

This management structure is making inroads into the Canadian law-firm market

Tiered partnership numbers grow in BC

BY JOHN HAWKE
HARPER GREY LLP

One of the many trends which has occurred in the legal profession over the past decade, particularly the last five years, is the



John Hawke

stratification of the traditional partnership structure into equity and non-equity or income partners.

The essential difference is that equity partners exercise basic control over the firm,

such as deciding on the admission of partners, approval of any merger or acquisition, dissolution of the firm,

approval of the firm's financial budget or electing management. Income

Continued on page 2 →

Corporate records storage

Good news, bad news in Business Corporations Act

BY DIANA HAYNES, CO-AUTHOR,
'GUIDE TO CORPORATE RECORDS'

Legal administrators of law firms that act as the records office for a number of companies are often required to manage the storage required to house corporate records books.

The cost of maintaining shelving for large numbers of record books is a big expense for law



Diana Haynes

Continued on page 10 →

Milroy to focus on the three 'Rs'

The President of the BCLMA, Allison Milroy, took over the job at the Annual General Meeting following the elections. Her action plan for the organization, as she notes here, is 'renew, refresh, rejuvenate.'

What an exciting year lies ahead as I begin my term as your association's President. I follow in the able footsteps of Annie Ronen of Ogilvy Renault, who worked tirelessly over the past year to pave the way for me and the future of our Association. It was certainly an action-packed year. I thank you, Annie, for all your hard work and dedication to BCLMA.

I look forward to working with our renewed executive for the 2005-2006 fiscal year, which includes: Annie in her role as Past President; President-Elect Ernie Gauvreau of Gowling Lafleur Henderson LLP; Vice President of Memberships Ann Main of MacKenzie Fujisawa; Treasurer Angela Zarowny; and Secretary Stephanie Cornell of Stikeman Elliott LLP. I am also excited to be working alongside our wonderful subsections—we have grown over the past year to the point where we have nine of them.

On June 16, our newly named British Columbia Legal Management Association and new logo refreshed and better represents our organization. BCLMA embodies the purpose and aspirations of our association: to serve the interests of law-firm management and administrative professionals in the province of British Columbia. Our new name and logo demonstrates a truer representation of the geographical composition of our membership, and reflects the Association's desire to serve and include a province-wide membership.

Continuing along the path which the previous Executive Committees carefully laid out, this year I plan to work together with the Executive to rejuvenate our focus on increasing communication among our own Association, and to pursuing and collaborating with many people to expand the Canadian educational opportunities for our membership. Along with the Executive Committee, I will continue to keep the executive process open and accessible, and I intend to attend at least one of each individual subsection meetings during the year. I welcome any suggestions or comments from subsection members on how your Executive and Association might meet your expectations.

We are rejuvenating our relations with our ven-

Continued on page 2 →



Allison Milroy

→ Tiered Partnerships: Continued from page 1

partners have no equity stake in the business, are paid a salary and are eligible for a bonus tied into individual performance or firm profitability.

Based on discussions with Blaine Prescott of Hildebrandt International, about 80% of the top 200 law firms in the United States have some form of tiered partnership. Mr. Prescott also felt that given current trends in the profession, law firms will continue to embrace this concept in growing numbers over the next five to 10 years.

Many firms are being driven to adopt this structure as a result of limited growth in the marketplace for legal services. As practice-base growth slows or stagnates, partners are finding that bringing lawyers into the partnership lawyers who do not have their own practices generally results in an erosion of earnings.

A tiered-partnership structure allows the firm to add young lawyers to the partnership in a manner that will not erode partner earnings. At the same time, these individuals are given

some of the benefits of ownership—such as a higher profile to facilitate practice development, a retirement plan, or income splitting through the limited partnership—while they progress towards developing a sustainable practice. The advantages and disadvantages of a tiered partnership are outlined in the table on page 4.

INCOME VERSUS EQUITY PARTNER

In determining whether an associate is ready to become an income partner, or an income partner is ready to become an equity partner, the partners would look at a number of criteria. In determining between income partners and equity partners, the firm will use the same criteria; however, it is assumed that those promoted to income-partner status will generally display a lower level of performance in each criterion, or may also have weaknesses which limit their overall contribution as an owner. As an equity partner, lawyers must demonstrate one or more of these characteristics:

- ✓ Ability to consistently generate new clients, and pass work to other

Continued on page 3 →

→ Milroy's Message: Continued from page 1

dors and sponsors, and moving toward more opportunities to better serve our membership. I am committed to working closely with the Executive to open up these opportunities while continuing with our present vendor relationships, and developing new vendor arrangements which will support and meet the expectations of BCLMA—and our vendors.

The British Columbia Legal Management Association has the best parties in town and the best members!

I heartily encourage all of you to get involved in the BCLMA: volunteer for a committee, become a Subsection or co-Subsection head, participate in the biannual educational retreats, write an article for *Topics* magazine, bring me or any member of the Executive your ideas and suggestions... the options are endless.

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lawyers within the firm;

- ✓ Ability to maintain and significantly expand relationships with existing clients, even though they may not be responsible for generating those relationships initially;
- ✓ Have exceptionally strong teaching and supervisory skills;
- ✓ Have the ability to successfully manage and develop groups of lawyers;
- ✓ Have the entrepreneurial skills to start and run a business;
- ✓ Have the ability to make the difficult decisions that are necessary to build and maintain a healthy business.

In addition, every partner, regardless of equity or income status, must demonstrate all of the following characteristics:

- ✓ Produce consistently high quality legal work;
- ✓ Develop the firm's existing client relationships;
- ✓ Generate additional business from existing clients;
- ✓ Oversee complex work for clients;
- ✓ Delegate work, whenever indicat-

- ed, to other partners and associates;
- ✓ Meet hourly goals for both billable and non-billable work;
- ✓ Maintain a reputation for excellence in the area of practice;
- ✓ Add to the professional development of associates and paralegals;
- ✓ Exercise individual leadership, whether in firm management, area of practice, or with clients, and;
- ✓ Abide by and support the firm's policies and decisions.

Beyond specific criteria, the partners would have to ensure the overall economics are taken into consideration when assessing promotion issues as a firm must not sacrifice its overall viability when logic indicates that a deferral is in the best interest of the firm.

FREQUENTLY ASKED QUESTIONS

A number of questions normally arise during the discussion of a tiered partnership:

What are other firms doing in Vancouver and beyond?

Tiered-partnership structures began to appear in the mid-80s and their

use really accelerated in the mid-90s. Currently, about 80% of the top 200 law firms in the United States operate with some form of a tiered partnership. It is estimated that in the next three to five years, most large firms will have embraced this concept.

Half of big firms moving to tiered... or thinking of doing so

Although Canadian firms are a few years behind our American counterparts, it is felt that most medium-to-large firms will move towards some form of tiered-partnership structure in the next few years. A recent survey of Vancouver firms with more than 40 lawyers revealed that about half either have, or are considering, implementing a tiered partnership.

What's driving this change?

Firms are being driven by the economic realities of the profession. The

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→ *Tiered Structure: Continued from page 3*

market for legal services is a competitive and mature environment, where firms are going after the same clients and market growth is limited. Law firms cannot afford to bring lawyers into the partnership who cannot contribute to the growth of the firm's practice base.

What will be the status of existing partners in the new structure?

Generally, existing partners are grandfathered into the new structure as equity partners. If an individual chooses to become an income partner, the firm accommodates this request.

How will part-time partners be treated in a tiered partnership?

The tiered partnerships accommodate part-time partners. The decision whether a partner will be permitted to move to a part-time basis, or remain on it, will be made using the existing guidelines.

What happens if an equity partner does not meet the criteria? Can we move them into the income-partner tier?

No. The income-partner tier should not be used as a means for addressing under-performing partners, because this will taint the category as being a place for undesirable partners. Anyone else placed in this category will feel as though they are being punished, or the firm is sending them a negative message. ■■

TIERED PARTNERSHIPS: THE TWO SIDES OF THE DEBATE

ADVANTAGES

- ✓ Addresses the issue of high lawyer-turnover costs which is associated with the up-or-out approach. Enhances the level of job security.
- ✓ Promotes better morale and generates a strong sense of loyalty towards the firm as opposed to the up or out approach.
- ✓ Recognizes that practices grow at different paces (ie. it might take certain lawyers longer to develop their own practice). In addition, making someone an income partner makes it easier for that individual to develop business as they can present themselves as partner to the public.
- ✓ A tiered structure can be used to facilitate the transition of lateral hires into the firm. This is particularly relevant, given that more firms are using lateral hires to build or enhance new practice areas.
- ✓ Provides the partnership with flexibility in regards to lawyers with excellent legal skills but lacking the ability to develop their own practice. It also gives the firm more time to assess whether a lawyer should be permitted to become an equity partner.
- ✓ Substantially reduces the erosion of partner earnings which results from bringing lawyers who do not have their own practices into the partnership. Income will not grow fast enough to offset the additional partner earnings.

DISADVANTAGES

- ✗ Partners will be forced to make two, rather than one, possibly difficult decisions concerning each lawyer.
- ✗ Perception by associates that the partnership has changed the rules concerning partnership qualifications with little or no notice.
- ✗ Possibility that the income-partner tier might be used as a dumping ground for lawyers when nobody wants to make a tough decision.
- ✗ A tiered partnership could have a demoralizing effect on the firm when lawyers are partners in name only, without full equity draws or governance votes. This situation could impair the firm's ability to recruit and retain good associates.

MOST FIRMS STANDING PAT ON SALARY OFFERS FOR EACH YEAR OF CALL: SURVEY

BY JOHN HAWKE
HARPER GREY LLP

The 2005 Associate Salary Survey was completed and distributed to all participants in late June. The results were released one week later than anticipated due to the significant increase in the number of firms participating in the survey. This year, 41 firms, including 11 firms with more than 40 lawyers, responded to my request for information, compared to 2004 when only 30 firms took part in the survey, including 12 firms with more than 40 lawyers.

A review of the detailed survey results delivered to the participants indicates that most firms are not making significant changes to salary ranges for each year of call. In fact, several of the larger firms that historically were aggressive in raising associate salaries left their salary structure essentially unchanged from the prior period. Most firms with more than 40 lawyers seem to have implemented formalized bonus structures, which are based primarily on billable hours worked. The

associate compensation paid at firms with fewer than 40 lawyers appears to be lower than their larger competitors

Most firms, particularly the smaller ones, either have moved senior associates to a pay-for-performance format where compensation is based on a percentage of fees billed and collected, or they are in the process of moving to that model. It would appear that virtually all firms base associate compensation on fee billings received rather than hours worked and billed. Smaller firms seem to have been more creative in developing compensation structures that motivate lawyers to go out and develop their own practices.

When it comes to perks, most firms still pay some combination of fitness memberships, discretionary allowances and parking; some paid the parking on a non-taxable basis. A quick review of this segment of the survey reveals there has been essentially no change in the value of perks paid to lawyers from prior years. I thank all those firms who participated in the survey; I hope the results were of some benefit as part of the associate salary-review process. ■■

The regular hero

BY STEPHANIE CORNELL
STIKEMAN ELLIOTT LLP

Accountant. Law Firm Administrator. Leader. Husband. Father. Triathlete. Golfer. Local Hero. Don Miller is all of these things. (Don will cringe when he reads the hero part. But he had better get used to that new title. As the sidebar below notes, the Government of Canada says so.)

For Don, the experience of rescuing the woman did not change him nor his outlook on life, but it did provide character knowledge. "I behaved in a manner that was consistent with what I thought about myself," he says. As for his family and friends, they were not surprised. Don had certainly acted in a manner they always knew to be true. The media attention surrounding the event, while overwhelming at times, actually provided his wife and two adult sons with a much-needed counterpoint to what could have happened.

For his colleagues, there was a

great sense of pride. For the firm of Alexander, Holburn, Beaudin and Lang (AHLB), where Don is the Administrator, it reinforced its culture. Individual employees were moved to reach

out to Don in a number of unexpected ways. Many wrote or spoke to him about their own relationships of hurt and despair. Others wrote notes of compliment, and some even told him that he had restored their faith in people who do good. All of these have been humbling experiences for Don.

It has also given him occasion to meet and talk to people. "I'll speak about it if spoken to." There has been one exception, however. When Don heard about a teen-



Stephanie Cornell

age boy in Surrey who was hospitalized earlier this year after attempting to assist a young woman caught in a feud with her boyfriend, Don reached out to him. Worried that the boy might berate himself for stepping in and trying to help, Don called the hospital. "I had to contact him and tell him he did the right thing." They've stayed in touch.

As Don has with the woman he rescued. This past spring, Don attended a potluck dinner for her, hosted for all the people who played a role in her rehabilitation.

Don is obviously good at communicating with people, and he comes by it honestly. His background in the advertising and communications fields demonstrates his abilities in this arena.

Like most law firm Administrators, Don's career began in accounting. He joined Ernst & Young when he graduated from Simon Fraser University and worked his way to Senior Manag-

Continued on page 7 →

Thanks, Don, from the nation

**MR. DONALD JAMES MILLER, M.B.
PORT MOODY, BC
MEDAL OF BRAVERY
DATE OF AWARD: 12/16/2004
DATE OF PRESENTATION: 6/24/2005**

It was one year ago that Don Miller, along with two other Port Moody residents, all under gunfire, helped a woman escape her attacker. While the other two women placed themselves between the threatened woman and the gunman, Don stopped his car and flung open the passenger door to allow the wounded woman to jump in. As the gunfire continued, as another shot shattered his car window and struck the woman, Don sped away to a nearby ambulance station bringing the woman to safety. Since then, she has recovered from her wounds and from the experience, thanks to doctors, nurses, physiotherapists, family and friends, all of whom played a role in her recovery. Various other local organizations, including the Tri-Cities Chamber of Commerce, have recognized Don for his valiant efforts.



On June 24, in a ceremony in Ottawa, Governor-General Adrienne Clarkson awarded Canada's Medal Of Bravery to Don and the two other Port Moody residents, Leslie Bennewith, on Don's right in this picture, and Alison Smith, not shown. The award, on the right, is for rescuing a Port Moody woman during a hail of gunfire.



Are we there yet? Are we there yet? Are we...

Good directions for legal-service marketing plans

BY LISA SCOTT
BLAKE, CASSELS
& GRAYDON LLP

How many legal marketers have heard this tune? *"If you do good work, more work will come."*

Many lawyers have been relying on this mantra in lieu of a marketing plan for years. Yes, we can safely assume that doing a good job for our current clients is important to our firm's profitability, but it's not enough.

Marketing plans have been around for a long time, and are common practice amongst *Fortune 500* companies, yet are still somewhat foreign in law firms.

It's like driving on a highway, not knowing where you are going. Eventually you are going to run out of gas, and you don't know where you'll end up. Marketing plans are the road map.

WHY WE NEED MARKETING PLANS

Marketing plans are the framework that we use to determine areas of focus for marketers and lawyers alike.

In other words, you can use it to help you deliberately allocate your valued and limited resources: time and money. The planning process results in a written document that sets forth where the organization wants to go and how it wants to get there.

Marketing plans are also a benchmark by which we can measure and evaluate our marketing efforts.

THE PEOPLE INVOLVED

Involving a wide cross-section of people with varied perspectives, backgrounds and attitudes is essential to a thorough marketing plan, as the result will affect many stakeholder groups.

Try to involve lawyers from different practice groups and levels, as well as anyone that may be involved in the execution of the plan, such as managers of IT and, of course, marketing.

It's important for legal marketers to be involved in planning on some level. Taking the role of workshop facilitator

is the ideal role for a marketer, as it gives the marketer the opportunity to contribute the framework for the process and to learn the rationale for decisions. The reality is that some firms are still not comfortable with their marketing staff as a member of their leadership team. Marketers can still offer to be responsible for data collection, analysis and project execution. The important thing is to get involved.



Lisa Scott

PARTS OF GOOD MARKETING PLANS

Development of a good, thorough marketing plan takes a good deal of initial effort, but pays off in more ways than one.

A marketing plan can be applied from a firm-wide level, to a practice-group level or even on a personal level. In all of these cases, the process remains the same.

Marketing plans need to address four fundamental areas:

- ✓ *Current-State Analysis*—Where are we now?
- ✓ *Future-State Analysis*—Where do we want to go?
- ✓ *Objectives and Action Plans*—How do we get there?
- ✓ *Follow through and Evaluation*—Are we getting there via this route?

CURRENT-STATE ANALYSIS

Your current-state analysis is the process by which you determine where you stand now, the snapshot of the firm at this point in time.

Have a thorough discussion, understand and document the answers to the following questions:

- ✓ Who are we?
- ✓ What do we do?
- ✓ What are our strengths?
- ✓ What are our weaknesses?
- ✓ What are our differentiators?
- ✓ Who are our current clients?
- ✓ Who are our competitors, and what are their strengths and weaknesses?

- ✓ What is the firm's current profitability by practice area or sector?

The reason for going through this process is to determine and record the current situation for the firm so that, in the future, you can measure against this benchmark.

FUTURE-STATE ANALYSIS

The future-state analysis is the part of the market planning process that determines where you want to go. It's the stage at which you identify the mission for the company over a certain period of time. What do you want to achieve? Are you driving to Vancouver or Toronto? Without knowing this, you may end up driving in the wrong direction.

Once you have determined your mission, you can break it down into specifics. Goals can be fashioned in many different formats, but it is essential that you make them quantitative. Set your goals around areas that you already have benchmarked: finances, client satisfaction, rankings and the like. Do you want a certain percentage increase in revenue, or a certain number of additional new clients? Do you want to increase profitability of current clients or perhaps gain market share in a new practice area? Your goals can even entail how much time you expect to spend on new business development as opposed to current client maintenance. It's up to you; just ensure that the goals are measurable.

It's important at this stage to have a good idea of the duration of your plan. Are you planning for the next year, or is it a five-year plan?

Some of the questions that you will ask yourself in your future-state analysis are:

- ✓ On what practice areas are you going to focus?
- ✓ What sectors or client groups are you going to target?
- ✓ On what differentiators will your firm focus?
- ✓ What are areas for development?

The future-state analysis also en-

Continued on page 8 →

er for Western Canada. From there, he went on to Nexus Engineering Corporation, an award-winning technology and manufacturing company, now called Scientific Atlanta, in the telecommunications field.

Don was responsible for all aspects of corporate controllership and bank financing; designing, developing and implementing accounting and budgeting systems; and even organizing the company's first acquisition (one that would see an immediate 400% gain in annual revenues). Don managed more than two dozen people in the accounting and administrative departments, and assisted the founding partners with selecting and developing a management team. Steering teams towards success requires excellent communications skills.

These skills were further developed in his roles as Chief Financial Officer at Palmer Jarvis DDB Advertising and at Ipsos North America (formerly the Angus Reid Group).

Besides the typical accounting and financial duties associated with a CFO position, Don also led and managed accounting and administrative staff, and guided senior management, through various transitions. After completing a three-year project with Ipsos Reid, Don took the summer off to play golf, spend time with his family and look at what was hot in the market. Before long, he had the option of accepting the position of Chief Operating Officer at AHBL. At the same time, a new managing partner had come on board; the firm was ripe for change. Don seized the opportunity and embraced the idea of turning a practice-run firm into a professional-service business.

Don's management and leadership skills transferred seamlessly to AHBL and were utilized immediately.

Don became and remains involved with his current team of managers, those being in the Human Resources, Information Technology, Accounting, Training, and Office Services divisions. He works with each of them to develop a one-year plan, subject to variations in the firm, culture, etc. If changes occur, the proposals are revised to reflect those changes. Don encourages his team members to lead as

well as succeed. The managers have and they are accountable for their to present their plans to the partners, *Continued on page 8* →



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→ *Marketing Map: Continued from page 6*

tails having a good look at the marketplace, and identifying any opportunities or threats to the execution of your plan.

For example, if you identify the forestry sector as a target, what is expected to happen in the market—what are the hot topics, political or economic forces—that may influence your profitability in that sector?

OBJECTIVES AND ACTION PLANS

The third stage of your marketing plan details the objectives and actions that you are going to conduct in order to attain the goals established in the future-state analysis.

Consider all of the marketing ve-

Determine the right mix for you, set it against a timeline, and ensure that you allocate responsibility

hicles that can be used to get you where you want to go. Firm seminars, client-satisfaction surveys, public speaking, advertising, public relations, community involvement, brochures, website and editorial sub-

missions to publications are all examples of marketing vehicles that can be used to drive your marketing goals. Determine the right mix for you, set it against a timeline, and ensure that you allocate responsibility.

FOLLOW THROUGH & EVALUATION

Once the marketing plan is adopted, it does no good if it's to be set aside, gathering dust. Ensure that your plan lives and breathes. It should be a component of regular practice group meetings, and action items should be tracked on the scheduled timeline. The principles of the plan should be communicated to everyone in the firm and incorporated into day-to-day operations. All

Continued on page 9 →

→ *The Regular Hero: Continued from page 7*

contents. Their individual performance is rated according to the effectiveness of those plans.

The firm itself also has a strategic approach into which the managers' one-year plans are tied. Don and a panel of partners and managers have just developed a five-year design for AHBL, which is not only broken down into quarters, but is even catalogued month by month. Aspects of the proposal, including existing formulas and policies, have been developed and rewritten based on research and employee feedback.

"How can we be better at this at AHBL?" is a question the panel asked their employees. (With Don having most recently come from Canada's largest full-service market, advertising and opinion research firm, what else would you expect?)

Besides objectives, the five-year plan also includes eight goals for the firm, one of which is to make AHBL the best place to work. And that doesn't just mean hosting good parties for the employees. It means training, education, growth and success. Everyone is invited to embark on the firm's three-year growth program: ASCEND. They have the opportunity to learn more office skills, economics in business skills, legal professional skills, and technology training. One can even learn more about the firm and how to cross-sell it. Staff is taught

by in-house trainers and by consultants hired from private industry.

Despite's Don's solid experience, there was one element of the law firm world that he found surprising. "There are some historical parallels between what is taking place in law firms now, and what has already taken place in professional business firms five years ago."



Don Miller

The challenge now is how to respond. "Clients know how much things cost. They are the ones dictating the price. So much is commoditized now. [One must] look at new ways to make money."

Not only has Don's billing background been a big asset, so too has been his attention to customer serv-

ice. "Clients want a relationship... [they] want to trust the lawyer and the firm. They also want to be understood... they and their environments." That understanding, says Don, is core to the relationship.

Relationships are also important when it comes to BCLMA. These are links that Don values highly. "There is an unofficial subsection of large-firm administrators within BCLMA, and the amount of sharing and camaraderie and trust that exists within this group is something not seen in other industries. There is a respect for competitiveness, but sharing is paramount." Going forward, with or without ALA is okay, according to Don, as long as the association remembers the value it has brought to small and mid-size firms, as well as to the large ones.

While Don practices his career skills that he has honed over the years, he learns new ones on his own time. Three years ago, he began competing in triathlons. Earlier this year, in Florida, he completed his first half-marathon and finished in the middle third. One year ago, he took up scuba diving. And then there are the golfing skills that he is continuously perfecting. (Perhaps there is a personal five-year plan to compete in the 2010 Olympics!)

For now, Don will enjoy his family, many friendships, many hobbies and many roles with likely more to come. It is, after all, what regular heroes do. ■■

The five-year plan includes eight goals, one of which is to make AHBL the best place to work

→ Marketing Map: Continued from page 8

important decisions about allocating marketing resources should be considered in context of the plan.

Tips for ensuring your plan is a success include:

- ✓ Collaboration and buy-in from key stakeholders. By bringing in key people during planning, you ensure that there are no surprises for the team. Everyone is on board, and they already have an expectation of what is required and the potential results.
- ✓ When creating the plan, strive to use consistent terms. One way to help with the general lack of understanding of the marketing function is to break your responsibilities into a few important areas, and refer to them consistently.
- ✓ As time goes on, use the current-state analysis to evaluate if the plan is working for the firm. Even the best-intentioned plans need mid-execution evaluation to ensure that everything is working according to initial expectations.

Don't be afraid to tweak the plan if need be. Plans are not set in stone, they should be flexible and dynamic. If the intentions are not working out as expected, re-evaluate and make adjustments.

Perhaps the most important aspect to a successful plan is to stay diligent-

don't hesitate to say no to work. Saying no and explaining which part of your plan you are implementing, and the expected results of it, helps people understand that, to be effective, marketing needs the opportunity to stick to a plan, and not be sidetracked by the myriad of tactical requests.

**By bringing in key people during planning,
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ly focused on its execution. The support nature of marketing ensures that we are inundated with a constant flow of projects which are not within the plan.

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firms, particularly in the downtown core, and many larger firms have invested in rolling shelves to minimize the amount of space required to house the records. Although generally the annual maintenance fees charged by law firms for records book storage offsets the cost of the storage, reducing the expense of maintaining registered and records offices can help to increase profits.

On March 29, 2004, a new *Business Corporations Act* (the new *Act*) came into effect in B.C., replacing the old *Company Act*. The new *Act* had been in the works for many years, and has streamlined and updated many corporate procedures. It is constructive for legal administrators to review the ways in which the new *Act* changes the rules regarding the maintenance of registered and records offices.

A continuing problem for law firms is the expense of storage space for dead companies that have ceased to carry on business, and no longer pay

the law firm's annual maintenance fees. To add insult to injury, the law firm often has to write off legal accounts for such companies. In addition to taking up shelf space to store the company's corporate records, other costs occur when the law firm has to forward mail and sometimes accept service on behalf of the company long after the company ceases to pay the law firm's bills.

company. Obviously, it makes sense to try persuading the client to pass a resolution changing the registered and records offices to the client's place of business or residence but, sometimes, and for a variety of reasons, the client will not co-operate.

If the law firm is unable to locate any of the directors or officers of the company, the new *Act* permits the registered office agent to apply to court to

The new Act had been in the works for many years, and has streamlined and updated many corporate procedures.

Under the new *Act*, law firms now have the option of applying to the Registrar of Companies to transfer the location of the Registered Office to the British Columbia residence of any director or officer of the company. Also, the law firm can apply to court to transfer the location of the Records Office to the British Columbia residence of any director or officer of the

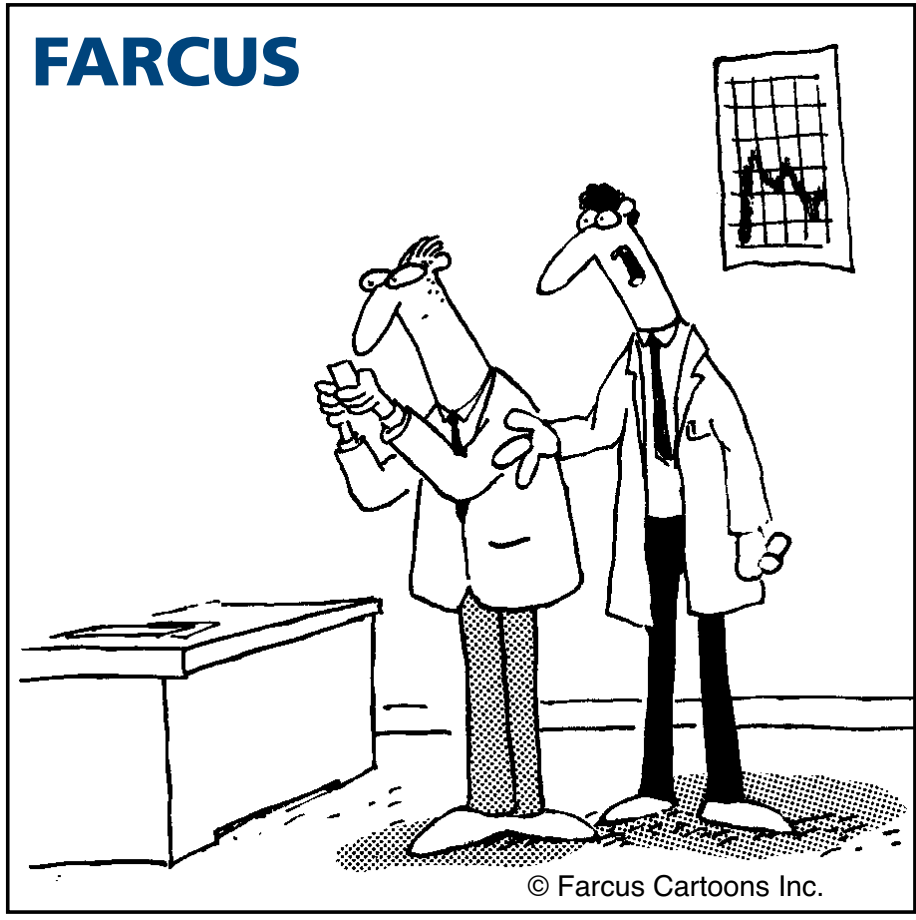
eliminate the Registered Office of the company. Unfortunately, there is not a similar provision for eliminating the Records Office of the company. In other words, the law firm can apply to eliminate the Registered Office, and thus do away with the necessity of having to accept service and forward mail on behalf of a company that has for all intents and purposes disappeared—such as a fly-by-night contractor who is now being sued by a variety of owners and sub-trades—but the law firm cannot apply to dispose of the corporate records, such as eliminating the Records Office of such companies.

It is likely that in order to satisfy the court that none of the officers or directors can be located, a solicitor or legal assistant from the law firm will swear an affidavit setting out the efforts that have been made to locate a director or officer of the company.

Another useful edict of the new *Act* provides that seven years after certain records are received for deposit at the Records Office, they may be placed in storage, provided they can be produced within 48 hours of a request by a person authorized to see the records.

The records that can be kept off-site include resolutions and minutes of the meetings of the shareholders and directors, financial statements, pre-continuation records, certain pre-amalgamation records and certain historical records that relate to the period before the new *Act* came into force. For older companies with several volumes of historical records, archiving these re-

Continued on page 11 →



"We're trying to reduce the paper work."

records would conserve onsite space.

The electronic storage of all corporate records, except the Central Securities Register, is now permitted, which allows law firms that have high-speed scanners to digitize the corporate records and save them as PDF files. The records can then be stored in folders, either on a network or on a CD, or both.

The *Act* requires that if the records are stored electronically, the records office agent must make the records available for viewing and copying during statutory business hours on a computer terminal or some other electronic technology. It is unlikely that law firms will opt for the electronic storage of corporate records for the active companies that they represent, simply because of the inconvenience for the lawyer and legal-support staff of locating and scrolling through pages of electronic documents, rather than being able to leaf through a binder. On the other hand, the electronic storage of the records of inactive companies is more likely. The

contents of the records book could then be stored offsite, rather than taking up valuable shelf space.

Law firms are not rushing to take advantage of the provisions in the new *Act* that permit electronic storage, offsite storage of corporate records, changing the records and records offices, or

There is doubt whether records of a dissolved company can be destroyed

eliminating the registered office. However, there is nothing standing in the way of those provisions becoming standard procedures in the future. Corporate managers are struggling to implement all of the transition procedures required under the new *Act*, and few firms have the luxury of developing new precedents and procedures to deal with the maintenance issues of regis-

tered and records office at present. However, as such precedents become available, and administrators and managers see the advantage of adopting some of the above procedures, they are expected to become commonplace.

Another provision in the new *Act* that is good news for legal administrators: records for extraprovincial companies are no longer required to be kept. Most law firms are removing the contents of the records books of extraprovincial companies to file folders, or alternatively, returning the records to the client, and recycling or disposing of the records books, except for federal companies.

The bad news in terms of records-book storage in the new *Act* is that the records of the company must be retained and made available for inspection for two years after the company's dissolution.

There is also some doubt as to whether the records of a dissolved company can be eventually destroyed, as they were in the past, since it is now possible to apply to court to have a company restored at any time, even after 10 years. Each dissolved-company's circumstances will have to be examined individually before destroying its records.

In the past, most law firms routinely placed the contents of records books in storage immediately upon dissolution. Because of the more onerous provisions for storing and making corporate records available for inspection after dissolution, most law firms are trying to persuade clients to change the registered and records offices of inactive companies to the company's office or the residence of a director or officer, including, in some cases, paying the cost of filing the *Notice of Change of Address* before dissolving the company.

For legal administrators who manage the storage of corporate records, there is both good news and bad news in the new *Act*. Fortunately, most of the changes in the *Act* relating to the maintenance of corporate records are positive. ■

Diana Haynes is co-author of The Guide to Corporate Records, 2004, published by Evin Ross Publications Inc. <<http://www.evinross.ca>>.



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Delegation is a partnership skill that's no less critical than all the other expertise required for partners

BY SIMON TAYLOR
CATALYST CONSULTING

About 20 years ago, a few of the younger partners of the firm in which I was a partner asked whether we ought not have a "Partnership School."

They saw that too many of the technically good senior associates lacked a complete understanding of the qualities needed to become partners. The "School" was to correct this.

The idea was quashed by one of the senior partners who said, "If they don't know what is required of them, they don't have what is required to become a partner." There is much truth in this statement. Any individual who genuinely cannot work out the skills set of partnership, clearly does not have those skills.

And yet, knowing the skills set is not the same thing as knowing how to apply those skills on a daily basis. Today, when I am consulted by firms with sustainability issues, a common trait of such firms is the failure of too many partners to do the job of partner. They know intellectually what needs to be done, but fail on a practical basis to apply that knowledge.

A partner in a law firm is also, all the same time, a manager of part of the firm's business, a fee-earner in that business and, if an equity partner, a part owner of the firm.

Partners have access to month-end financial information. In theory, they should understand the profitability issues their firm faces. In reality, too many partners still believe that, providing they hit their billable-hours targets, they are automatically profitable. When billable-hours targets in many firms either don't change on accession to the partnership, or only change by a minimal amount, the

drag on profitability increases.

Generally, profitability increases when a partner changes from being a fee earner into a work generator for other fee earners. On becoming a partner, a significant change of emphasis should take place. Of course the individual is technically good; they would not have made partnership otherwise. The emphasis, however, should now change to transferring those technical skills to junior members of the team. Effective delegation is a time-consuming activity. Whatever the reasons for delegating may be, "It's quicker to delegate than do the work myself" is not one of them.

Some partners have difficulty



in delegating because they work wasn't delegated to them when they were young lawyers. A yellow Post It note saying, "Please do immediately" does not constitute effective delegation. Yet when partners better understand the process of delegating, the way in which they delegate becomes more effective, and the lawyers to whom they delegate produce higher-quality work, and, more often than not, getting it right the first time.

Quite apart from the financial effects of good leverage, one of the most important benefits of effective

delegation is to free up time for the partner. That time needs to be spent in bringing in the business.

There is a certain logic to all this. It is difficult to delegate unless you have sufficient work on your desk. Yet when a partner is in this predicament, many experience a strong temptation to hang on to what little work they have. This course of action, however, is unlikely to produce a greater flow of work, and therefore the work famine continues. If, instead, they delegate the work, and get out to develop their practice, the issue of insufficient work will be overcome.

None of this is rocket science. Every partner I've met understands this. I have, unfortunately met too many partners who struggle when it comes to doing anything about it.

Neither is the problem confined to those going through a quiet patch. Indeed, busy fee-earning partners present more of a challenge. Although they accept the business imperative of implementing their firm's business-development strategy, client work always comes first. Too frequently, implementation is only attempted in lulls between client work.

Busy partners fall into the trap of believing they don't really need to implement the business-development strategy (unlike many of their colleagues) because they are currently too busy. The busy partners are lulled into a sense of complacency. Unless they develop their client base, at some stage the phone will stop ringing.

There are obvious differences between hanging on to work from existing clients and finding new clients. All successful lawyers need to do both. No matter how strong a particular client relationship may be, things change. People move, get promoted, or lose jobs. Client organizations

Continued on page 15 →

How much does e-mail cost? And what can you do about it? Plenty.

**BY BONNIE KIRK
LAWSON LUNDELL LLP**

As technology advanced in the business world, two misconceptions arose.

The first one was that we would work in a paperless office. We can all agree that that didn't happen, as we trip over the files scattered hither and yon. The second misconception was that staff complements would diminish, as one's day would merely consist of pressing buttons to activate programs. That too has not materialized much to the bafflement of many. For some reason, the day is still filled with laments of 'I haven't got time...'

One possible reason for complements remaining at the same level could be the use (or misuse as the case

may be) of e-mail. Although its advent has advanced the way the business world functions, for example by allowing for immediate responses when needed or being the facilitator for shared information, it has also assisted in developing some work habits deemed unacceptable to most.

As we all know, everything comes with a price and e-mail is no different. The question is—how high is that price? Without pursuing some time-consuming analysis to determine the cost, one could estimate an average annual cost using reported annual salaries as the base. To give you an example, we will calculate an average cost based on the following assumptions.

✓ On average most people spend the first day back from vacation reading and responding to e-mails.

✓ For analytical purposes, 1,743 working hours per year will be used as the base. (7 hours per day x 5 days per week x 52 weeks per year, minus 77 hours for stat holidays)

Using these two pieces of information the per diem cost of salary, say on \$1,000,000 would be \$4,016 (1,000,000/1743 x 7) per day. Rounding this per diem to \$4,000, on a salary cost of \$5M the cost would be \$20,000; on \$10M it would be \$40,000, and so on. Now this example has focused on a necessary function associated with business. The same calculation could be applied to both housekeeping functions and personal use of e-mail.

One observation I have made in writing this article is that there is definitely a correlation between the volume of personal e-mail usage and the age of the user. The older the person, the less time is spent on personal e-mail usage.

This makes sense considering that the child-rearing techniques of yesteryear were through the use of fear or guilt. A mature individual would limit his or her amount of e-mail use

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for fear that someone would notice. And if they did choose to spend more than a minute sending a personal message, the guilt of doing so would kill them.

Now when observing the work habits of the latest generation of workers a different story unfolds.

Some of the younger generation (not all, mind you) appear to assume that the use of e-mail for personal reasons is a given right. To stress this point, here is a recent conversation I had with a young individual on another convenience of technology—the cell phone. The person worked in an environment where there were over 300 employees new to the workforce. The conversation went something like this:

Comment: Cell phones should not be used for personal reasons during office hours.

Response: *Oh I know what you mean. To have the ringer on is most distracting. That is why we (the 300+ employees) keep them beside our computer screen on 'vibrate'.*

Comment: So you think using a cell phone for personal use during of-

office hours is an acceptable practice?

Response: *I see no harm in it as long as you text-message so you don't disturb someone else.*

This is referred to in the world of psychology as 'Junko-logic.' And this same junko-logic applies to e-mails.

As we are all creatures of habit, if an individual throughout their formative years has incorporated into their daily routine the use of e-mail to chat on demand, you can be assured they will continue to do so once they enter the workforce and have access to an e-mail system.

I would like to emphasize at this point that the majority of workers do not abuse e-mail and that their time is taken up performing housekeeping functions surrounding unnecessary e-mails. Few escape the deluge of messages. On the other hand, those that do use e-mail for personal communication during office hours, use it far greater than an accumulated total of one day per year.

To assist in the problem of unnecessary e-mails, Information Service departments throughout the legal com-

munity have made every effort to minimize the volume, such as by creating specialized groups so only members assigned to the group receive the e-mail or by implementing rules to reduce spam and smut. But they have only been able to reduce the volume in a global sense. The rest lies on the shoulders of both managers and the users. The question now becomes, 'What, if anything, can be done?'

Most firms have some form of orientation for a new employee. Incorporated into this orientation could be a section on e-mail management. By doing so, the firm would:

- ✓ Let the employee know that their firm recognizes e-mails can consume a significant amount of time,
 - ✓ Afford themselves the opportunity to clearly define the firm's position on e-mail use/abuse, and
 - ✓ Help to develop good time-management skills right from the onset of the person's employment.
- In addition, suggestions could be offered surrounding e-mail management based on experiences of others:
- ✓ Setting up rules to redirect incoming mail to folders based on topic and/or sender, or
 - ✓ Colour-coding incoming mail based on priority. For example, people you report to in Red, requests specifically address to you in Blue, general broadcasts in black. This will allow the person to see at a glance what to read/respond to in order of priority.

Depending on how aggressive a firm wanted to be on the issue of e-mail, permission to monitor its use during the probationary period could also be incorporated into an employee's employment contract.

Developing good e-mail management skills at the initial onset of employment offers the highest chance of success. For some firms the use of e-mail is a non-issue and therefore does not need to be of concern. But regardless as to how your firm uses e-mail today, remember—the current practices will only escalate as future generations enter the workplace.

Hopefully, it will remain to be a productive tool in the conduct of business and not so cost-prohibitive as to have to consider an alternative method of communication. ■



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PROFILE: Lunch with Tim Travis, Chair, Marketing Subsection

merge or acquire others.

Few lawyers make the most of the professional contacts they have acquired over the years. Many believe that successful marketers need extroverted, if not brash, personalities. The whole process fills them with dread. Others, on the other hand, thrive on the cocktail-party circuit, and find it difficult to understand why some of their colleagues are not similar.

There are many ways in which solicitors can develop their practice. I have yet to meet an individual who, once they understood the variety of ways available to them, did not find one which came naturally, and at which, with a bit of practice, they thrived.

Understanding the theory is one thing. The key is to actually do it, and do it on a daily basis. Twenty minutes of business development a day, every day, will produce far better results than half day once every few months. Unfortunately, for many partners, to get into that kind of a daily 20-minute habit requires a major shift in emphasis.

Lawyers who are technically good, with outstanding billable hours, find it difficult to understand that they are also unprofitable partners in their firm. Even when this is understood, doing something about it challenges many partners. Such partners need to change their attitude, assumptions and priorities.

Few are able to achieve this without external assistance, especially in diagnosing systemic problems in workflow, and in customizing business-development plans that work. Without these changes, the drag on profitability is unlikely to be corrected and sustainability is compromised.



Simon Taylor joined Catalyst Consulting as a partner in August; this article will appear in Lexpert's September issue. The firm is the Preferred Supplier for Legal Services Consulting by both the CBA and the Canadian Corporate Counsel Association. Taylor, in Vancouver, can be contacted via: <<http://www.CatalystLegal.com>>

Marketing subsection's new path part of a series of systematic changes

BY LISA SCOTT
BLAKE, CASSELS
& GRAYDON LLP

I recently had the pleasure of sitting down over a lunch at Kamei Royal with Tim Travis. Tim is the Marketing and Communications Specialist at Fasken Martineau DuMoulin LLP.

As we settled in and ordered sushi, Tim filled me in on some of the background and experience that brings him to be the recently appointed chair of the BCLMA's Marketing subsection.

Tim began as co-chair of the subsection with Kathy Hogarth of Lawson Lundell in January 2004. Kathy



Lisa Scott

and more, he heard that the presentations were great "refresher" training, but recognized that, as the people grew in their roles, the offering had remained much the same. As Tim took on the role of chair, he thought it would be a good time to take the initiative to make a programming change.

Tim said that he recognized that a great deal of marketing is about creating or developing opportunities to gain more business and new clients and that the subsection needed to of-

A great deal of marketing is about creating or developing opportunities to gain more business and new clients

had been co-chair with Allison Wolf for the previous two years and was moving out of the role. In December 2004, Tim became the sole subsection chair.

Tim knows a lot about the history of legal-marketing professionals in Vancouver, having worked in the profession for six years now. He has seen such marketers develop from the early years in their careers, when they needed BCLMA to provide skills-related development, through to what they have become now: mentors for those who report to them, lead seekers and client developers.

As the new subsection chair, Tim said that he had the opportunity to evaluate what the section had been offering through feedback from participants and section members. More

fer more "opportunity-based" presentations from industry professionals and leaders as a step towards increasing the depth and breadth of the subsection, keeping it aligned with its members' changing roles.

The result is a first step in the new programming strategy: three initial sessions presented by industry leaders outlining the challenges that they see for their sectors in the coming years—and where they think lawyers can find opportunities to help them.

The first presentation in the new format was by George Hunter, president of the BC Technologies Industry Association and also president of Leading Edge BC, a non-profit organization dedicated to promoting British Columbia as a location for

Continued on page 16 →



Tim Travis: The subsection needed to offer more opportunity-based presentations from industry professionals and leaders as a step towards increasing the depth and breadth of the subsection, keeping it aligned with its members' changing roles.

→ *Referrals: Continued from page 15*

technological firms. His presentation was on the status of the technology industry in the province.

The second appearance entailed a presentation by Peter Affleck of the Council of Forest Industries who talked about the opportunities for lawyers to help guide B.C.'s mammoth forest industry.

The third presentation was entitled *What's Big in BC? Public-Private Partnerships* and involved two speakers from Partnerships BC, Jennifer Davies, a Senior Communications

Participants say they previously felt a level of obligation to attend sub-section meetings

Consultant and Karen Mill, Corporate Secretary and Director of Legal Services. Jennifer and Karen discussed opportunities in the public-private partnership dynamic, and lessons law firms can learn from past projects.

Tim said he was pleased to hear positive feedback on the initial three sessions. Participants have communicated the fact that they were previously feeling a level of obligation to attend sub-section meetings for networking, but that they now have a renewed interest in the presentation content as well. To further validate the appeal of the new format, many marketers are bringing some of the lawyers in their firms to the sessions.

Marketing subsection members have begun thanking Tim for the new program that provides a forum where legal marketers and lawyers can get equal value. ■

Summer Social a swinging event for everybody

WORDS AND PHOTOS
BY TIM WURTZ,
BAKER NEWBY LLP, CHILLIWACK

Another successful BCLMA Summer Social. The new venue proved to be a positive change, as Ernie Gauvreau of Gowling Lafleur Henderson LLP had a record number of RSVP's.

To fill in those who were not able to attend, here's the play-by-play as seen through my eyes:



Tim Wurtz



Above: Gillian Crabtree, Angela Zarowny and Brenda Johnson, with two other members, nervously cross the bridge. Gillian and Brenda are both with Edwards Kenny & Bray.



3:15—Left Chilliwack with Elaine Holmes from Baker Newby LLP. It's a drive but I did really wanted to see that suspension bridge.

Above: Colin Cameron of Clark Wilson, Wayne Scott of Edwards Kenny & Bray and Victor Montagliani of TOS.



Above: A TOS rep with Ernie Gauvreau, of Gowling Lafleur Henderson LLP, and Allison Milroy, of Lang Michener, are drawing names for prizes; Left: Ernie presents a prize to Marian Verdicchio of Thorsteinssons LLP.



5:00—Ernie had the tour group ready to go—but he still had to run back to his truck to get the list, to make sure he had not forgotten anyone.

5:02—Elaine and a few others mused to themselves that by skip-

ping the suspension bridge they could get an extra half-hour at the bar.

5:05—Beginning the tour, having never been before, I was already impressed with the scenery and the artifacts on the way to the suspension bridge.

5:10—The stairs looked pretty rickety, and once I was on, I was surprised how much it actually did swing! The Social's theme, *Swinging into Summer*, hits the nail on the head! I later found out that Ernie's wife was waving to us from their house while we were on the suspension bridge.

5:40—I completed the tour and returned to the restaurant, which was already a buzz. Perhaps those who skipped the tour for the early drinks knew what they were doing after all.

5:50—Met Tim Geddes from TOS (<http://www.tos.ca>)—another home-grown Chilliwack boy. My wife worked with his dad, and I work with his stepdad—but really, Chilliwack isn't that small.

5:55—Janice McAuley, Lawson Lundell LLP, surrenders to liquid inspiration and pledges to cross the suspension bridge for the first time in her life. She runs off enthusiastically with a small group.

6:00—In a conversation with Gary Carter of Paine Edmonds, he recalls that this park was different 15 years ago. Much has been added. It really is an interesting experience, and a great place to spend an afternoon with the family. It's not cheap mind you, but definitely something to experience if you have the opportunity.

6:22—Janice returns from



Above: Gillian Crabtree (centre) parties with two of her buddies.



Left: Donna Oseen with with Gary Carter of Paine Edmonds.



Below: Gord van Horn of Borden Ladner Gervais (second from left), and Tim Geddes of TOS (on the right) take the air with their friends.

the suspension bridge having conquered her fear of heights. Another glowing example of how BCLMA can change your life both personally and professionally. She requests, however, that I do not take her picture because they always seems to turn out with her mouth open and a drink in her hand—yep—you're right.

7:03—Victor Montagliani from TOS (<http://www.tos.ca>) gave both a professional and personal salute to VA...—sorry the BCLMA. Everyone was careful to say BCLMA. I'm sure it will begin to roll off the tongue soon. Victor noted that while he values our professional relationships, he is also pleased to called many of our members friends.

7:14—I got a nice personal thanks from Ernie for helping with the invitation and taking pictures. Thanks Ernie! Anytime. He also thanked Dundarave Wine

that boudoir photo she requested. 8:29—While I thought the food was fine, Sophie Djordjevic casually comments she thought the vegetables were better than the salmon,

8:50—The evening was winding down. One table had Grand Marnier, the other had port—I did not stay long enough to see what was next.



Above: Janice McAuley of Lawson Lundell calmly advises Allison Milroy of Lang Michener that under no circumstances will she be crossing that bridge today.



Left: Jay Cathcart of Farris Vaughan Wills & Murphy, with his wife Heather, in mid-anecdote, and, on the right, Brenda Johnson of Edwards Kenny & Bray.

Cellar for donating a lot of the prizes won throughout the evening.*

7:45—The first unprovoked outburst from Anne Johnston, Bull Housser & Tupper. I never actually did get

and after a brief conversation with Gord van Horn of Borden Ladner Gervais about his home-made liver *paté*, I begin to question the sophistication on my “small town palette.”

9:07—Janice agrees that for the next social we should have a hot tub party at her house in Maple Ridge. Date and time to be announced. ■

*<http://www.dundaravevillage.ca/dundaravewinecellar.htm>

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SUMMER, 2005

Editor: *John Hawke*

Managing Editor, Design: *Peter Morgan*

Editorial © 2005 BCLMA, CANADA

Published by: MORGAN:Newsletters Ltd.

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LEGAL MANAGEMENT ASSOCIATION

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