



LAW SOCIETY OF B.C. RULE CHANGES WILL REDUCE ADMIN COSTS

E-storage to cut needs for paper, space

**BY BONNIE KIRK
LAWSON LUNDELL**

The January-February issue of the *Benchers' Bulletin* announced changes to the trust accounting rules. The *Bulletin* says the rules "are now more effective and more compatible with current and future business practices and computerized accounting systems."

There are two updated rules of particular interest. Rule 3-59(2)(c) indicates that lawyers can maintain accounting records in an electronic form as long as they could be readily transferred to printed form on demand, but it doesn't clearly define "accounting records."



New Law Society rules could reduce space requirements for law firms.

Further along, in Rule 3-68(0.1), accounting records were defined to mean trust, general and billing records as referred to in Rules 3-60 to 3-62. The Law Society confirms that the definition in Rule 3-68(0.1) also applies to Rule 59(2)(c).

This change in the Law Society's attitude towards electronic storage could have a huge impact on a firm, depending on what type of financial system it has and how aggressively it wanted to make a change.

Historically, legacy systems didn't have the ability to produce support documentation across accounting periods. After closing a month-end, the system over-wrote the data with the

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The debate over what's overhead and what's a disbursement is (sigh!) once again rearing its ugly head

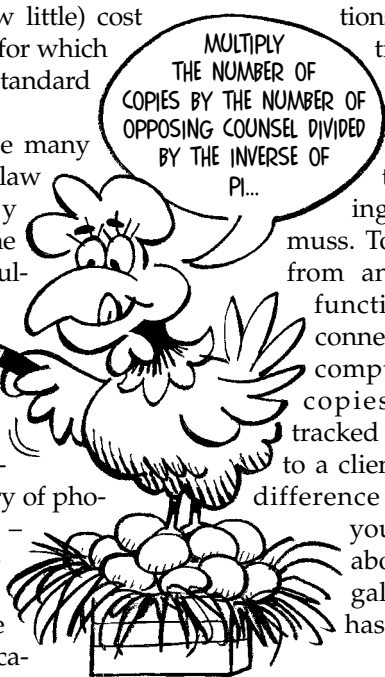
**BY MAUREEN O'LEARY
JEFFERY & CALDER**

What was once a hot topic in the '80's and '90's—recovering basic costs such as photocopies, faxes (incoming and outgoing) and long-distance charges—has now taken on a new dimension, with the introduction of multi-functioning printing devices.

Like the technology merry-go-round that keeps a faster pace than any of us, the debate as to what constitutes overhead versus disbursements just keeps on keeping on. With the ability to track copies from peripheral laser printers and scanners, the last bastions of cost recovery have been scaled. But at what cost (pun intended) and to whom?

How much (or how little) cost recovery is a question for which there seems to be no standard response.

There appears to be many factors involved in a law firm's cost-recovery practices including the size of the firm, its culture, its clients and the type of cost. The common practice amongst most law firms today appears to be the recovery of photocopying costs – whether through the use of customized cost-recovery software or off-the-shelf applica-



tions such as *Copittrak*. Until recently, copies were made from a photocopier, and they were tracked and charged to a client's file awaiting billing. No fuss, no muss. Today, copies are made from any number of multi-function printing devices connected to a law firm's computer network. These copies can be similarly tracked and recorded directly to a client's file. So what's the difference you say? Huge, if you're a client concerned about ever-increasing legal costs. This situation has prompted some firms

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LLP protection in B.C. expected to come into effect this fall

BY RICK JAGPAL
WOLRIGE MAHON

Proposed amendments to the *Partnership Act*, introduced on April 27th by B.C. Finance Minister Gary Collins, will enable the creation of limited liability partnerships (LLPs) in British Columbia.

"Unlike other provinces, where only professionals such as lawyers and accountants may register as LLPs, there will be no restrictions on what types of businesses are able to register an LLP under the new *Partnership Act*," said Collins. "This is in line with U.S. and international practices and will place B.C. firmly at the forefront in Canada."

Partnership law will make BC equal to rest of North America

Updating BC partnership law to allow for LLPs puts BC on an equal footing with the rest of North America, where LLPs have become the norm in partnership law over the past decade.

Currently, active partners in a partnership are personally responsible for the liabilities of all the other partners and the partnership itself. A partner in an LLP is only responsible for their own liabilities and they have protection from personal liability for the debts of the partnership and the other partners, unless there is negligence or wrongdoing on their part.

Today, many national law and chartered accounting firms base their partnerships in Ontario under that province's LLP legislation. The new B.C. legislation will now allow local firms to benefit from the same protection.

The new *Act* will impose a number of requirements on LLPs in order to protect those who deal with partnerships, however.

To obtain and maintain their LLP status, the partnership must file with the Corporate Registry, notify clients of its change in status, include the letters "LLP" in its business name, make available an up-to-date list of partners to the public whenever it's requested, and remain in compliance with all relevant laws and requirements.

In addition, professionals will only be permitted to register as LLPs if their governing act allows them to do it, and they will be required to remain in compliance with their governing act, as well as the *Partnership Act*.

As part of the legislative changes, the *Legal Profession Act* and the *Accountants (Chartered) Act* will be amended to allow for LLPs.

It is expected that the new legislation will come into force by regulation in the fall, once the Corporate Registry has the appropriate forms and processes in place.

They, in turn, express concern about passing such copying charges along to their customers.

Client-related issues aside, things become more complex when the courts are involved.

On party-party taxations, the courts have made their position clear on the issue of overhead versus disbursements and specifically, what photocopying charges are deemed appropriate or reasonable in a particular circumstance.

VALA BOARD REPORT VALA vs ALA: A decision soon to come

BY ANNIE RONEN
VALA PRESIDENT



Annie Ronen

One of the major challenges facing VALA this year will be to determine our membership status with ALA. We have reached a point where we have to decide between continuing our association with ALA, which means altering our practice of having sub-section members, or severing our formal ties with it so we can continue with our current structure.

ALA bylaws require that VALA members also be full ALA members. VALA's practice has been to have sub-section members who are not required to have full ALA membership. For the past several years, ALA has been aware of this but has overlooked the fact that we were not complying with its membership requirements.

However, ALA decided to put our chapter on notice late last year. It asked us to either insist that all sub-section members become full ALA members or else cancel their membership in VALA. We were also asked

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→ **Cost Recovery: Continued from page 1**

to pressure their administrators to hold off on fully billing such charges until the lawyers involved have a chance to flag the issue for their clients, or even to reduce these costs on bills if they consider them too high.

Aside from the impact to individual clients, there's the issue of billing large, institutional clients, such as insurance companies or banks for these increased copying charges.

Whatever your law firm's cost recovery practices might be now, be prepared to adjust them and keep humming that Dylan tune, *The times they are a-changing*:

- ✓ Be flexible and responsive to clients' concerns
- ✓ Maintain an equitable balance between overhead and cost recovery
- ✓ Keep abreast of case law on cost recovery issues and adapt your law firm's cost-recovery practices as necessary.

→ **Rules: Continued from page 1**

new month's information. Newer systems use a database structure, allowing retention of historical information to be printed later—in their entirety. Since this capability is available throughout most accounting functions, it's reasonable to question whether we should continue to store information in hard copy.

An example of how to reduce the volume of paper involves billing procedures. This is a function that can consume a large volume of paper, depending on the type of law practiced. For many firms, the standard procedure is to print and retain a hard copy (commonly known as a prebill or *pro forma*) of all the time and costs associated with the final bill. Not having to do so could result in a sig-

nificant reduction of space reserved to store the information.

To get an indication of the savings attainable, I sampled an average-sized bill within our firm and found a reduction of about 70%; the larger the account, the greater the savings.

Guarding against computer-system failures is another reason data is

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RESOURCES

Here are some of the key Law Society administrative rules as they are currently worded:

3-59 (1) A lawyer must record all funds received and disbursed in connection with his or her law practice by maintaining the records required under this Division.

(2) A lawyer must maintain accounting records in:

- (a) legibly handwritten form, in ink or other duplicated or permanent form,
- (b) printed form, or
- (c) an electronic form that can readily be transferred to printed form on demand.

(3) A lawyer must record transactions in accounting records in chronological order and in an easily traceable form.

(4) A lawyer must retain all supporting documents for both trust and general accounts, including but not limited to the following:

- (a) validated deposit receipts;
- (b) periodic bank statements;
- (c) passbooks;
- (d) cancelled and voided cheques;
- (e) bank vouchers and similar documents & invoices.

Trust account records

3-60 A lawyer must maintain at least the following trust account records:

(a) a book of entry or data source showing all trust transactions, including the following:

- (i) the date and amount of receipt or disbursements of all funds;
- (ii) the source of the funds received;
- (iii) the identity of the client on whose behalf trust funds are received or disbursed;
- (iv) the cheque or voucher

number for each payment out of trust;

(v) the name of each recipient of money out of trust;

(b) a trust ledger, or other suitable system, showing separately for each client on whose behalf trust funds have been received, all trust funds received and disbursed, and the unexpended balance;

(c) records

(i) showing each transfer of funds between clients' trust ledgers, including the name and number of both the source file and the destination file,

(ii) containing an explanation of the purpose for which each transfer is made, and

(iii) containing the lawyer's written approval of the transfer;

(d) the monthly trust reconciliations required under Rule 3-65, and any documents prepared in support of the reconciliations;

[(e) and (f) rescinded 12/03]

(g) a current listing of all valuables held in trust for each client.

[heading and rule amended 12/03]

General account records

3-61 (1) A lawyer must maintain at least the following general account records:

(a) a book of original entry or data source showing

- (i) the amount, date of receipt and the source of all general funds received, and
- (ii) the cheque or voucher number, the amount, date and the name of each recipient of each disbursement;

(b) an accounts receivable ledger or other suitable system to record, for each client, showing all transactions including:

- (i) transfers from a trust account,
- (ii) other receipts from or on be-

half of the client, and

(iii) the balance owed by the client.

(2) As an exception to sub-rule (1)(b), a lawyer may enter the information required under that sub-rule on the trust ledger or other suitable system referred to in Rule 3-60, provided that the entry is clearly identified and distinct from trust account information.

[heading and rule amended 12/03]

Billing records

3-62 (1) A lawyer must keep file copies of all bills delivered to clients or persons charged

- (a) showing the amounts and the dates charges are made,
- (b) identifying the client or person charged, and
- (c) filed in chronological, alphabetical or numerical order.

(2) For the purpose of sub-rule (1), a bill includes a receipt issued under Rule 3-63(3).

Recording transactions

3-63 (1) A lawyer must record each trust or general transaction promptly, and in any event not more than

- (a) 7 days after a trust transaction, or
- (b) 30 days after a general transaction.

(2) A lawyer must record in his or her general account records all funds

- (a) received by the lawyer expressly on account of fees earned and billed or disbursements made by the day the funds are received,
- (b) subject to a specific agreement with the client allowing the lawyer to treat them as his or her own funds, or
- (c) that the lawyer is entitled to keep whether or not the lawyer renders any services

to or makes any disbursements on behalf of that client.

(3) A lawyer who receives funds to which sub-rule (2) applies must immediately deliver a bill or issue to the client a receipt for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.

(4) As an exception to sub-rule (1), a lawyer must record the receipt of interest on a separate trust account within 30 days of payment or of notice that funds have been credited to the account.

[(3) amended, (4) added 12/03; (2) amended 05/04]

3-68 (0.1) In this Rule, "records" means the records referred to in Rules 3-60 to 3-62.

(1) A lawyer must keep his or her records for as long as the records apply to money held in trust and, in any case, for at least 10 years.

(2) A lawyer must keep his or her records at his or her chief place of practice in British Columbia for as long as the records apply to money held in trust and, in any case, for at least 3 years.

(3) A lawyer must protect his or her records and the information contained in them by making reasonable security arrangements against all risks of loss, destruction and unauthorized access, use or disclosure.

(4) A lawyer who loses custody or control of his or her records for any reasons must immediately notify the Executive Director in writing of all the relevant circumstances. ●

→ Rules: Continued from page 3

retained in hard copy. Now with the structure of the newer systems, we should ask ourselves: would we re-key data from journal detail if the computer system caused information to be lost or corrupted? For larger systems, a partial restore from back-up and re-load of electronic transmissions may be the method of choice.

Additionally, financial systems today are highly integrated with third-party add-ons that would make the manual re-keying of data difficult to achieve within a reasonable period of time.

There isn't any magic number to the size of firm where the new rules have effect. Software vendors, as they expand their markets, are making it increasingly affordable for small



There's no magic number to the size of firm where the rules have effect.

E-STORAGE KEY PART OF BUSINESS NOW

The B.C. Law Society's new rules recognize that electronic storage is a core part of business practices today:

- ✓ Documentation can be stored in electronic form if it can be reproduced in print form on demand
- ✓ Incorporated within the Trust Rules are non-trust requirements involving General Account Records and Billing Records. Electronic storage of the latter two record types will likely reduce the amount of space within a law firm required for ac-

counting-document storage.

- ✓ The Rule changes could also affect future off-site storage costs if fewer records need to be kept in hard copy and later sent off-site.
- ✓ If a firm's financial system can reproduce documentation, such as billing worksheets, support registers, etc. then it could be beneficial to look at current methods of document-handling and production to determine if they are still necessary.

firms to use highly sophisticated technology. Couple the forward thinking of the Law Society with this new technology, and firms may find that a re-assessment of their internal processes could prove profitable.

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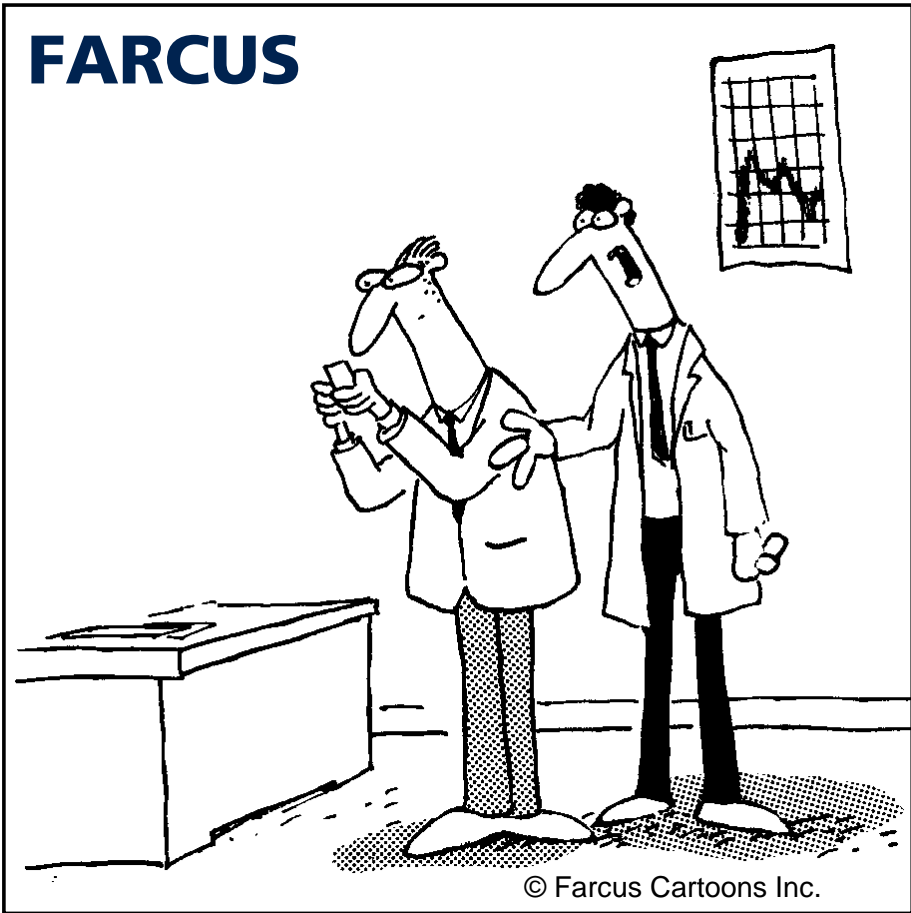
by ALA to transfer the VALA membership of firms to individual memberships.

Following numerous meetings of the VALA executive and discussions with ALA representatives, the issue was put to a vote at our AGM, last April. Full VALA members were invited to discuss whether we should abide by ALA's requirements, or inform ALA that we were not willing to cancel the memberships of our sub-section members.

While we were prepared to change VALA membership from firm to individual, it was almost unanimously decided that we would not alter our policy regarding sub-section members, even though it was understood that this meant the possibility of losing our ALA chapter status.

VALA members have affirmed that sub-section members are vital to our success, and that we cannot expect all firms to pay full ALA membership fees, particularly in light of the fact that ALA offers scant Canadian content.

We have since informed ALA of our decision and asked the members of its executive to reconsider their position regarding our membership status. So far, we have not yet received a response. If ALA will not accept our decision, then we will have to consider our options. Rest assured that we will communicate any further developments to you.



We're trying to reduce the paperwork around here...

VALA launch party hears of plans from president

BY TIM WURTZ
BAKER NEWBY

The Cristal Room—yes, that's the correct spelling—at the Metropolitan Hotel provided a great venue for the 2004 VALA launch party.

Gord van Horn and Janice McAuley welcomed everyone at the door, and presented new VALA name tags to the Members. VALA will be sending name tags and a Member binder to individuals who have not already received them.

Gordon is the Office Services Supervisor of Borden Ladner Gervais and the Co-ordinator of VALA's Strategic Partner Program; Janice is the Premises Manager of Lawson Lundell, and the Facilities & Service Management Sub-Section Head of VALA.

After some mingling over cocktails and appetizers, VALA president Annie Ronen (General Manager, Ogilvy Renault) took the podium. She thanked our strategic partners, the people in attendance as well as Gord and Janice for their work organizing the evening. She

briefly reviewed many of the initiatives VALA will undertake in 2004:

- ✓ Increasing educational opportunities for members;
- ✓ Having sub-section heads join executive meetings on a quarterly basis;
- ✓ Rejuvenating *Topics*;

- ✓ Connecting with previous members; and,
- ✓ Exploring the potential of membership for lawyers.

She encouraged members to register for the VALA Education Retreat in Victoria, and concluded by promising



LAUNCH LIFE: (Above) Kathy Hogarth of Lawson Lundell, Tim Travis of Fasken Martineau, Allison Wolfe of Harper Grey Easton, Ernie Gauvreau of Richards Buell Sutton; (On the left) Gary Carter talks with Sheila Greenberg, both of Paine Edmonds; (Below left) Janice McAuley of Lawson Lundell chats with Agustino Do Souto of Harper Grey Easton; (Below right) Maureen O'Leary of Jeffery & Calder (left) and Clive Bellian of Dye & Durham (centre) help Raf Sansalone of Borden Ladner Gervais identify herself during the Name Game ice-breaker.

an exiting and dynamic year for VALA.

The Name Game provided amusement as the evening wound down. Congratulations to David Livingstone (Wolrige Mahon), who won a bottle of wine for correctly identifying himself as "Mikhail Gorbachev." ▼



E-mail, document storage a puzzling, unsolved problem

BY PETER MORGAN
MANAGING EDITOR

A new white paper from Datalink takes on the formidable task of looking into whether there are any good solutions for dealing with the burgeoning amount of important or critical e-mail law firms generate. And according to the Gartner Group, 60% of business-critical data is now contained within e-mail systems.

Just like the intractable problem of document storage and retrieval before it, Datalink concludes there's a great promise of good solutions... if only they were: (1) cheap; (2) practical; and (3) so easy to use they'd be worth the effort of breaking with "the way we do it now," which is usually either manual or letting individual lawyers keep track of their own material.

It *seems* like it should be a slam dunk; that, after all these years, there would be a good off-the-shelf solution.

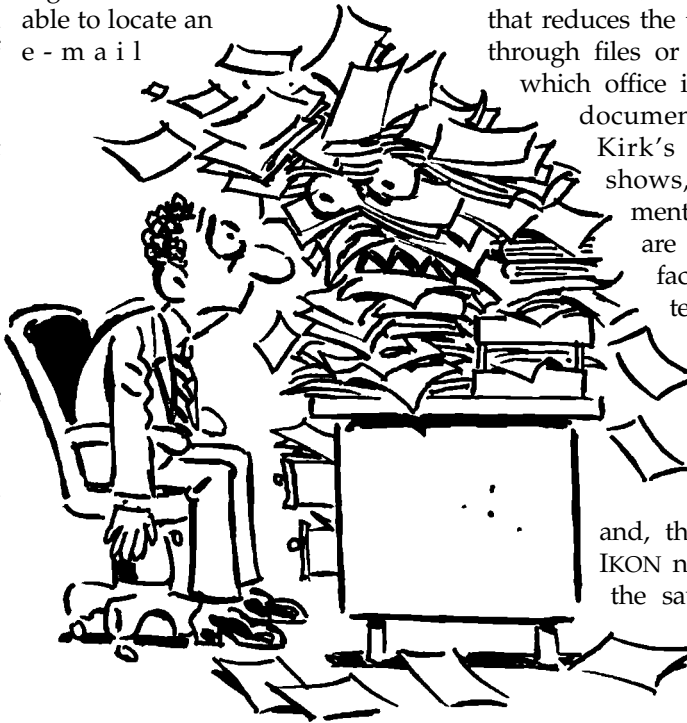
But Datalink product manager, Paul Mayer, says "No single solution is sufficient to resolve all of the challenges. E-mail system challenges have common themes, but they are not the same for every organization. These challenges come in a variety of forms, influenced by a number of environmental factors. Addressing these challenges typically requires some combination of people, processes and technologies."

And, while everybody seems to agree that it's possible to save mass quantities of money by working out a document storage-and-retrieval policy and procedure that includes e-mail, all the briefings seem to be woefully light on pragmatic information about ways to actually accomplish something that either staff or lawyers will follow easily, if at all.

We're not making light, though, of the need. As Mayer puts it, "E-mail has appeared on the radars of several regulatory agencies, prompting numerous rules with a far-reaching impact on how organizations capture, manage, audit and store e-mail."

According to Creative Networks, Inc. (CNI), nearly 75% of people were unable to recover an archived e-mail

without help from system managers. And CNI suggests that only 29% of organizations would be able to locate an e-mail



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message that's more than six months old.

IKON in Vancouver points out that, "Companies currently find themselves creating more documents than ever, both digital and hard-copy, and dealing with problems such as uncontrolled expenses and lack of organizational planning. End-user research found that some companies believe they spent up to 10% of their revenue on document production, management and distribution."

Well, 10% is not too bad for a law firm, is it? Actually, 10% would be wonderful; the end-user research that came up with that number was looking at all kinds of offices, not just law firms.

And IKON says it's the same for paper. "For example, regulated industries such as healthcare, pharmaceuticals or energy must comply with stringent record-keeping requirements, often including hard-copy requirements."

The storage of paper documents is pretty straightforward: print the material and file it; if the index is electronic, that reduces the time spent thumbing through files or simply figuring out which office is likely to have the documents. But, as Bonnie Kirk's article on page 1 shows, the legal requirements for paper storage are being relaxed in the face of increasingly better and cheaper electronic storage, and administrators are (or should be) looking at their storage strategies simply to save space and, thus, money. And, as IKON notes, there's more to the savings equation than just space: buying equipment and toner or ink, manag-

ing and maintaining printers... the list seems endless.

The storage of electronic documents, and this includes word-processed and PDF files as much as e-mail, is either handled by expensive case-management software that's primarily useful for law firms across the country or over many floors of an office building, or by cheap and unsophisticated software such as *GroupWise*. And, Mayer adds, "E-mail products such as Microsoft Exchange and Lotus Notes were not necessarily designed with 24/7 in mind... it is a challenge to achieve reliable back-ups that will pass database integrity checks after an e-mail system restoration."

IKON says that "Companies that think strategically about documents will be able to acquire solutions that are carefully targeted to real business needs, show ROI in well-defined, measurable ways and be able to scale

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→ *Storage: Continued from page 6*

their solution to fit future needs.”

Mayer says there are two approaches for dealing with the back-up storage issue, and either approach is available in both hardware and software forms, though he notes that “the software capabilities are not available for all operating systems, and the hardware solutions are not available for all storage platforms.”

The first approach is called a split mirror, in which a full duplicate set of data, which was managed as a live RAID mirror, is separated from the production copy and maintained as a static copy. The hardware approach offers processing of RAID management, which can save a small amount of processing overhead compared to software RAID systems. The software approach minimizes the chance for data corruption, and the choice you make depends on whether you’re worried about slowdowns while the computer crunches the data, or whether you’re worried about the accuracy of the backup.

The other approach is called a snapshot. It locks down the production data at the time of the snapshot, and uses a cache to manage any updates to the live data. When you want to roll

back the data to a particular snapshot, you just choose the appropriate snap. This also comes in hardware and software, says Mayer. The capability in hardware is generally part of the RAID management software. The software capability generally comes with a journaling file system, or as a feature of sophisticated software products.

That’s the current state of the art for dealing with the actual data files, and it’s primarily an issue involving data back up and retrieval. But what about letting people control their own e-mail storage, and track their own files in their own way?

Mayer’s found that’s not such a good approach. E-mail software offers users the ability to create their own personal archive folders, and to set up rules to move older messages to this folder once they’re old enough. Many organizations exploit this capability, and administrators often enforce mailbox quotas designed to force users to either delete unneeded messages or move them to a personal archive folder.

Mayer says, however, “While this approach provides short-term relief for one problem, it essentially allows users to become the administrator of their own data, which raises several red flags: users are notoriously sporadic at managing their own data.

When industry studies indicate that up to 60% of an organization’s intellectual property is contained within its e-mail system, a prudent organization would centralize the management of this critical resource.”

Mayer says the personal archive-folder approach generally lets the user figure out where to put the archived data. This means that administrators have little control over its backup. And, he says, the decentralized approach to data archiving provides a poor foundation for adding auditing capabilities to meet regulatory compliance, or simply to adhere to best practices for internal purposes, such as auditing or case management.

A recent industry study by CNI indicated that as many as 81% of business users are not able to retrieve e-mail data from personal archives without assistance from help-desk personnel or systems administrators. A Gartner report indicated that business e-mail users are now spending about 90 minutes per day managing their mailboxes, suggesting substantial hidden costs with this de centralized approach.

The complete white paper, in PDF format, is available here:

<[HTTP://WWW.DATALINK.COM/WHITEPAPERS/EMAIL/](http://www.datalink.com/whitepapers/email/)>

TWO WAYS TO BACK UP E-MAIL, BUT NEITHER ONE’S PERFECT

The architectures in which e-mail data are stored vary dramatically from one e-mail utility to another, according to Datalink’s Paul Mayer. As he puts it:

Some products configure a discrete data file for each user mailbox while others embed an e-mail hierarchy within the structure of a single file.

In cases where a data file is shared, such as with **Microsoft Exchange**, there are particular challenges in performing backups to levels of granularity that are acceptable when you need to restore only a subset of data within an e-mail system.

For instance, if an administrator has performed a backup of an e-mail system at the domain level, and needs only to restore an individual mailbox or message, the restore process will be quite cumbersome and lengthy. In this case, the restoration process generally requires that the administrator configure a separate e-mail server; the next step is to restore the entire set of e-mail data and then sort through the data to find the desired message or mailbox. This is inevitably a time-consuming process.

Most major backup software vendors have added capabilities to back up leading e-mail products without shutting down e-

mail services. By communicating with the e-mail application... these backup products generally acquire knowledge about the structure of the e-mail data. They work in conjunction with the e-mail application to set up the ability to restore subsets of the backed up data in an efficient and intuitive manner.

This capability is generally referred to as a ‘mailbox-level restore,’ where the backup application has the ability to restore a mailbox for an individual user; or ‘message-level restore,’ where the software allows the restoration of an individual message within a user mailbox.

While these more granular approaches to e-mail backup and recovery provide considerable time and resource savings during a restore, this capability does not come without a performance penalty on the front end.

The process of capturing the index information to enable these restoration capabilities can add considerable performance degradation to the backup process. So much so that many organizations having this capability within their e-mail system choose not to use it because of the processing overhead, which eats into their already-strained backup window; therefore, these capabilities may be best coupled with off-host backup capabilities.

PROFILE: VALA BOARD PRESIDENT ANNIE RONEN

Variety the spice of life at Ogilvy Renault for Ronen

BY STEPHANIE CORNELL
STIKEMAN ELLIOTT

The variety of Annie Ronen's job as General Manager at Ogilvy Renault matches the variety of her history. Speaking four languages in four major international cities throughout her lifetime has prepared her for the challenges of a prestigious and growing law firm.

"What I like most about my current position is the diversity; my various hats," she says. "There are no other managers in the Human Resources nor Office Services departments at Ogilvy Renault. We have national department managers but all the requests [here] come through me. I like that no two days are the same. I also like the national-firm atmosphere; there is real teamwork. We all work together."

Shortly after Annie graduated from French high school in Frankfurt, in what was then West Germany, she worked through a BA in Business Administration. Staying on in Frankfurt, Annie worked in various industries, such as advertising and tourism, but she also took on a number of different positions with Lufthansa Airlines. It was at Lufthansa that she worked as a Claims Manager in Tel Aviv.

"[My] biggest challenge [there] was to learn to read and write Hebrew," she says.

In 1989, Annie moved to Montreal.



Stephanie
Cornell

It was there that she entered the legal industry. She worked as a legal assistant at Heenan Blaikie for a little more than two years before moving to Vancouver when she was asked to manage the firm's newly created Vancouver office in 1991.

The reason for such a quick jump between starting as a legal assistant to running a law office is because of Annie's depth of administrative experience coupled with her family life.

Between high school and university, Annie married Mike Ronen, and since then she's raised their three children with him and she's also managed the human resource and administrative areas of Mike's businesses in various countries and industries.

And so after Heenan Blaikie was sufficiently up and running, Annie took a part-time Administrator's position at Vancouver's Shortt, Moore & Arsenault in 1994 so that she could spend more time with the children.

Five years later, in 1999, Annie joined the newly opened Ogilvy Renault at Park Place. Since then, the

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WOLRIGE MAHON
Chartered Accountants

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PODIUM PARTICULARS: Gord VanHorn (Borden Ladner Gervais) looks on as President Annie Ronen tells the launch party about the future of VALA and its structure.

→ Ronen: Continued from page 8

firm has grown from nine lawyers and one student to 22 lawyers, two agents and two students.

Annie always looks forward to managing the continued growth of the organization, and thoroughly en-

joys being involved in that capacity. "I must always feel as though I am continuing to contribute to the success of the firm." That attitude is evident through her participation in VALA.

"My VALA membership has afforded me the opportunity to meet people, learn, interact," she says.

"The networking is the most valuable aspect of membership. The information-sharing, and the willingness to do so, is something not seen in the other professions I have had experience in... these benefits of membership made me want to give back."

While Annie enjoys the diversity of the GM position, the most challenging aspect of it is time management.

"There's a lack of time! Doing all that I want to do within acceptable working hours... time management is key."

Yet she feels Ogilvy Renault remains an enjoyable place to work. The firm's social events are family-oriented and casual. Lawyers and staff can mingle; they support each other. "The firm stands for respect and encouragement," she says.

After hours, Annie's own dedication continues to extend beyond her office walls; she and her husband are currently undertaking a major home renovation. "I mean, major!" Annie looks forward to the day the house is completed and she and Mike can entertain their friends and family in their refurbished home.

Ogilvy Renault celebrates its 125th anniversary this year, with more than 400 lawyers in six offices. v

BOOKS: LET'S FACE IT — SOME GREAT READING

**BY BONNIE KIRK
LAWSON LUNDELL**

Mac Fulfur became proficient on selecting good jurors by face reading during his tenure as a lawyer.

Thus, he turned his attention to writing a book about what one could glean by studying the face of another.

Clear communication is one of the key elements of a successful business. Communication involves more than good verbal and written skills; it also includes the ability to interpret nonverbal information correctly.

Fulfur strongly believes that anyone can learn to read facial features, and that each part of the head says

something about ones' professional and personal life.



FACE OFF: Fulfur strongly believes that anyone can learn to read facial features...

This book offers material in understanding nonverbal communication and has slowly been gaining recognition within the legal community. Here are some other interesting books, particularly so if you are fairly new to the business of being an administrator:

- 📖 *Managing The Professional Service Firm*, by David H. Maister
- 📖 *Good to Great: Why Some Companies Make the Leap and Others Don't*, by Jim Collins
- 📖 *Managing Law Offices Efficiently*, Issued through CLE and available at the Law Courts Centre
- 📖 *First Among Equals: How to Manage a Group of Professionals* by Patrick McKenna
- 📖 *The Power of Full Engagement* by Jim Loehr and Tony Schwartz

What keeps managing partners awake at night? And what should administrators do about it?

BY JOHN HAWKE
HARPER GREY EASTON

At the recent VALA Retreat held at the Delta Ocean Pointe Hotel in Victoria, between 30 to 40 members attended a seminar given by Blane Prescott of Hildebrandt International dealing with issues relevant to administrators, managing partners and executive committees.

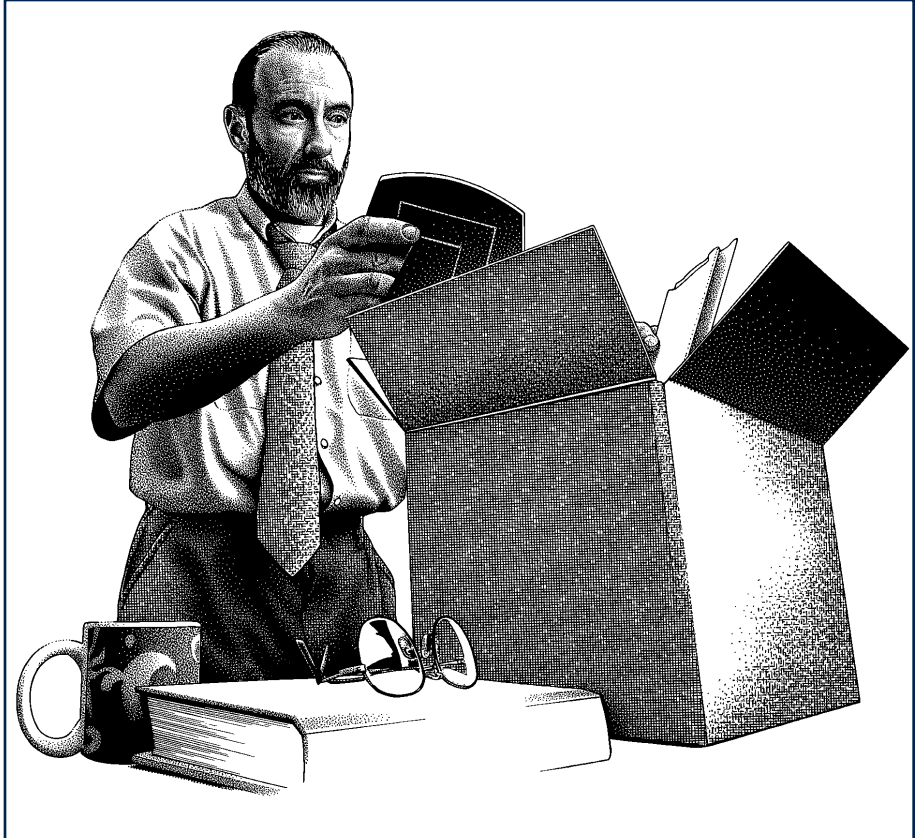
Blane indicated there were a number of challenges facing managing partners in the current environment—most were “tough people management issues.” He felt that managing partners should not be afraid to change their firms. “Doing nothing rarely inspires, nor is it considered a good long term strategy.”

Here’s his Top 10 list of things that keep managing partners awake at night—and what to do about them:



How can we act more like a firm and less like a group of solos?

- ✓ Most firms are groupings of sole practitioners.
- ✓ Most common complaints which Hildebrandt Inc. hears from clients:
 - ❖ You do not know enough about us;
 - ❖ You are not interested in getting our business;
 - ❖ You do not tell us about the other services available from your firm.
- ✓ *Economy of scale logic:* Generally law firms don’t see any economy of scale as they grow larger. The real benefit of larger firms is the team work which allows the firm to perform specialized work at higher rates. Doing commodity work at a large firm provides little economic benefit.
- ✓ Do clients want a big firm for one-stop-shopping? Clients want consistency more than they want full service:
 - ❖ A great client in one office is a great client in all offices;



DO FIRMS FIRE PARTNERS? “All the time!” says Hildebrandt International’s Blane Prescott. The managing partner, along with the executive committee, must take the lead in this process, he says.

- ❖ Consistent service and consistent quality;
 - ❖ Don’t try to be all things to all clients; it’s a dilutive strategy.
 - ✓ What are the characteristics of great firms? Good people, good clients, great reputations, strong leadership, focus on teamwork. A characteristic *not* found in great firms: “I have the freedom and autonomy to do whatever I want.” In successful firms, compensation and leadership reinforce teamwork.
- Managing income expectations**
- ✓ Everyone always wants more.
 - ✓ Money is neither a motivator or the glue which keeps a partnership together.
 - ✓ Money alone has the lowest loyalty factor. This difficult lesson was learned during the dot.com era.

Money does not bond people to the firm. The reasons most associates leave firms:

- ❖ Lack of training;
- ❖ Lack of contact with partners;
- ❖ Lack of mentors;
- ❖ Lack of interesting work;
- ❖ Lack of career development.
- ✓ Partner compensation plans:
 - ❖ Formula systems are dying out because the point is not just to divide up the money;
 - ❖ Lock-step systems are evolving into merit-based systems;
 - ❖ Great firms have pre-compensation interviews before setting rates—*not memos*;
 - ❖ Post compensation interviews when needed, and mid-year reviews when required (i.e. partner’s performance is so far off that firm will have to take significant steps to address the situation).

Continued on page 11 →

→ *Awake: Continued from page 10*



Yes, there is life after a managing partner

- ✓ Compensation after being a managing partner? Here's the concept:
 - ❖ One year of guaranteed compensation for every three years served, but;
 - ❖ Talk about the compensation arrangement long before stepping down.
- ✓ Can managing partners can go back to practice? Yes:
 - ❖ Except in very large firms or terms that are longer than six years;
 - ❖ A 50% -> 75% -> 100% transition period is typical.
- ✓ Begin thinking about managing partner's succession early.
 - ❖ Develop many possible successors that will give the firm a number of options, not just one person;
 - ❖ Designated successors are only successful 25% of the time.
- ✓ Traits of successful managing partners:
 - ❖ Trusted by fellow partners;
 - ❖ Good communication skills;
 - ❖ Ability to have hard conversations.



Dysfunctional practice groups

- ✓ Most firms are uncertain why they have practice groups, how to organize them, what to do with them and who should lead them.
- ✓ The situation is further compounded by failure to properly monitor the groups' activities on a regular basis.
- ✓ The most important function of a practice group is to coach and mentor *all* lawyers in the group and help them solve their problems.
- ✓ The practice group concept requires buy-in from the partners. Most firms do a poor job of selling the concept.



Merger of a prime competitor

- ✓ A prime competitor is merging. Were you surprised?
- ✓ Consolidation is a pervasive trend in the profession.
- ✓ The best managing partners obtain intelligence from informal merger discussions.
- ✓ Mergers are neither good nor bad by themselves.

- ✓ Alliances and networks are declining while roundtables are increasing.
- ✓ Can you survive in a consolidating market? *Depends!*
 - ❖ Do you know your market and clients?
 - ❖ Do you know your economies?
 - ❖ What is your firm's reputation?
 - ❖ Why do your clients use you?
- ✓ Have you surveyed your clients to find out what they are thinking?
 - ❖ Clients hate it when only the marketing person goes to these interviews. It leaves the impression the client isn't important enough to warrant the lawyer's time; they also feel the firm is trying to sell them additional legal services.



Clients implementing the Three C's

- ✓ The problem isn't changing the client's mind; the challenge is changing clients.
- ✓ Too many firms react after the fact rather than planning.
- ✓ The key is to know your business.
 - ❖ Do you know where and how

your firm makes money?
❖ Is your firm in a commodity practice? Do you know?



Risk management: Do you really know what your partners are doing?

- ✓ *Problem:* Rogue partners. This pertains to:
 - ❖ Quality and behavioural issues,
 - ❖ Mentoring offences and worst of all: judgement compromised by clients;
 - ❖ Most firms lack quality standards and controls: "We can't tell them to do that!"
 - ❖ Damage to reputation may be more costly than liability issues.
- ✓ *Solutions:*
 - ❖ True practice management;
 - ❖ Compensation and client interviews;



Blane Prescott

Continued on page 12 →

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→ *Awake: Continued from page 11*

- ❖ Managing partners and practice group leaders who walk, talk and listen;
- ❖ Survey secretaries about clients. For instance, ask them to rank client happiness: 1) Happy 2) Somewhat happy 3) Not happy.



What to do with long term, under-productive partners?

- ✓ Compensation adjustments rarely solve the problem.
- ✓ There is no substitute for difficult face-to-face discussions.
- ✓ Some even need psychiatric help—but not from the managing partner. Do you know the symptoms of depression in lawyers?
- ✓ A cost-benefit analysis is important.
- ✓ *Reminder:* These problems rarely solve themselves; most get worse with passage of time.
- ✓ Great firms are known for consistency amongst partners:
 - ❖ Clients know firms by their weakest partner;
 - ❖ Rigorously enforce partnership standards.
- ✓ If discussion concerning whether to admit an associate to partnership become lengthy, good firms will automatically defer the lawyer.
- ✓ Do firms fire partners? *All the time!* The managing partner, along with the executive committee, must take the lead in this process.



Flight Risk of Rainmakers

- ✓ Will high bids attract rainmakers?
 - ❖ Signing bonuses are rarely used these days;
 - ❖ The better approach is to recruit with a convincing business strategy, strong leadership and a great working environment.
- ✓ Ways to keep people:
 - ❖ Talk to them;
 - ❖ Address problems concerning under-performers to keep the stars.
- ✓ Know the warning signs:
 - ❖ Withdrawal from discussions;
 - ❖ Age of children;
 - ❖ Talk about competitors, their strategies, profits etc....
 - ❖ Worst of all, no sign of disaffection other than resignation.

Some even need psychiatric help – but not from the managing partner.



The number 1 thing that keeps managing partners awake at night: Disappearing market segment

- ✓ Increasing competition.
- ✓ Increasing sophistication on both the demand and supply sides.

- ✓ Increasing consolidation among law firms and segmentation by practice area or client types.
- ✓ Increasing geographic reach of regionals and nationals.
- ✓ Full-service regionals have options:
 - ❖ Pursue a significant market position;
 - ❖ Pursue a significant position regionally or nationally.
- ✓ Firms below a leading regional position have options:
 - ❖ Seek to move into the leading group;
 - ❖ Adopt a second tier or mid-market regional focus;
 - ❖ Slim down to a specialist firm;
 - ❖ Decide on a regional, national or international focus.

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The room was warm and dark; the talks were powerful and smart; the people were... hot and fun

BY STEPHANIE CORNELL
STIKEMAN ELLIOTT

VALA's 2004 Educational Retreat was held in Victoria this year from June 17 – 19. With almost 40 attendees this year from across the province, the immediate response is that this retreat was a success!

VALA was thrilled to welcome members from Prince George, Kamloops, Kelowna and Vernon as well as Vancouver and Chilliwack. Our guest speakers traveled from San Francisco, Seattle and Vancouver.

Guests were invited to stay in the Delta Ocean Pointe Resort as well as the Grande Pacific Hotel. The events began with a cocktail reception on Thursday evening at Ocean Pointe where members and guests could meet and greet. Following, everyone enjoyed their free time in the city at the restaurant of their choice.

Blane Prescott, Hildebrandt International, was the first presenter on Friday morning. A dynamic speaker, Blane is a consultant who works with law firms, investment banks and venture capital firms. He helps them with strategy, management issues, compensation, practice management and merger-negotiation assessments.

In Blane's interesting topic, *What Keeps Managing Partners Awake at Night?*, he listed and explained the top 10 most common worries for managing partners (MP), not only in North America, but worldwide.

For instance, when it comes to mergers, MPs should not panic, but educate themselves. Keep corporate intelligence coming in and they'll never be surprised by a competitor's merge, nor when they are approached to do so. He also dispelled some common misconceptions. For example, when managing income expectations, money, or more of it, he says, is not the glue that keeps good people in a firm. And, he says, MPs can return to a regular practice, but not without requesting some feasible guarantees.

Blane discussed these issues in succinct and humorous detail and provided ideas for resolution. [See Prescott's briefing notes, on page 10–ed.]

Everyone was happy to break for lunch because the air conditioning in our meeting room seemed to be out of order! Our afternoon session was conducted in the near dark as we dimmed the lights in an effort to keep cool.

Clive Bellian, Regional Director of

produce business results and support personal growth. Diane's *Talks on Talent* series is a popular choice at seminars and conferences.

Theilfoldt discussed the current culture of the typical workplace in relation to the many generations present there. *The Silents*, *The Baby Boomers*, *The Generation X'ers* and *The Millennials* all command a specific niche in the workplace. Human resources managers and administrators alike, she says, can benefit from exploring the characteristics of these groups. Learning how to help them excel and be successful in their careers, she adds, creates mutually beneficial relationships for employers and employees.

The group broke at 4 to enjoy some personal time in sunny Victoria. Guests met at the Herald Street Café that evening for dinner. Preferred vendors in attendance were Clive Bellian, Betty Honsinger, Travis Kenzle and Paul Schultz of TOS Insurance Services (HUB International), along with Gabe Baker, Paddy Carroll and Gary Saretsky of IKON Office Solutions. Diane Theilfoldt and her husband were also in attendance.

Wanting more of a good thing, many guests left the restaurant after dinner to socialize at a popular Victoria pub. After wading through the 6,200 sailors who had descended upon the city earlier that day from a US aircraft carrier, 10 of our VALA members were stuck in an elevator for 20 minutes at the pub. Otis Elevators and the Victoria Fire Department arrived on the scene and began to work on the problem as the trapped patrons managed to slide the doors open, and climb into the second floor. The party was over, then and there!

Laura Reid, Human Resources

Continued on page 15 →



Stephanie
Cornell

The Silents, The Baby Boomers, The Generation X'ers and The Millennials... no, these are not the names of the new fall TV lineup

RESOURCES

VALA announced at the Retreat that Ernie Gauvreau's wife, Doris A. Bentley, of Centrepoint Career Counselling, has partnered with Theilfoldt, offering the *Engaging the Generations* workshop in Canada, particularly Western Canada. For more information, visit their website at: <http://www.centrepointcareer.com>.

Dye & Durham, provided a brief presentation over the lunch break, demonstrating how the electronic age has provided new opportunities for obtaining and storing information. He was accompanied by Betty Honsinger, D&D's Victoria Office Manager.

Diane Theilfoldt was the afternoon speaker. She is co-founder of The Learning Café in Seattle. A "learning strategist," she works with clients to create custom learning solutions that

How to bring the firm's marketing to the fore

BY TIM WURTZ
BAKER NEWBY

Many lawyers view the summer months as an opportunity to further develop their practice by going on courses—golf courses, that is.

Golf, the unofficial-official sport of lawyers, has been used to mix business with pleasure for years. The business, however, tends to take second seat to the pleasure, as the lawyers are swept away by the beautiful surroundings and inexplicable quest to take a few strokes off their game.

A peaceful round of golf has its place, and is no doubt a well-deserved break from the long hours many lawyers put in on business. But for new associates developing a practice, or more-senior partners fostering long-term business relationships, we provide some useful tips they can use to capitalize on their captive audience while still enjoying a day on the links.

Golfing lawyers can actually be an extension of the firm's marketing department by listening twice as much as they talk, and by asking questions about the client's or prospect's business, rather than bragging about their own practice.

PLAYING THE GAME: Marketing staff and Administrators should always encourage lawyers to bring prospects along on a golf tournament.

It has been my experience, however, that lawyers tend to bring existing clients or, worse yet, other lawyers in the firm; people with whom they have an existing professional relationship and friendship.

The first hurdle in training a golfing lawyer to also be a marketing lawyer is to make sure they are actually golfing with emerging clients or prospects.

Somewhere in that lawyer's pro-

fessional development plan (they all have them, right?), they intend to secure new clients, expand their client base within a certain industry or learn more about existing clients, all with the idea of expanding the firm's business with them. The golf game is their chance to enjoy an afternoon, take advantage of those non-billable marketing hours afforded them, and check off a few items on their professional development plan.

Each industry group at your firm should have some knowledge about the publications their clients read and use.

Why? To ensure you are advertising in the right ones. We could often blindly advertise in a publication we merely *think* our client reads or, even worse, follow other law firms and simply advertise in various publications because that's where they advertise. How to get the information? Lawyers just need to ask simple questions in the relaxed meeting environment of a golf course to get the information that may re-direct your advertising campaign. A conversation could go something like this: "I like to keep up to speed on your industry, and make sure that our junior associates get a good grounding in your industry. What newspapers/magazines / TV programs/Web sites should we be watching? What do you read?"

Ask the prospect to send a few of their web bookmarks to the lawyer by e-mail, to make it simple — and accurate.

You've got the beginnings of a media plan when the lawyer brings the answers back to the marketing department. Those are the places where you should be advertising, writing articles, getting quoted in articles, appearing on panels, posting on listservs....

Don't be surprised if the answers bring about an epiphany with your marketing staff. If they are able to begin advertising in merely one additional publication, and track any new intake from that campaign, that lawyer will have just earned themselves another day on the golf course.



You've got the beginnings of a media plan when the lawyer brings the answers back to the marketing department.

THE CLIENT MINI - SURVEY:

Client-satisfaction surveys conducted in person yield the best results. Use this opportunity for the lawyer to do their own version, a kind of client mini-survey. Think of all the questions you may have ever had on such a survey. Two questions you'll usually find: *What can we do to improve service?* and, *Would you refer us to your colleagues?*

The lawyer should ask about different fee arrangements. You may find you are totally out of step about how this industry pays for other services. It may seem inappropriate to talk about money, but try asking it this way: "Do you like our monthly billing arrangement? I was wondering if your company would benefit from project-based billing."

It should be apparent to the client that the lawyer is interested in improving the client's business wherever possible, and not just in the legal arena.

Have the lawyer introduce the fact that your firm is inundated with requests from charities and promotion-

Continued on page 15 →

→ *Fore! Continued from page 14*

al events. Then ask the client what charities they support. Your marketing staff will be pleased to know what types of charities and events should make the short list when they receive cold-call sponsorship requests from various local charities.

Your staff will now also have a tasteful, genuine reason to decline other requests for grants by stating that the firm tends to support charities supported by the firm's clients.

TAKING A SHOT: A little homework on the client's personal preferences

before the round can also make a world of difference. It's simply a matter of thinking in advance about things that are important to the client. I'll never forget one time when I was golfing with an acquaintance who I knew preferred Canadian Club whiskey. When the concession cart didn't offer this brand, I pulled a mini out of my golf bag and handed it to him. The look on his face—and the feeling of appreciation—was striking. Sometimes *It's the thought that counts* is actually true.

Is this tricky? Perhaps. Is it smart? Absolutely. Some lawyers will have no problem working a little market-

ing into a golf game. Others will see it as intrusive and spoiling the spirit of the round.

Of course, there'll always be times where it's not a good idea to promote your services, but that's rarely the case when a prospect or emerging client is involved.

If the lawyer sees that the client perceives the questions I've suggested as a hard sell, tell them to be honest: have the lawyer say they really are interested in the prospect and their industry, and that knowing more about what they read and use will help the lawyer help them, and also help the lawyer find other clients in the industry.

Most clients recognize that the lawyer is simply trying to do their best, and could in fact commend them on their business savvy.

Valuable marketing opportunities exist even in casual environments. Hopefully I have given you a few gems of advice you can pass along to your lawyers as they try to slip out the back door unnoticed at 2:30 p.m. on those sunny Thursday afternoons. ▼

→ *Retreat: Continued from page 13*

Consultant and Mediator, was the guest speaker on Saturday morning. Laura, of Arlyn Reid, discussed the relevance of performance reviews, why the results of that review are so important to share with the individual employee and how not to conduct a performance review. She went on to discuss sudden and un-

characteristic attitude changes in an employee, how to assess that behaviour, and effectively work with that employee to help them succeed.

Wrapping up promptly at noon, VALA members boarded their respective ferries and Helijets and headed home to enjoy the weekend sun and hot weather. VALA thanks everyone for their participation and enthusiasm. We look forward to next year! ▼



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VALA TOPICS
VANCOUVER ASSOCIATION
OF LEGAL ADMINISTRATORS
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President: *Annie Ronen*

WHO WE ARE:

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.

NEWSLETTER SERVICES:

Topics is available to Members and prospective members. We will be pleased to add you to our mailing list for this newsletter. Please contact Editor John Hawke or any member of the Editorial Committee, for comments on any of these articles or suggestions for articles in future issues, or for adjustments to the circulation list. Comments are always welcome.

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