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## Alternative Learning Approaches

by Judie Boroevich, IT Trainer and User Support Supervisor at Borden Ladner Gervais

Instructor-led classes remain one of the most popular ways to offer training at law firms, and while this often is the best approach, other approaches deserve consideration. I am of the opinion that the more variety that we can offer for learning, the better.

### ONLINE LEARNING

Online learning environments have been around for a while. Before implementing this type of learning environment, you'll want a strategy to ensure employee buy-in, as well as one that measures the effectiveness of the training. When you consider online training, your strategy should include whether to feature synchronous or asynchronous classes (or perhaps both).

With synchronous classes, instructors and students attend the training simultaneously, often using virtual classroom software such as Cisco WebEx or Adobe Connect. The big advantage of this method is the fact

that students can attend from anywhere in the world as long as they have a computer and an internet connection. For example, a firm may have its Vancouver-based trainer offer a class to employees in its Calgary and Montreal locations. We've also seen this with some recent BCLMA events, offered both in person, as well as available to watch online, which is a great option for those who may not be able to travel due to the physical location of the event. While it's a cost-effective way to offer a class, it does have its challenges.

Synchronous classes require the student to have a certain level of technological sophistication. The student has to be able to connect

to the session, and likely be able to use additional technology, such as a web cam or online-chat function. From the instructor's perspective, it can be difficult to manage students who are not in the same room. The sessions are cognitively demanding, and thus tiring, for both the instructor and attendees, so these classes are ideal for short sessions. Aim for about 90 minutes in length; perhaps longer if you offer consistent breaks.

With asynchronous courses, an employee attends a pre-recorded training session, usually in the form of e-learning modules. These are especially effective for learning rudimentary skills, and the student can repeat the lesson more than once in order to master a skill. Also, students can take the class when it suits their schedule – noon, midnight, whenever! This makes it particularly ideal for lawyers.

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## Who We Are

The BCLMA, founded in 1972, is a non-profit organization with 135 Representatives and 270 Affiliates across BC. It is the BCLMA's goal to provide educational and networking opportunities, to enhance skills as legal administrators and managers, and to provide professional and personal benefits to its registrants.

## Member Services

The BCLMA provides opportunities to network with other law firm administrators and managers at annual Spring and Winter socials, and monthly subsection meetings. We host an annual Managing Partners Event, and a large conference every other year.

## Newsletter Services

Topics is a public newsletter. Contact the Editorial Committee to provide comments on articles, to offer suggestions for articles in future issues, or to augment the circulation list. We welcome your feedback! Please send comments to membership@bclma.org.

## Submissions

If you have an article or story idea you would like to submit, please email Heather Ritzer at hritzer@lawsonlundell.com. Please note that our prescribed article length is 1000 words. All submissions will be subject to review by the editorial board.

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**MOOCs - MASSIVE OPEN ONLINE COURSE** MOOCs have grown in popularity over the last couple of years. They were initially intended as a way for universities to offer free online classes to an unlimited amount of people. What is the value in implementing these at a law firm? Perhaps you encourage employees to take advantage of free course offerings that relate to their jobs and track what they successfully complete in your Learning Management System. Note that these classes require the student to be disciplined and self-motivated, but offer a great chance to enhance one's skill set for free. Google MOOCs and you'll find that many different universities offer these classes, including Harvard and MIT. Have a look at their respective offerings at: <http://www.extension.harvard.edu/open-learning-initiative> and <http://web.mit.edu/newsoffice/topic/massive-open-online-courses-moocs.html>

#### **KNOWLEDGE BOARDS**

With knowledge boards, employees can share information online and maintain a

discussion history that is easily searchable. Like the other options mentioned, you'll want to be clear on your strategy before implementation. For example, you might have a knowledge board where litigation paralegals share information on changing statutes with each other, so make sure the paralegals know the benefits of the knowledge board. Have one or two people act as moderators for the board, both to encourage others to participate and to ensure accurate information gets posted.

#### **PEER-TO-PEER TRAINING**

Why not have an employee learn how to perform a task from an employee who already successfully performs the task? This type of training is an effective way for employees to learn, and is often overlooked as a real training strategy. In most law firms, we see this in place with programs where a senior Legal Assistant mentors an individual new to the profession. This offers a great chance for sharing 'real' information, both the technical aspects of performing the job, as well as sharing knowledge about the firm and leading practices.

#### **BLENDING THESE TOGETHER**

I feel most excited about an approach that incorporates all of the above (including the instructor-led class!). Most of us learn best when we have a variety of delivery methods to choose from, and by incorporating variety, we also address various learning styles. Many of us have heard about the auditory, visual, kinetic and reading-writing styles, and believe it or not—for all the fuss—research shows that these styles are simply a learning preference as opposed to a scientifically proven way of learning. Regardless, the more options we can offer employees for learning, the better. We want knowledgeable employees who feel genuinely enthusiastic about learning. We can achieve this by offering a variety of approaches for learning.



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# PRESIDENT'S MESSAGE



Let me start by saying how honoured I feel to send this message to you from BCLMA's "President's Desk"! For those of you who don't know me (yet!), I am Leslie Morgan, Administrator at Harper Grey. I joined the BCLMA 15 years ago, and have been an active Board member for the past three years. As the new President, I feel very grateful for the opportunity to give back to an organization that has meant so much to me over the years, and that I hold in such high esteem. I also feel fortunate to work with our supremely wonderful and talented Board of Directors. Each individual brings their own talents to the table, and all are responsive and committed to another successful BCLMA year!

Leslie Morgan, BCLMA President

A number of changes occurred at our Annual General Meeting in April. Directors Anita Parke and Cindy Hildebrandt, two excellent board members who have contributed many years of service to the association, said goodbye as their terms ended. On behalf of the Board, I thank them for their dedication, enthusiasm and terrific ideas over the years. Personally, I will miss working with them! Paula Keiss remains on the Board but assumes Cindy's prior Officer role of Secretary. Ernie Gauvreau also remains on the Board, with another year to go in his three-year term. While Susan Spalding and Lori-Ann Birdsall completed three-year terms at the end of the 2013/14 term, the Association re-elected them both. They commit to serve a three-year term alongside newly elected members Catherine Rae and Lorraine Burchynsky - all as Directors. Angela Zarowny will remain as Treasurer, going into her 18th year! Together, we all look forward to another interesting year, building on past years' successes. We stand ready to hear your ideas and feedback, so if you have anything to share with us, you will find our names and contact co-ordinates on the last page of the newsletter and on the website ([www.bclma.org](http://www.bclma.org)) under the "Board of Directors" tab.

Our first order of business: The annual Summer Social at Bridges. This year marks the third year we have used the reception-style format, which has had such great turnout and feedback in prior years. I hope you had the opportunity to network with your counterparts and colleagues, and to make connections with our vendors who continue to provide generous support to the BCLMA.

Check out the event photos in this issue!

Our "Topics" newsletter continues to be a valuable resource, as evidenced by its high readership. We hope that you have enjoyed the new simplified format developed in 2013, and trust that you will continue to find the newsletter useful, interesting and meaningful, with articles and content relevant to you. Please contact us, or the editorial board, if you have any feedback or have a topic of interest for consideration.

Subsection groups continue to thrive and offer an unparalleled level of within-industry support and education to subsection members. Generally, the subsection leaders rotate yearly, which provides ongoing opportunities for individuals to develop leadership skills, learn from their seasoned counterparts and give back to our legal community. We thank all of our Chairs and Co-Chairs for their time and dedication and encourage anyone interested to get involved! It's a great way to learn, grow, and to build your network.

This year was a conference year, and we held a hugely successful conference called 'Leadership: All Hands on Deck' at the River Rock Casino in Richmond in March. I hope you had the chance to attend. Our Conference Committee worked very hard to secure speakers, interesting vendors, and to plan sessions of interest and benefit to our members. We will start planning our next conference shortly so let us know if you would like to get involved!

In 2013 and early 2014, the Board and the website committee worked on the redesign of our website. It's been a challenging but very rewarding project, and we hope to build on the state-of-the-art technology behind

the site for years to come. Along with updating the site, we wanted to invest in a search mechanism and create a more modern and interactive resource where you can search and share information on law-firm management. We want the BCLMA website to remain top-of-mind whenever you need a resource pertaining to law-firm management and education.

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President's Message continued from page 4

The Board continues to strengthen our relationship with ALA and TLOMA after hosting a successful tri-Association meeting in August 2013. The intention is to exchange information, share ideas and create leading practices. We were pleased to welcome representatives from both ALA and TLOMA at our conference, and several members of the Board will meet with our counterparts again at the ALA conference in Toronto in May.

BCLMA is now 137 member-firms and 400+ affiliates strong! Ultimately, our mission is to enhance the competence and professionalism of legal services management provided by individuals of our association within the legal community of British Columbia. As a Board, we aim to have another outstanding year developing and supporting educational opportunities within BCLMA. We look to bring in more speakers on topics relevant to you and your role(s) in your firm. Please feel free to send an email to [membership@bclma.org](mailto:membership@bclma.org) to share your ideas and thoughts on what you would like to learn more about.

On behalf of the Board, thank you for your vote of confidence and we look forward to working with all of you throughout the year!



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## How to Take an Email Sabbatical

by Danah Boyd, Principal Researcher at Microsoft Research.

We all need time off. Like, serious time off. Time when we feel like we're able to truly rejuvenate without the little panicked voice chirping away in the back of our heads fretting about the backlog of things we are going to have to deal with when we come in.

Information overload can be a very taxing issue for many people. Luckily, many services allow us to go zen without making us feel guilty. Most of us can scan Twitter without obsessing over all that we missed. And there's simply too many blogs to think about all that we haven't read. Unfortunately, email is the one app that we feel guilty about turning off. Why? Cuz the interface is designed to put you on a hamster wheel, rarely ever succeeding at letting you reach empty. You feel accomplished when you get to inbox zero. And then you sleep and it's all back to haunt you. For this reason, I recommend taking an email sabbatical.

At its most basic level, an email sabbatical is when you make all of your email bounce. But you can't simply turn off your email without making countless people in your life angry. Thus, an email sabbatical is actually a series of steps to let you step away from your inbox guilt-free and return to an empty inbox upon your return.

**Step 1: Schedule a vacation.** Not a long weekend. Not a few days in the countryside.

A vacation. A minimum of two weeks. Serious time off. Time away from your computer, time away from your devices, time to find sanity.

**Step 2: Communicate with all collaborators.** I start telling close collaborators about my vacation about six months ahead of time. I make sure all collaborators know when I'm gone three months ahead of time. I'm conscious of every to-do that I've committed to, every responsibility that I vow to complete before vacation. And I continue to remind folks that I will be gone from Time A to Time B. I make sure that no one will depend on me while I'm gone so that I don't create a problem for anyone.

**Step 3: Public pronouncement.** About six weeks before I go on vacation, I make some loud public pronouncements to let folks know that I will be seriously offline and unavailable during my vacation. Warnings are the key to happy relationship maintenance, even with folks you haven't thought about.

**Step 4: Warn folks via email.** Roughly two weeks before I'm to leave on vacation, I turn on a standard vacation message to warn

people that my inbox will become a black hole starting in X days. I make it very clear that if they need anything from me during my vacation that they need to ask ASAP. I also tend to take this time to send a message out to all collaborators and colleagues telling them that I'm about to go on vacation and if they need anything from me, now's the time to ask.

**Step 5: Technical setup.** I'm an old skool UNIX geek so I've got one of the most hideous procmail files you've ever seen. I use a crazed procmail script to filter all messages to /dev/null and to send an entertaining bounce message to folks saying that my email is dead and that if they want to get in touch with me, they'll have to resend their message when I return. I usually write a sarcastic message about how if it's really important, you can call my mom. Few folks ever call my mom, although some have. You don't have to be a UNIX geek to kill your email. You can do it in most programs by using the filter tools available and sending things to the trash. It won't delete things as permanently as my method, but it will work. I typically turn on my death trap message 24 hours before I leave for vacation without actually deleting the message, knowing that folks who waited till the last minute will panic when they see the message and call me.

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*Email Sabbatical... continued from page 6*

Although I turn off my main email account, I also create a vacation webmail account. I give that contact information to my mother, my brother, my best friend, my housesitter, and my sysadmin. They all know how to reach me in case of an emergency. In some trips, I give my contact information to a key colleague or to my boss in case of something of dire urgency. They all get it and use it responsibly. I tend to check that backup email every 2-5 days while on vacation, depending on how remote I am. This is meant for emergencies only and is used primarily to let my mother know that I'm still alive.

**Step 6: Take a vacation!** I prefer to go to really remote places. I love using Instapaper to download large parts of Wikipedia that detail the region that I'm in but, for the most part, I use very little technology. Well, except for my Kindle. That gets used more during vacation.

**Step 7: Re-entry.** When I come back from vacation, I write to all of my core colleagues before announcing that I'm back to see what they need from me. I often set up meetings before I leave so that everyone is certain to get my full attention when I come back. And then, after I've made certain that my time is spent catching up with collaborators, I

announce that I'm back.

Communication is key to an email sabbatical. Disappearing without properly making certain that everyone has what they need is irresponsible and disrespectful and people will get irritated. But it's surprising how well folks deal with the idea that you're taking time away when you properly warn them.

Because I use procmail and don't nuke my log files, I've examined the headers of the messages I've received while gone. And when I looked at the headers of messages that I missed in the past, I noticed a funny thing. The first few days are full of friends writing test messages just to see what my bounce message will be. And then it dies off. While I get hundreds of personal emails per day on a normal day, I get less than a dozen while I'm on vacation. Folks actually tend to respect that I'm away.

Do I miss things while I'm on vacation? Most certainly. But I'm OK with that. Inevitably, I will receive numerous emails from journalists covering time sensitive stories about teens, people wanting me to review journal articles, students wanting help with their term papers, and perhaps an invitation or two. I do feel guilty not personally responding to these people to say that I'm

unavailable but that's precisely the point. I need to let go in order to truly take a break and refresh. Are there going to be people upset at me because I'm on vacation? Sure. But I'm also used to getting angry emails everyday from all sorts of people yelling at me for my attempt to explain teen life. Part of me feels a guilty pleasure knowing that I will never see X weeks worth of angry emails. Generally speaking though, the folks who complain about my email sabbatical are folks who don't know me. My boss gets it; my collaborators get it; my friends get it. And they like me a lot better when I've taken a vacation recently.

Anyhow, I hope that this inspires you to think about taking time away from your computer. You'll appreciate it if you do.



*My name is Danah Boyd and I'm a Principal Researcher at Microsoft Research, a Research Assistant Professor in Media, Culture, and Communication at New York University, and a Fellow at*

*Harvard's Berkman Center for Internet and Society. Buzzwords in my world include: privacy, context, youth culture, social media, big data. I use my blog to express random thoughts about whatever I'm thinking. <http://www.zephoria.org/thoughts/>*

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## Fraud: Protect Your Firm from External Threats

by Pat McParland and Jim Blatchford, Partners in MNP's Investigative & Forensic Services

When considering fraud in any organization, we begin with understanding its overall risk profile. The risk of fraud—like other risks—is inherent as it already exists in the environment, but needs to be understood, assessed and mitigated.

In its simplest form, the risk relationship equates to “Risk - Control = Exposure”. No cost-effective control system can be created to totally eliminate the inherent risk of fraud, but it can reduce ultimate exposure with appropriate controls. The organization needs to determine what level of exposure they will accept, and which controls will get them there.

Law firms face fraud threats from both internal and external sources. Inside threats are diverse, and often classified into three broad categories: (1) Corruption; (2) Asset misappropriation; and (3) Financial statement fraud. External threats typically relate to the provision of services or supplies, but can also emanate from clients, creditors, advisers, and others.

Let's focus on the outside threats. For instance, numerous scams against businesses are reported in the media (commonly advance fee and other investment schemes, cheque and credit/debit card frauds, and numerous internet schemes), all intended to separate victims from their money. There are also lesser-known scams such as planned bankruptcies. While frauds have been around forever, today, many are pitched via the internet where the additional layer of anonymity works in the fraudster's favour.

Where law firms differ from most other

entities is their management and movement of client funds, which become common fraudster targets. Law firms often act as trusted intermediaries in large financial transactions, whether real estate sales, debt collection, or other settlements. Many recent schemes targeting law firms appear to involve some key elements:

- False or stolen identity;
- Fraudulent or fake cheques, money orders, or bank drafts (“bad paper”);
- Some level of social engineering.

Advanced technology plays a critical role in the first two elements as they help fraudsters capture personal information leading

to phony identification and, ultimately, “bad paper”. However, old-fashioned dumpster diving and mail interception still play a role in identity theft.

In some circumstances, the quality of bad paper remains poor and readily suspect, but even trained personnel get fooled often. Bad paper can be a weapon against a law firm's trust account, in many ways. For example, legitimate cheques mailed to suppliers or clients by the law firm can be intercepted by the fraudster, altered, and fraudulently negotiated against the firm's bank account. Some banks offer special services to help mitigate this specific risk.

Alternatively, bad paper may be used by the fraudster to close a deal, settle a debt, or for some other purpose. The scheme is intended

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*Fraud... continued from page 8*

to have the bad paper deposited into a firm's trust account and then have the net funds directed to the client/fraudster. Subsequently, the firm is advised that the paper was fraudulent, but they have already transferred funds from the trust account and the firm suffers the loss. Hundreds of thousands of dollars have been lost in this fashion.

Law firms should carefully review their banking contracts to clearly understand bank-clearing rules relative to their accounts, and what services banks may provide to reduce the firm's exposure to cheque fraud. Adequate controls also need to be implemented to confirm clients' true identities, particularly offshore clients.

Social engineering is often involved to convince someone within the law firm that the fraudster is a legitimate, prospective client. This goes beyond identity theft; it is about gaining someone's trust. Often times, this is done by referring to known parties, such as realtors or other law firms. For example, a prospect may contact someone in the law firm from offshore, usually by email initially, to say they were referred to the firm by parties known to the firm. Usually, the requests for service seem relatively straightforward (e.g., collection and transmittal of proceeds to a third party) and the prospect is willing to pay generous fees. Typically, the deal involves collecting the funds in Canada and electronically transferring them offshore.

These types of scams are well-documented on a number of websites. There are numerous articles related to frauds against law firms, and some include names used by fraudsters. The Law Society of BC website provides useful information on the "red flags" of fraud, and detailed descriptions of various fraud threats to BC law firms.

Fraud, like other risks, exists whether you acknowledge it or not. In the same way that sprinklers can mitigate the risks associated with fire, a combination of awareness, understanding, and internal controls can help mitigate the risk of fraud.



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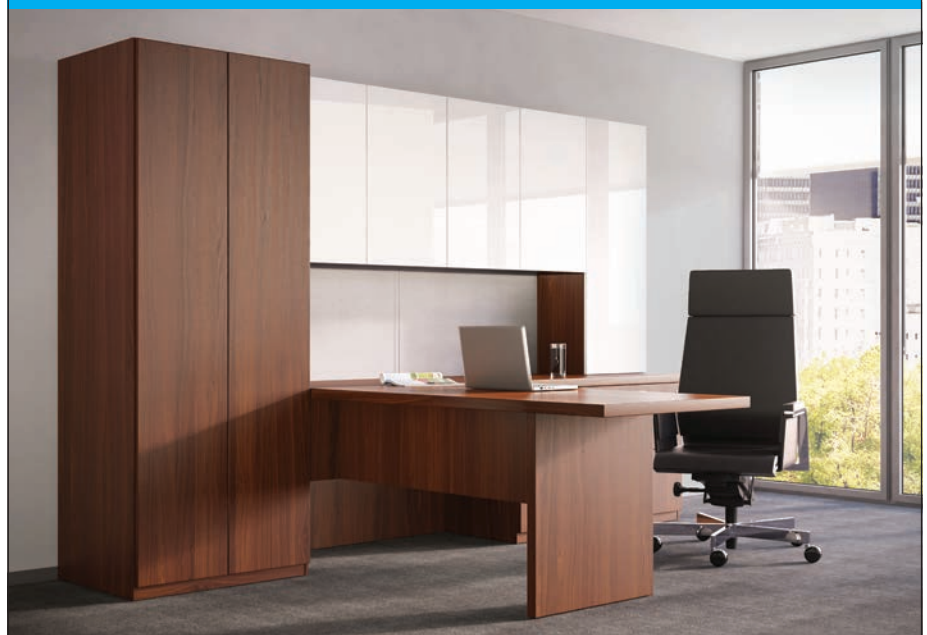
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## Understanding the Upside of Down

by Jody Urquhart, Professional Speaker and Author. Reprinted with permission.

*“Good judgment comes from experience.  
Experience comes from bad judgment.” – Jim Horning.*

Putting all self development instruction aside, when everything goes wrong the very last thing I feel like doing is to be positive!

“Look on the bright side,” others will say. Because it’s illegal to kill them, I have had to consider this fluffy inspiration and advice - to try it and assume it will be a success.

I am a motivational speaker! I have to believe in this Pollyanna stuff. One of my favorite motivational speeches is a spoof on all this Rah-Rah inspiration. We know from experience that we can't just push the conflict under the carpet and pretend it's not there.

Yet when I look back at any tough times I have had, I see that's where I have learned the most. It had to get bad to make me uncomfortable enough to have to want the change, and in the end the change was for the better.

‘A satisfied need ceases to motivate,’ said Maslow.

When things go wrong it causes breakdown that is difficult, but that creates equilibrium in that situation.

If things we wanted were easy to get, we probably wouldn't even want them anymore. We aren't made to enjoy and respect cherry-picking for any length of time. We have to go through challenge to appreciate what we have and how far we've come.

The reason we have conflict is because we

care. If we don't care, we won't get upset in the first place. If it does not matter to us and if we have no investment in the outcome, then the outcome just doesn't matter. Leadership and change happen when we care and we have the courage to face reality.

We have to go through the challenges of life to gain wisdom, and not until you experience something can you really appreciate it.

A motivational speaker who suggests that life is to be perfect all the time, despite reality, misleads the audience. That speaker is wrong.

### **Sink down lower than you've ever sunk.**

It may be a cliché, but it's true: When you hit the bottom there is nowhere else to go but up. While you are building back up, you are building character through success. When you go through really tough emotional times, it can help to remind yourself that life can only get better from here. The next time things go wrong, you know that you can handle it, that you've done it before and were a success so you can do it again. Life is about change. All of life is about change, from the seasons to plant and animal lifespans. You and I are changing every minute of every day, fashioned by every experience and every exchange we have with others. Like it

or not change happens, and when you realize that it's usually for the better, it delights you with the motivation to face new challenges and life goals.

As a motivational speaker, I give these three ideas about change:

### **Change Builds:**

- **Character.** Change creates challenge, and challenge has the capacity to teach people about their limitations and their gifts. When things go wrong or mistakes are made it builds humility; when we overcome new obstacles, we build our gifts.
- **Wisdom.** A new level of sensitivity and relating to others comes from surviving life challenges.
- **Gratitude.** When we have it all, we tend to take it for granted. When what we have is taken away, we often gain a new appreciation for what we had and a new recognition of what we still have. When you fail to appreciate life you lose your Joy.

By confronting problems you can find healthier solutions. In the midst of chaos, loss and frustration you may be learning to:

- Balance toughness with sensitivity
- Go deep inside and embrace fear for real self development
- Build mental and emotional toughness
- Persevere toward success
- Be on purpose when you're off balance

*...continued on page 11*

*The Upside of Down... continued from page 10*

- Be hard on problems and soft on people
- Manage perceived threats
- Deepen social support
- Believe, have hope, and find inspiration
- See change not as interruption, but as opportunity for leadership and self development to steer your life.

It is easy to disengage and detach from life when things aren't the way you want. It can be easy to avoid struggle. However, distancing yourself from conflict, leadership, and change only makes the situation worse - it prolongs the change and postpones your date with responsibility. Passivity leads to a victim mindset, and soon complaining takes over while you feel your life is controlled by others.

Develop compassion for yourself given the circumstances, understand there will be some good in this bad. Take a deep breath and decide how you are going to handle the change in your life!



*Jody Urquhart is a professional speaker and author who compels stressed-out and fed-up professionals to rediscover their passion, purpose & sense of play.*

*To discuss having Jody speak at your next meeting OR to order her book *All Work & No SAY* please call us at 877-750-1900 or email [jody@idoinspire.com](mailto:jody@idoinspire.com) and be sure to visit all our new pages at [www.idoinspire.com](http://www.idoinspire.com)*

# WELCOME & KUDOS

## New Member Firms and their Representative

Gordon Adair, **Acheson Whitley Sweeney Foley**, Victoria  
Gordon Hart, **Dinning Hunter Lambert & Jackson**, Victoria  
Robyn LaPlante, **Gall Legge Grant & Munroe**, Vancouver  
Greg Oldrieve, **JFK Law Corporation**, Vancouver  
Pat McCafferty, **Randie Wilson Law Corp.**, Vancouver

## New Representatives of Existing Member Firms

Delane Knight (interim), **Bernard LLP**, Vancouver  
Leslie Green, **DuMoulin Black LLP**, Vancouver  
Jackie Shum, **Grant Kovacs Norell**, Vancouver  
Lifen Lee, **Hastings Labour Law Office LLP**, Vancouver

## Litigation Support

Melissa Major, **McMillan LLP**, Vancouver  
Karen Marcoux, **Roper Greyell LLP**, Vancouver

## Human Resources

Erica Bemister, **Alexander Holburn Beaudin & Lang LLP**, Vancouver  
Gabriela Zibes, **Dentons Canada LLP**, Vancouver  
Lynda Wendland, **Hamilton Duncan Armstrong + Stewart Corp**, Surrey  
Nicole Dunn, **McQuarrie Hunter LLP**, Surrey

## Knowledge Management

Debbie Millward, **Lawson Lundell LLP**, Vancouver

## Trainers

Stuart Steele, **Davis LLP**, Vancouver



## Staffing Issues?







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# BCLMA SUMMER SOCIAL



**Images by Danielle [www.imagesbydanielle.ca](http://www.imagesbydanielle.ca)**

A) Overhead inside shot of Bridges Restaurant 140 BCLMA gathered in the restaurant and on the patio on June 5 for the Annual Summer Social.

B) New Firm Representative Karen Peterson of David Doig & Association, and longtime BCLMA volunteer Treasurer, Angela Zarowny.

C) BCLMA Finance Subsection Co-Chair Yvette Whitson, and BCLMA Contributing Sponsor Perry Gorgounis of The Office Resource (TOR)

D) Rohan Hare, Jonathan Steele and Lisa Evenson of Harper Grey

E) BCLMA Alumni Unite! Russ Balcome, Donna Oseen, Peter Asselstine, Penny Harvie and Colin Cameron

F) Greg Nicholls of SAI, Lisa Dawson of Terra Law Corporation, Connie Fenyo of Dye & Durham Corporation, Natalie Foley of Miller Titerle & Company and Marion Verdicchio, Jeffery & Calder



# BCLMA SUMMER SOCIAL



*Images by Danielle www.imagesbydanielle.ca*

G) The Boughton Law Gang! Left to right: Sabina Eckardt, Jordan Dixon, Caitlin Turner, Avril Tysoe, Lorraine Burchynsky, and Rob Walls

H) Nancy Read of Richards Buell Sutton, Liza Ezaki and Margaret Cividino of Miller Thomson, and Christa Warner of Harper Grey

I) Janice McAuley and Emily Sutcliffe of Lawson Lundell



J) Ronda Smyth, Manthorpe and Heather Walker of Slater Vecchio

K) Ann Main, Klein Lyons, Greg Nicholls and Rob Antejos of SAI frame Colleen Chapman of Brawn Karras Sanderson

L) Parm Ahuja-Robertson of R. JOHNSON connects with new BCLMA Director Catharine Rae and Charmaine Hall, both of Borden Ladner Gervais.





# BCLMA SUMMER SOCIAL



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M) Litigation Support Subsection members: Lisa Rennie of Blakes, Ann Halkett of Alexander Holburn, and Cindy Brandes of Miller Thomson

N & O) BCLMA's Summer Social once again scores perfect weather for their outdoor event.

## Correction Notice

The article, *Technology and Marketing: The Perfect Marriage* by Laurie Hause, published in our Spring 2014 newsletter was first published in ILTA's June 2013 issue of *Peer to Peer* titled *Emerging Careers* and was reprinted in *Topics* with permission.

We appreciate all of our contributors and apologize for the missing citation.

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Topics

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## He Said, She Said

by Preston Parsons, Associate Lawyer at Overholt Law

No one likes a “he said, she said” debate. So, do you have written contracts of employment for all of your employees?

While beginning an employment relationship without a written contract may create a more welcoming and relaxed first impression, it could lead to extreme difficulty when the relationship ends, depending on the circumstances. Written employment contracts are very beneficial for both parties, and especially true with respect to a firm’s obligation to give notice or payment in lieu of notice for the termination of the employment relationship.

If the firm has just cause to dismiss an employee, then the firm has no obligation to provide notice, or payment in lieu of notice. Most terminations, however, occur on a without-cause basis, sometimes with price tags that the firm did not foresee.

When a firm terminates an employment relationship without cause, the amount of notice or pay-in-lieu of notice required is based on the common law, unless a written contract to the contrary exists. A written contract that expressly limits the firm’s obligations to the requirements of the British Columbia Employment Standards Act (assuming that the Act applies to the employee in question) will displace the common-law presumption.

For example, a long-service senior employee can be entitled to up to two years of notice or payment in lieu of notice at common-law upon termination. If the firm elects to pay in lieu of notice, the payment is comprised of two years of salary and benefits. In contrast, a well-drafted termination

provision can reduce that liability to a maximum of eight weeks of salary. Big difference!

The firm will also want to protect itself from the sudden departure of an employee by specifying, in writing, the amount of notice an employee must provide the firm if the employee resigns. The Employment Standards Act does not require employees to give notice. Translation: An employee is legally entitled to resign and walk out the door the same day unless a written contract states differently.

Other matters that should get addressed in a written employment contract include how and when property of the firm must be returned, and what obligations employees have with regard to confidential information and the removal of personal information from the firm’s networks. All of these topics

are important to address at the time of hire in a written employment contract. If not addressed in writing, difficulties can arise with departing employees who were told nothing at the time of hire on a given topic, or who recall the conversations leading up to their hire differently from how the firm does.

Avoid “he said, she said” with a written employment contract. As Benjamin Franklin said, “An ounce of prevention is worth a pound of cure.”



*Preston Parsons, an associate lawyer at Overholt Law, practices in the areas of employment and labour relations, human rights and privacy law. Overholt Law is a boutique employment and labour relations firm*

*located in downtown Vancouver, British Columbia. Visit [overholtlawyers.com](http://overholtlawyers.com) for more information. These tips are provided for general informational purposes only and do not constitute legal advice.*



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## Spam, Spammity Spam, Wonderful Spam?

by Lisa Chamzuk and Ben Hiller, Lawson Lundell LLP. Reprinted with permission.

The moniker "spam" for unsolicited and often indiscriminate electronic communications to multiple mailing lists, individuals, or newsgroups derives from a famous sketch in the British television comedy series Monty Python's Flying Circus. However, these days spam is no joke. It is a scourge on modern communications.

Canada's Anti-Spam Legislation<sup>1</sup> (CASL) will be coming into force in three stages over the next four years:

1. On July 1, 2014, the majority of CASL including provisions relating to commercial electronic messages (CEMs), will come into force;
2. On January 15, 2015, provisions relating to the unsolicited installation of computer programs and cookies will come into force; and
3. On January 1, 2017, provisions relating to private rights of action under CASL will come into force.

### WHAT DOES THIS MEAN FOR YOU?

- Businesses and other organizations (including Crown Corporations when engaged in commercial activity), as well as individuals will need to comply with CASL when sending commercial electronic messages.
- There are steps that you may be able to take now to help ensure your compliance after CASL comes into force; that you cannot take after CASL comes into effect.

### TO WHAT DOES CASL APPLY? - WHAT IS A COMMERCIAL ELECTRONIC MESSAGE (CEM)?

CASL regulates the sending of CEMs. A CEM is a message sent by email, text, or via social network with its purpose or one of its purposes being to encourage participation in a commercial activity. This purpose can be gleaned from the content of the message, information on a website that is linked to in the message, or contact information provided in the message. Under CASL 'CEM' includes electronic messages that:

- Offer, or advertise or promote the offer to purchase, sell, barter or lease a product, good, service, land or interest in land;
- Offer, or advertise or promote the offer to provide a business, investment, or gaming opportunity; or
- Promote a person, including the public image of a person, as being a person who does the above listed items or intends to do so.

It may be helpful to note that although all electronic messages with a commercial purpose are characterized as CEMs, CASL does not apply to all CEMs. For example, CASL does not apply where the CEM is:

- Sent between employees, representatives, consultants, or franchisees of the same organization and the message concerns activities of that organization;
- Sent from an employee, representative, consultant, or franchisee of an organization to an employee, representative, consultant, or franchisee of another organization and the message concerns activities of the recipient organization;

...continued on page 18

1. An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act SC 2010 c.23 and its accompanying regulations (formerly known as Bill C-28).



Spam, Spammity Spam, Wonderful Spam continued from page 17

- A fax or voice message sent to a telephone account;
- Sent in response to a request, inquiry or complaint or is otherwise solicited;
- Sent to a person to satisfy a legal obligation, to provide notice of a right, or to enforce a right; or
- Sent to a recipient with whom the sender has a personal or family relationship.

First, determine whether or not electronic messages that you send are CEMs. Ask:

- Is there a commercial purpose to the message?
- Does this message encourage participation in commercial activity?

Second, determine whether or not those CEMs are subject to the compliance requirements. Ask whether the CEM fits under an exception to the compliance requirements.

### HOW TO COMPLY WITH CASL

#### REQUIREMENT 1: SATISFY CONTENT REQUIREMENTS

If you are sending a CEM after July 1, 2014, you must comply with the content requirements by:

- Identifying the sender of the CEM
  - If the sender and the person on whose behalf the CEM is being sent are not the same person, both individuals must be identified.
- Providing the sender's contact information
  - The contact information must include the sender's mailing address and the sender's telephone number, email address,

or web address.

- The contact information that is provided must be valid and accurate for 60 days following the transmission of the CEM.
- Including an unsubscribe mechanism
  - The recipient must be able to easily and at no personal cost remove themselves from the sender's mailing list for future CEMs.
  - If the mechanism operates by directing the recipient to a website or providing the recipient with an email address, then the website or email address must be valid for 60 days following transmission of the CEM.
  - Once the sender of the CEM has received an indication that the recipient wishes to unsubscribe, the sender must without delay and no later than 10 days after the indication was sent give effect to the recipient's wishes.

If you are sending a CEM and it is not exempt from CASL, make sure that it meets the content requirements by:

- Including all of the necessary components
- Ensuring that the contact information will be valid for 60 days
- Having an unsubscribe mechanism in place

### HOW TO COMPLY WITH CASL

#### REQUIREMENT 2: HAVE PRIOR CONSENT

To comply with the consent requirements, you should obtain express consent from the recipient before you send the CEM by:

- Clearly and simply setting out the purposes for which the consent is being sought;
- Clearly identifying the person who is seeking consent;

...continued on page 19

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Spam, Spammity Spam, Wonderful Spam continued from page 18

- Where consent is being sought on behalf of another known person, that person must also be identified.
- Providing contact information for the person who is seeking consent; and
- Stating that consent can be withdrawn.

Consent can be given orally or in writing, but the onus of proving that consent was given is on the party relying on it. Therefore, it is wise to keep a record of when the consent was obtained, why it was obtained and the manner in which it was obtained.

**Unlike the American CAN-SPAM Act, under CASL, express consent cannot be obtained through an opt-out mechanism. There must be some positive action by the recipient – silence or inaction will not constitute express consent nor will an unchecked opt-out box or a pre-checked opt-in box.**

Although you should obtain express consent wherever possible, in some situations express consent is not required because an exception applies or because consent can be implied. Examples of such situations are where the CEM:

- Is sent within 36 months of CASL coming into force to a recipient with whom you have an existing relationship that includes communication via CEM, and the recipient has not expressly withdrawn their consent;
- Is a quote or estimate for the supply of goods, services, or property that is sent in response to a request by the recipient for a quote or estimate;
- Provides information directly related to an employment relationship or benefit plan in which the recipient is currently involved or enrolled; or
- Is the first just following a referral by an individual in an existing business relationship with the sender.

Where it is possible and practical, request express consent from all of the members of your existing mailing lists.

- You can make these requests via email prior to July 1, 2014, **but following that date such requests will themselves be considered CEMs** and you will have to limit your requests to in person, via telephone, via fax, and via postal mail.
- If there is any question in the future as to your compliance with CASL, it will be up to you to prove that you have met the requirements – so, be sure to keep all of the records of express consent that you obtain.

If you are not able to obtain express consent, consider whether or not consent is required. Ask:

- Is this message subject to the consent requirements, or does it fit an exception?
- If consent is required, can consent be implied in this case?

## WHAT ABOUT COOKIES?

Starting **January 1, 2015**, CASL will also regulate the installation of computer programs, including cookies. The legislation affects the installation of cookies on computer systems located in Canada as well as the installation of cookies by persons in Canada or directed by persons in Canada. Cookies should only be installed where the owner or authorized user of the computer system has expressly consented to their installation. In requesting express consent to install cookies, you should clearly and simply:

- Explain the purpose(s) for which consent is being sought;
- Identify the person seeking consent or the person on whose behalf consent is being sought; and
- Describe, in general terms, the function and purpose of the cookie to be installed.

CASL also provides that where a person's conduct is such that it is reasonable to believe that they consent to the installation of the cookies in question, they will be considered to have expressly consented to the installation. However, the person who is relying on the consent has the onus of proving it.

If your website uses cookies, implement a mechanism whereby all of the required information is clearly disclosed and after reading the disclosure, the user can expressly consent to the installation of cookies on their system.

If such a mechanism is not feasible for your business, ensure that the required information is clearly and prominently displayed on your website such that a person who continues to use your site after encountering the information is more likely to be considered

...continued on page 20

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Spam... continued from page 19  
to have consented to the installation by  
their conduct.

### WHAT HAPPENS IF YOU DON'T COMPLY?

The Canadian Radio and Telecommunications Commission (CRTC) has the statutory power to enforce compliance with CASL – including the power to impose significant administrative monetary penalties. The maximum administrative monetary penalty that can be imposed by the CRTC is \$1 million per violation for an individual and up to \$10 million for businesses and other organizations. CASL also provides that designated persons may apply to the court for an injunction to stop spam.

Starting **January 1, 2017**, private rights of action will be available to businesses and individuals to provide compensation for breaches of CASL. Victims of spam can apply to the court and may be awarded compensation for damage or expense incurred as a result of a breach of CASL as well as compensation for a mere breach of CASL (regardless of damages caused). Compensatory awards for merely breaching CASL can reach a maximum of \$200 for each breach, up to a maximum of \$1 million per day. Because individual damage or expense resulting from a violation need not be proven for a penalty to be imposed, CASL violations are likely to attract class action lawsuits.

### ACT NOW!

Time is very short to ensure that sufficient protocols and safeguards are in place for the beginning of July. Businesses, organizations, and individuals must start making the necessary changes now to ensure that they are compliant. Otherwise, they may be subject to enforcement action, including significant monetary penalties.

### FURTHER READING:

- *Opt-in not an option: How to comply with the new anti-spam law*
- *New anti-spam laws target a safer online world*
- *Canada's Anti-Spam Legislation*



Article co-authored by Lisa Chamzuk and Ben Hiller and previously published on the website of Lawson Lundell LLP. For more information, contact Lisa Chamzuk at 604-631-6732 or Allison Reed

(Articled Student) at 604-631-9192.

# SAVE THE DATE

## BCLMA Annual Managing Partners Lunch Event

*Trends Reshaping the Legal Industry: Social Media, the Generations and Your Firm - Ready or Not?*

Guest Speaker: Max Valiquette

Wednesday, November 5, 2014

11:45 am - 1:30 pm

Four Seasons Hotel, Vancouver

## BCLMA Annual Winter Social \* RECEPTION \*

Thursday, November 27, 2014

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# VOLUNTEER HEROES

Sandy Delaven is the Chief Operating Officer at Vancouver law firm Bull Housser & Tupper. She joined the BCLMA (VALA) almost 30 years ago!

## How long have you been a member of VALA/BCLMA?

Although I have worked with my firm, Bull, Housser & Tupper (BHT) for almost 35 years, it wasn't until I started working in the Assistant Controller position, around 1986-87, that I became involved with VALA. The person I reported to was very involved with the Association as was Peter Grove (our Director of Administration). I felt encouraged to join.

## List your contributions to VALA/BCLMA.

When I joined, the Board had a four-year track. I started in Memberships and then moved into the Vice President position, became the President and finally took the Past President role. And now for the past six or seven years, I've managed the Economic Survey for BCLMA.

## What motivated you to contribute?

I remember going to a conference in Chicago in 1998. It was a big step for me! I am pretty shy and this was the first conference I attended by myself. My shyness held me back from attending and sometimes participating in subsection meetings. I knew that if I wanted to get over my shyness, I needed to get involved with the Association in a significant way.

At the Chicago conference, John Hawke invited me to dinner along with several other members of our Vancouver Board. Over dinner, he mentioned I should join the Board. (You know how they always recruit for people to join!) I found it overwhelming at first, but it really brought me into the wonderful experience of the Association. When I got back to Vancouver, BHT was just hiring Ann Johnson, President of the Board at that time. Ann and I started working together at BHT and on the VALA Board. Over the years, we have worked together collaboratively and so very well. We had a lot of fun and the experience really brought me out of my shell. I've met so many fantastic people – not just members, but all the fabulous vendors too!

## What did you enjoy the most about BCLMA and contributing to the organization?

I enjoy the connections and the camaraderie. I also enjoy its professional growth, but in a much different way. There are so many

knowledgeable members I can reach out to and get great ideas and support from. Some of my best relationships are with our vendors. They are such strong supporters of BCLMA and our firms, and of what we do and the directions our firms move in. We really appreciate it.

## How do members make the most of their membership?

Get out there and get involved. Try something new. Volunteer for something. You will get much more out of the experience. I know from experience how daunting it can feel to attend meetings and events alone. Once I pushed myself and got involved, I never looked back.

## Looking back at all your experiences, what are three tips you can share about working in law firms?

I can't stress enough: Get involved! Push yourself out of your comfort zone.

I work in a fantastic organization. The people are great. A lot of my social connections are the people I work with. When you have a bad day, it makes it so much easier to turn things around when you are surrounded by people

you really enjoy spending time with.

Enjoy what you do. Make time for things outside of work and join associations like the BCLMA. The people you meet have all gone through the same types of things you go through. They can give you an outlet and support when needed.

## What's next for you?

I have started to think about succession planning in the long term. But right now, the majority of my focus is on moving into the Telus Building. It consumes most of my time these days! Once we get settled in, we will start tackling another large project: A new accounting system! And then, we'll see...



Sandy Delaven

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