comfortable with a new lawyer.

In this case, it is important to begin the transition process several years prior to a planned retirement. As a result, if there are any problems during the transition period, they can be

solved prior to the retirement of the partner who currently maintains the relationship.

**MANAGEMENT AND LEADERSHIP** Firms need to plan for the retirement of partners involved in the management and leadership of the firm as a whole, as well as in specific practice areas.

It can be difficult to replace leadership, but the process of succession planning can help firms identify others able to assume greater leadership roles. Once the leadership potential has been identified, the current management should nurture and develop this potential so as to provide the future leaders of the firm.



**A partner who drives development and retires can be difficult to replace.**

**MAINTAINING LEGAL EXPERTISE** It can take years to replace specific legal expertise in a law firm. In order to plan for the departure of expertise, consideration should be given to training, mentoring or possibly recruitment well in advance of the planned retirement.

**BUSINESS DEVELOPMENT** When a partner who drives business development retires, they can be difficult to replace. Firms should attempt to maintain the contacts and clients in the same way client retention is maintained. Firms should also invest in the ongoing training of lawyers in business development and marketing techniques.

**ONGOING PROFITABILITY** Of course, firms must anticipate the impact of departing lawyers on overall firm profitability. Ultimately, a good succession plan executed on a timely ba-

*Continued on page 9 →*



# How the Napster model can affect your firm's cost-recovery process

BY BARRY RIBACK,  
R&D SYSTEMS AUDITING INC.,  
VANCOUVER

To paraphrase the song, "Where have all our copies gone?"

File-sharing. Downloading. Litigation waged between billion-dollar entertainment companies and high-school students. While combinations of these topics are something with which we're all familiar from the evening newscasts, it's probably not a subject which you might associate with your firm's cost recoveries. Yet a distinct parallel exists which could have significant impact on the bottom line of your firm.

Napster and the host of other file-swapping sites and services revolutionized the recording industry by creating an entirely new method of delivering music. Employing the new technologies offered by the Internet

and modern personal computers, customers could suddenly circumvent the traditional method of obtaining music—buying the CD or album at a retailer—and simply copy the digital file from someone else's music library for free.

As quick as you can say "Where did all my royalties go?", the music industry experienced what it claims were millions of dollars in lost sales and revenues. Early attempts to change CD encoding to prevent sharing met with little success, and the file-swapping communities on the Internet mushroomed with millions of users.

What stopped the flood of lost revenue? Certainly the legal actions had a chilling effect on the file-swapping communities, but more significantly was the industry's realization that the delivery method of their product had changed forever. New Internet sites, such as Apple's *iTunes*, offer consumers huge libraries of high-quality, fully licensed and legal digital music files for about \$1 each. The popularity of such sites has illustrated beyond all doubt that consumers don't mind paying a little for the speed and convenience of downloading only the songs they want.

Have you noticed the delivery revolution going on today in your own office? In this case, however, it's documents, not digital music, arriving on your computers - and it's your firm's revenues instead of royalties that are taking the hit.

Consider this: Just a few years ago, how did most documents arrive at your firm from the outside world? Fax? Fed Ex envelope? US Postal Service? Courier service? Once received, what typically happened next? Someone went to the nearest photocopier, keyed in the client-matter code on the cost-recovery terminal, and produced the four or five working sets which were then distributed to counsel so they could begin working them. That would be four or five billable sets of the document.

Fast-forward to this morning: in-

creasingly, how does a document arrive at the firm now? As an e-mail sent directly to four or five of our attorneys. What does each of them do first? Print out a working copy. So in both instances, the firm produces four or five copies of a document for work on a client's case. Under the old delivery method, those copies were billable. Shouldn't they be billable as well, using the newer delivery technologies?

This revolution is now also impacting your out-bound documents. Increasingly, courts are requiring documents to be submitted in an electronic format, necessitating improvements in your office technologies to permit scanning of documents to digital file. Once again, under the old paper-based delivery model, the firm would charge for the copies produced. Using the new electronic delivery method, however, is causing many firms to absorb these costs instead of applying them to a client's fees.

"Well, we had to buy the paper and toner using the old method. That was the cost we were passing along to our client. E-mail is free," a skeptic might assert. But just how free is e-mail? Many firms report that their hourly rates have been relatively flat the past decade or so. How about your technology budget? Skyrocketing, I'd wager.

Scanning a 100-page brief into a PDF file doesn't consume any paper or toner, yet it still requires a sizeable investment in technology to perform the task efficiently, not to mention the associated labor, time, electricity and storage requirements of the now digital document. Not so free at all. And if these expenses are not factored into the cost-recovery equation, from where does the money for the technology budgets come? Right from the bottom line of the firm. It's an economic model of a relatively fixed income stretching to cover dramatically increasing expenses. Not a pretty picture.

At their inception, cost-recovery solutions were charged with the task of accurately and equitably allocating document-production costs among a firm's client base. I certainly wouldn't want to subsidize someone else's paper-intensive litigation matter via a flat percentage tacked onto my bill if I were a client with a research-focused

*Continued on page 15* →

## → Succession: Continued from page 8

sis should mitigate any negative impact on profitability.

The implementation of a succession plan should ensure that the law firm continues to grow and be successful. Critical to the plan is identifying or recruiting appropriate successors, and recognizing the effort needed to develop them into future partners and leaders of the firm.

For the current partners, the plan is actually a means of protecting their retirement, while maximizing their firm's value to themselves, their fellow partners and to their staff. The alternative is to create a firm that will lack leadership, have lower profitability—and, in all likelihood, would either be taken over by another firm or dissolved. ▼

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→ Voice, eh? Continued from page 6

would allow the lawyers and staff to help each other in dealing with the software when the consultant wasn't available, and they could learn from each other; it would be, in effect, cross-training. We also gave each person individual training, and we didn't limit it. We simply told the participants they could have as much training as they needed. We said, in essence, that if they felt, after their initial one-hour training session, that they needed more training, we'd give them more, that we'd bring in the trainer to hold their hands, if that's what it took.

I chose the team members because they were all keen to try the software. They clearly understood how it could potentially help them, and they were not afraid of technology. Nor was there built-in resistance about this software in particular, as far as the team members' motivations were concerned.

To ensure the project moved ahead at a reasonable pace, we arranged to

meet with the six lawyers throughout the process to address any issues that might occur. Since the total length of the project was six months, we scheduled group meetings at the one-month, three-month and six-month marks.

**MONTH ONE** Our first benchmark meeting went well. The teams, our systems administrator and I met to discuss the problems people might be having, so that we could correct them if necessary.

Early on, we knew that our version of *Word* ('97) was not completely compatible with *Dragon Naturally Speaking*, which meant that users had to employ an extra step when saving their work. The text had to be dictated on to *DragonPad*, which is a text editor that comes with the application, and then copied into *Word*. Nobody thought that was much of an impediment. *Dragon Naturally Speaking* is compatible with the latest version of *Word*, and if the project turned out successfully, we were prepared to upgrade to *Word 2003*.

Continued on page 11 →

## TALKING TECH


**H**ere are the technical specifications for the technology used in Harper Grey Easton's voice-recognition technology pilot project:

**Software:** *Dragon Naturally Speaking Professional Version 7.0* (the latest at the time)

**Software used with it:** *Microsoft Word 97, Carpe Diem, Groupwise*

**Operating System:** *Microsoft Windows XP Professional*

**Computer:** *Dell Inspiron, Pentium M, 1.6 GHz processor speed, 1 GB Memory, 40 GB hard drive*

**Headsets:** *Platronics Duplex USB 700 mono headsets, with one earphone and a duplex USP pod* (the best on the market at the time; these have improved since). 

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Sending this job to a print center downstairs would save 12 hours.

→ *Voice, eh? Continued from page 10*

During the review of the first month, most people were plugging along and felt they were making good progress. Some were happier with the software than others, though.

On the other hand, some had also started to identify ways in which it could help them that we had not anticipated. For example, one lawyer used the software to prepare his arguments for trial, but not for the dictation we expected.

As necessary, we brought in the outside trainer to do more training, and made a number of minor software and hardware adjustments to address specific user concerns.

**MONTH THREE** Our third-month benchmark meeting indicated things were not going nearly as well. The teams had begun running into problems.

The major problem, we discovered, had to do with the way the software itself works. It has to be trained, so, theoretically, the more you use it, the more accurate it gets in how it transcribes what you are saying. For instance, if you said a particular word or phrase, and it didn't transcribe it correctly, you could teach the software to handle it correctly, so the application would not make the same mistake again.

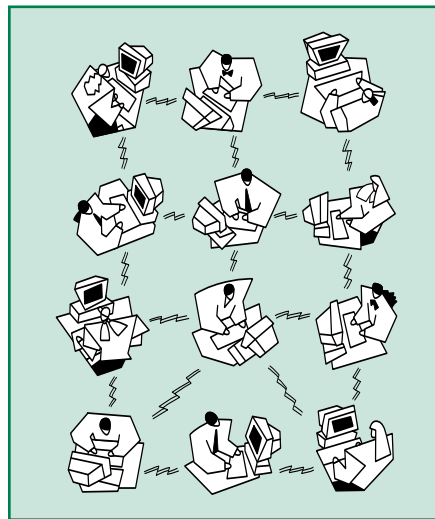
But instead of constantly improving, it seemed to improve for a while, then reach a plateau—that is, it didn't seem to get any better for another period—and then, to everybody's dismay, it seemed to get worse. When they'd back up to correct it, it seemed that no matter how many times they'd try, the program never learned to correctly interpret some things that were being dictated to it. There were also other situations where it had correctly learned a phrase, but then began getting it wrong again. Accuracy, instead of improving, began declining.

As well, the incompatibility with *Word '97* was becoming an increasing impediment. The necessary copying and pasting from *DragonPad* to *Word* turned out to be more of an issue than expected; it had slowly

built more resistance to using the voice-recognition software.

We brought the outside trainer back in again for still more training, but, by that time, team members were losing the incentive to work with the application. If the software had continued to improve, I think they would have stayed with the project, because they would be able to see a benefit for their efforts.

Lawyers are busy people. They



**We felt that being in proximity would allow the lawyers and staff to help each other in dealing with the software.**

don't have time for things to get in their way. In fact, they're usually working in time-sensitive situations or trying to get things accomplished by critical deadlines. They get easily frustrated, and that's when they began to bypass the software.

Lawyers want something they can turn on and it just does what it's supposed to do. They wanted to do what the consultant achieved in the demonstration, but that's not what the software ultimately delivered to them. There's no incentive for a lawyer, particularly in a large firm, to coddle voice-recognition software—but that's the case with all software. They're here to practice law; they're not here to play with technology.

**MONTH FOUR** By the fourth month, we realized that the software wasn't saving the secretaries any time, either. They would still have to carefully go through the transcribed doc-

ument, to check it against delivery.

There is an option for *Dragon Naturally Speaking* that allow you to provide the voice file with the text file, or provide just the text file.

Initially, we wanted the lawyers to only provide the text file to their secretary, so they wouldn't just use the voice-recording aspects of the program as another method of dictation for the secretary to transcribe. But because there were so many errors caused by the voice-recognition software and the secretaries often could not determine from the text alone what was wrong, they had to ensure that what was written was what was said, which meant they had to retrieve the voice file, and check the recording. They ultimately felt it was creating more work, not less, for them.

We never got to the six-month review, for any of the people involved in the pilot project. By the fifth month, the level of dissatisfaction had reached the point where I felt it was necessary to meet with all six lawyers to discuss their issues. What they said surprised me, simply because I thought at least the technically savvy people would still be willing to work with it. But they all said, "It's not working," and the feeling was strong that we should discontinue the project.

**AFTER ALL WAS SAID** The expense of the pilot project was about \$50,000, for everything, but the bulk of that cost was for the computers, which are still being used by the firm. It was a worthwhile investment, and I estimate the out-of-pocket cost of the project was approximately \$15,000. For that, we learned voice-recognition would not yet work in the ways that our firm does things.

That said, if I had to do it again, I would, because you're never going to know unless you try. Will we ever try voice-recognition again? Sure; I haven't given up on it. I know where the software needs to improve, and I can watch for that. In fact, we will probably take a look at it again in perhaps two or three years to see what is happening with this technology. ▼



# VALA Winter Social hits the Brix, making for a cool Yule

BY STEPHANIE CORNELL  
STIKEMAN ELLIOTT

VALA members enjoyed an evening at Brix Restaurant in Yaletown on December 8th, celebrating the spirit of the holiday season. The food and service were excellent, of course, but not nearly so enjoyable as the company.

Everyone happily mingled during the cocktail hour, then lots of door prizes were awarded throughout dinner. The most grateful winner had to be Ann Johnston, who delighted the crowd by heartily singing *Rudolph The Red-Nosed Reindeer*. It was not a solo effort, however; Ann waltzed through the restaurant and invited everyone to join in! The festive season had truly begun.

Many thanks to our Strategic Partners for their attendance. Dye & Durham, IKON, Wolrige Mahon and



**HUGS & SMILES:** (Left to right) Ann Johnston, Bull Houser & Tupper; Gabe Baker, IKON; and Sandy Delaven, Bull Houser & Tupper



TOS were all represented.

Congratulations to the following winners: Angela Zarowny, Accounting Services; Eric Pederson and Elizabeth Jackson both of Farris; Ann Johnston, Bull Houser & Tupper; David Livingstone, Wolrige Mahon; Russell Balcome and Janet Kine both of McCarthy Tetrault; Elaine Holmes, Baker Newby; Sam Mann, Singleton Urquhart; Donna Oseen, Fasken Martineau; and Kathy Hogarth, Lawson Lundell. ♡

**FESTIVAL OF BRIGHT LIGHTS:** (Above left, left to right in all photos) Dave McFarlane, TOS/HUB; Annie Ronen, Ogilvy Renault; Wayne Scott, Edwards Kenney Bray and Victor Montagliani of TOS/HUB. (Above), Stephanie Cornell of Stikeman Elliott and Russell Balcome of McCarthy Tetrault; (Below left) Sam Mann of Singleton Urquhart with his wife Jaz and Paddy Carroll of IKON (Below centre) Ernie Gauvreau, Richards Buell Sutton; and Allison Milroy, Lang Michener; (Below right) Janice McAuley, Lawson Lundell; Alisa Markley, Dye & Durham; Gordon Van Horn, Borden Ladner Gervais



**PROFILE: VALA PRESIDENT-ELECT ALLISON MILROY**

# It's all about the relationships, *mais oui, mon ami!*

**BY STEPHANIE CORNELL  
STIKEMAN ELLIOTT**

It's the personal interactions that keep Allison Milroy going. "Work is all about the relationships—who you work for, work with, work around," she says. "I am eternally fascinated with this dynamic."

As Human Resources Manager at Lang Michener, and as President-Elect for VALA, there is certainly no lack of opportunity to build and maintain relationships.

Allison's strong HR background comes from working at several firms of varied sizes. She went from an Administrator role at MacKenzie Fujisawa to a role of Assistant to the Director of Human Resources at Davis & Company, both in Vancouver.

Allison manages human resources

for 57 lawyers and 90 support staff at Lang Michener now. Her role includes recruiting, training and developing, individual- and team-building strategies, performance evaluations, and salary & benefits administration. For Allison, nothing about HR in the legal profession has surprised her; it is precisely what she envisioned, and she's thrilled about that. "It is exactly where I want to be in my career. Moving to Lang Michener fit right into my expectations—it feels like I've landed."

There are other factors to which Allison credits her enjoyment at Lang Michener. "The size of the firm makes



**Stephanie  
Cornell**

for a respectful and collaborative environment. It is big enough to carry all support services, and yet small enough to know everyone. It's very collegial. Working together with [Chief Operating Officer] Joan Keir is also a big benefit. Joan is fun—we share the same work ethic and have complimentary work styles, which makes for a successful relationship. We have the same expectations of ourselves, and of each other."

Additionally, she says, Lang Michener is a fun place to work simply because there seems to be a lot of like-minded people. "There is not a big hierarchy—it's more egalitarian. And there is a number of long-term staff. Many members have been here for more than 20 years; several others, more than a decade. There is a lot of history and continuity."

Moving forward at Lang Michener, Allison has some plans on the table for herself and the human resources of the firm. She envisions a bigger leadership role for herself, coordinating better team-functionality; leaping outside of

*Continued on page 15* →



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# Here are the key questions to ask about ODL insurance, and tips on why you should be asking them

**BY VICTOR MONTAGLIANI  
HUB INTERNATIONAL/  
TOS INSURANCE**

**E**ach year, when you complete the application for outside director liability insurance (ODL) for your lawyers, there are some questions that would be well-worth asking:

*Do all the public companies where my lawyers serve as Directors have D&O insurance in place?*

The ODL policy you are buying is what is called an "excess" policy—it only provides full coverage when the underlying insurance is in place. Underlying means the D&O insurance purchased by the individual

company on whose Board the lawyer serves. If there is no underlying policy, then the ODL policy provides a minimal amount of coverage. If there *is* an underlying policy, then you should be asking the next question.

*How much underlying coverage is there?*

In order to provide more than the minimum amount of coverage, the individual company is required, by the ODL policy terms, to already have in place a certain amount of insurance.

For Canadian public companies, that amount is usually \$5 million, and for US public companies (traded on any US exchange) that amount is

usually \$10 million.

Without that basic amount, the ODL policy is usually limited in the extra cover it provides.

Once you have determined all this, there are still other important questions to be asking.

*How much is the underlying insurance diluted?*

Many insurance companies include, in their policy terms, coverage for the company itself when a securities suit is raised.

So, a D&O policy with a \$5 million limit that contains entity coverage for securities claims actually provides much less than \$5 million coverage for the Directors and Officers.

A suit for, let's say, \$5 million, will usually name the principal Directors and Officers, *and* will name the company. Depending on the policy terms, the \$5 million will be split, in some proportion, between the directors, officers and the company.

*Continued on page 15* →



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→ Milroy: Continued from page 13

the performance reviews and giving more recognition of the individuals, not just managing crises and the day-to-day operations.

"I want to be proactive, and lead in that respect. I'm starting now."

Allison readily admits that she owes some of this trailblazing spirit to her experience on the VALA Executive Board. "VALA is enhancing my position at Lang Michener. Working with the executive members has certainly encouraged me to think more objectively about issues in the law firm. The strategic planning sessions with the executive board... many of the ideas coming out of these meetings will help me with my future planning for Lang Michener."

The only predicament Allison finds herself confronting is that of balancing work and home. "Challenges at work have a lifespan—and have to be resolved. But with children and a home and work—that is a constant!" Add to that a home renovation and the balance becomes slightly more tenuous!

But it's not all stress and challenges for Allison. An avid traveller, Allison has been to Greece, London and Mexico. She even lived in Perth, Australia, for a year and a half. This past spring, Allison spent some time in France.

"Right now, I'm in love with everything French!"



Allison Milroy

She immediately appreciated the quality of life and the balance French people seem to enjoy. "There is a real love of the moment. [The French] are not always looking nor waiting for the next big thing to happen. They focus on 'the now.' Dinner, for instance, is an event. Going out every day to buy fresh food is a big deal. I like that."

Allison dreams of spending more time there and, in anticipation, she is learning how to speak French.

Allison will take over as VALA President in April, 2005. Her priority is to keep the executive and the Association bonded and working as well together as they are now, particularly in light of the recent disconnect with ALA.

She is hopeful that, "By listening to everyone throughout the process, I hope we have demonstrated how important to the organization each individual member is, separate from ALA. I hope that we as the executive of VALA have sent a strong message that all members are valued and that the Association [as a whole] is important."

Allison looks forward to bumping up the educational aspect of the Association with more of a Canadian slant.

Additionally, membership may now consist more of getting out of it what you put into it. "Overall, this is a good thing."

Or shall we say, *c'est bon!*

→ Napster: Continued from page 9

matter. Sounds like a 'copy tax' for services I didn't need or use.

The importance of accurate accounting of document production is more important today than ever before, driven not so much by the consumable costs such as toner and paper, but by the technology infrastructures required to keep pace with the digital demands of the courts and the business environment at large.

Just as the music industry came to the realization that electronic delivery is here to stay and a new business model needed to be determined, firms across Canada are recognizing that billing parameters structured years ago no longer apply to the flow of information today. Comprehensive cost-recovery solutions are available today which provide your firm an efficient method for accounting for digital output and scanned digital input, along with traditional walk-up copying, faxing and telephone charges.

"We bill for copies. We don't bill for prints." Can you really make a distinction between the two in today's office environment? As network-ready, multi-function devices become normal in your office, you can't use the device applying the toner to the paper to make the determination. It would be akin to the music industry declaring "We sell music. We don't sell digital files." A song is a song regardless of the delivery method.

Fundamentally, we're doing the exact same tasks we've always done in document production. We're simply leveraging new technologies to perform those tasks more efficiently, and forward-thinking firms have already determined that a copy is a copy, regardless of the format of the source or output. Vinyl, tape, CD, mp3 file. Typewritten, photocopied, digitally scanned, printed and e-mailed. As Led Zeppelin says, regardless of the format, "The Song Remains the Same."

→ D&O: Continued from page 14

Note that there are ways to ensure that your lawyer gets maximum coverage from the underlying insurance, even if the policy includes this entity coverage. But for this, you need to ask a specialist broker in D&O insurance.

**What other underlying policy terms should concern me?**

Insurance companies that provide D&O insurance vary tremendously as to the terms they provide in their policies. There is no such thing as a "standard" D&O policy.

Among the other terms that should concern you for your lawyer's protection are:

- ✓ Punitive damages: Are they covered, and in what venue are they covered?

- ✓ Whether defence costs for allegations of dishonest acts are covered all the way to final adjudication of the case;
- ✓ Whether the insurance company insists on providing its own lawyer to defend D&O cases; and,
- ✓ Whether statements made and warranties provided in the underlying policy application are binding on all directors, even if those statements and warranties are made only by management.

Roger Smith (604.292.1996) and Victor Montagliani (604.292.1902) are Account Executives with the HUB Professional Liability Practice Group at TOS Ltd, which is HUB's Vancouver office.

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VALA, founded in 1972, is a non-profit organization with more than 80 Full Members and more than 120 Sub-Section Members across B.C. It is VALA's goal to provide educational opportunities for our members, to enhance skills as legal administrators and to provide professional and personal benefits to the members and their law firms.

## MEMBER SERVICES:

- ✓ Opportunities for members to network with other law firm administrators are provided by events such as our annual Spring and Winter social, or monthly sub-section meetings. We host an annual managing partners luncheon.
- ✓ Our job bank offers Members information on potential employment opportunities.
- ✓ The discussion section on our website allows our members to quickly get questions answered with advice from others who may have faced similar situations.

The best way to get involved is to become a part of VALA.

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