

Small firms have big attitude, multitask and stay close to their markets

Small firms specialize in cheerful business

Lang Michener. Lawson Lundell. Fasken's. Davis & Company. Some of the most recognizable names in our local legal community as well as on the national scale. We read about them and their "Big Deals" in legal journals and city business papers.

Mandell Pinder. McDonald & Company. Camp Fiorante Matthews. Brawn Karras & Sanderson. Not instantly recognizable, and they probably don't appear on lists of *The Biggest...* or *The Most...*

Yet, these, and many like them, are all thriving offices that provide essential legal services and employ hundreds of legal administrative assistants, paralegals and conveyan-

cers throughout BC. These are the "Small Firms," and there are a lot of them throughout the province.

MANAGERS AND ADMINISTRATORS IN THESE OFFICES WILL TELL YOU IT'S MORE THAN SIZE THAT DEFINES A SMALL FIRM. IT'S CULTURE AND IDENTITY.

Stephanie Cornell, a member of the BCLMA's Executive Committee, says, "In the Lower Mainland, there are more small firms than there are

big firms. That's why they require just as much, if not more, attention to their unique situations as well as greater representation within the BCLMA. Small firms may be an untapped market for our association and with more affordable membership fees, we can look at approaching those firms and creating an even larger membership, networking base and opportunities for learning from each other."

What defines a small firm?

Office managers and administrators in these offices will tell you it's more than size. It's culture and identity.

According to Caren Cook, Administrator at Slater *Continued on page 2* →

Planning provides a case where it would be unwise to be, well, ill-prepared

Pandemic potential offset by contagion preparation

BY BONNIE KIRK, LAWSON LUNDELL LLP

Rarely does a day go by where the nightly news fails to comment on the status of the avian flu. It does so in response to the medical profession's desire to ensure the public is fully aware of the possibility that influenza could escalate to a pandemic level "sometime" in the future.

No one knows for certain when or even if the current strain of influenza will mutate to where it becomes a serious threat to humankind. But based on its advancement in recent months, the medical profession feels certain it is only a matter of time before it does.

A pandemic, by definition, is an illness that spreads simultaneously throughout a population. There have been three pandemics of note in North America, the severest being the Spanish Influenza of 1918. It claimed the lives of between 20 million and 40 million people worldwide, most of whom were young *Continued on page 8* →



Bonnie Kirk

Sick Leave: How well will your firm function in the face of a pandemic, with empty rooms? Your own employees may fall ill, but much more likely: they'll be home avoiding groups of people, or looking after children whose schools or daycares closed. Will your clients arrive for meetings?



→ Small Firms: Continued from page 1

Vecchio, a Small Firm, "has the unique ability to reflect the people who built it and the employees who embrace its vision and dynamic."

With one, or a few practice areas, everyone knows what everyone is doing and is committed to the same end. You are more likely to find legal secretaries assigned to files, not to lawyers. There is a great sense of teamwork. As they share the work, they also share the success. "Small groups can celebrate together," says Ann Main, Administrator at Camp Fiorante Matthews. It's no problem for ten or a dozen employees to go out to celebrate a win or congratulate a student's call to the bar. Celebrating and socializing together creates that sense of family.

Colleen Chapman creates that family dynamic at Brawn Karras & Sanderson by making a point of touching base with her staff each day. "A simple 'How ya doin' today?' adds that personal touch that staff can really appreciate. And it keeps me in touch with them as well."

What about the clients? Even the clients are different. The clients are people, generally, not corporations. Paula Kiess of Mandell Pinder explains, "Our firm handles aboriginal matters. It's something we

THERE IS A GREAT SENSE OF TEAMWORK. AS THEY SHARE THE WORK, THEY ALSO SHARE THE SUCCESS.

believe in; we are benefiting people. It's not the same as defending a tobacco company."

Do Small Firms have trouble attracting business?

"We have more work than we know what to do with!" explains Kiess. "We don't need to advertise."

Jeff Mousseau, Office Manager at McDonald & Company (aboriginal law) and Main, (aviation and class action), both agree. Their firms are so specialized, clients seek them out.

Slater Vecchio's experience is much the same despite the fact that it practices plaintiff personal injury. Browse a *Yellow Pages* directory or turn on the television and you will find all kinds of ads for personal-injury lawyers, but Slater Vecchio receives its share of business on the basis of its reputation and referrals. It doesn't hurt either when the firm's co-founder is touted as the Best MV lawyer in town by *The Georgia Straight*, exactly the kind of publication SV's prospective clients would likely browse, as opposed to an industry paper or journal.

How does a Small Firm attract and maintain talent?

"Some people don't want to commute downtown. In those cases, we have been lucky," explains Marie Finstad, Administrator at McQuarrie Hunter. "But at the same time, we have lost lawyers and staff to the bigger firms for more money. While we are conscious of industry standards, and strive to maintain them, a smaller client base means lower fees which means less revenue and fewer resources." Small firms find they have to be cre-

Continued on page 11 →

We got stuffed on Thanksgiving. What did you do?

Whenever Thanksgiving arrives, we always stop and reflect on life and the things that we hold dear and are grateful for.

We are grateful to have so many amazing and wonderful clients whom we hold in the highest esteem.

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How effective marketing can influence corporate counsel selection of outside counsel

The Vancouver chapter of the Legal Marketing Association recently presented a panel of experienced BC general counsel to discuss how they, as corporate counsel, select outside counsel.

They discussed factors influencing their choice of lawyers, why they terminate business with firms, and how they feel about various legal marketing approaches.

More than 90 people attended the event; about half were practicing lawyers.

Paul Reynolds of 2nvision Consulting, a Vancouver-based firm, developed the panel, topics and reading materials. His organization assists law firms with marketing. He was a corporate general counsel for 15 years.

He was joined by Allison Crane, senior counsel at Weyerhaeuser; Dean Readman, Director of Legal Services



**Paul Reynolds,
2nvision
Consulting**

for the Vancouver Port Authority; and Catherine Smith, Vice President of Legal Services for Best Buy Canada.

Most of the panel had experience in the public sector as well as overseas seasoning, so they were able

reflect views from public and private sectors as well as large and small organizations.

HOW DOES YOUR ORGANIZATION HIRE OUTSIDE COUNSEL?

All panelists emphasized the overriding importance of hiring a lawyer who either knows the business or listens carefully to understand the organization's needs and goals. While all require expertise, most of the panel

emphasized that they look at the firm first, and the person second. Best Buy's Smith says that her legal team has areas of in-house expertise and uses external counsel mostly outside of those areas. All said that corporate counsel, not other business heads, select or need to approve all hiring of outside counsel.

HOW DO YOU DECIDE TO CHANGE OUTSIDE COUNSEL?

The lawyers who are rehired are those who deliver value and demonstrate an understanding of the client's business. Lawyers who bill late, miss budgets, over-lawyer the matter or have too many people working on a file soon find themselves replaced. Several panellists complained of rates going up year after year out of proportion to the cost of living. Smith gave excessive rate increases as one

Continued on page 4 →



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→ *Selecting Counsel: Continued from page 3*

trigger to change counsel. This topic arose again at question time.

HOW CAN FIRMS BE MORE EFFECTIVE IN MARKETING THEMSELVES TO YOU?

The panel had a great deal to say about marketing. The Vancouver Port Authority's Readman said that offering an in-house seminar geared to the client's needs was a key tactic.

Consultant Reynolds referred to secondments and the impact these had. A lawyer who had been temporarily assigned to a client's office became valuable to the relationship. Their insights into the business would help the firm provide better service, and make it easier and more attractive for the client to instruct that same firm over and over.

Another way to obtain a broader base of business was to create a client team. Smith and Reynolds, whose outside counsel had created such teams, praised the improved service and efficiency they received with them.

Traditional "marketing by lunch" and other entertainment was discussed and dismissed. The panel agreed these had almost no influence on hiring. Smith said she had no time for lunches; breakfasts were better but praised those who took the creative avenue of conversing over a late afternoon walk around the Stanley Park Sea Wall.

Other techniques were noted. Crane said that speeches brought new counsel to her attention. Readman spoke of the great impression created by one firm asking to accompany him on a tour of the port. None of the panel could ever recall a lawyer reading their annual report or asking for the client's strategic plan.

All panelists use the websites of firms and find them helpful. Advertising was usually panned as too general but Smith said she notices, reads and remembers ads in *Lexpert*. There was general agreement that law-firm newsletters were better than advertising. Newsletters are often forwarded to others in the organization. News-

letters can effectively demonstrate expertise whereas advertising cannot.

Those who had experience with RFPs spoke of the poor presentations, a surprising failure to follow instructions and the trend to exaggerate expertise and experience. RFPs worked well for large projects or for selecting key-relationship firms. They were not suited to most new instructions but the panel agreed that they were becoming more common.

Crane spoke about firms doing client-satisfaction surveys. As far as she was aware, no one had been surveyed at Weyerhaeuser.

They would welcome this and were surprised that it was not being done. Smith said she liked the survey method and welcomed more. Marketing staff — not lawyers — had surveyed her.

Readman preferred that the interviewer be a marketing person or a consultant, and definitely not a partner — lawyers, he said, were too sensitive to criticism. *Continued on page 11* →

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Tax Certificates now easier to get through BC OnLine

Obtaining tax certificates just got a little easier. MacDonald, Dettwiler and Associates Ltd., a provider of essential information solutions, has recently launched **Tax Certificates Online**, a new service that links Municipalities so that tax certificates can be paid for and delivered electronically within seconds all through BC OnLine.

Tax Certificates Online speeds the process of obtaining property tax information from Municipalities. Until now, finance and conveyance professional needed to manage payment accounts and obtain certificates through a slow, paper-based process with each municipality. The new service has been designed to deliver improvements, including:

- **Reduces delays and simplifies administration** by ordering and paying for certificates from a BC OnLine account.
- **Improves accounting and reconciliation**, as all tax certificate fees appear in a single BC OnLine statement rather than collecting statements from different Municipalities.
- **Speeds up location and receipt** of tax information through a single click after entry of the Property Identification (PID) number.

“This service meets an urgent need of the legal sector,” said Allan Crawshaw, MDA’s General Manager responsible for BC OnLine. “We are excited by the positive reaction from customers as well as from Municipalities who are anxious to participate.” Certificates can be purchased from the Municipalities listed in the box to the right.

Tax Certificates Online can be found by logging on to the Main Menu at the BC OnLine website (www.bconline.gov.bc.ca) or visiting the information site at <https://www.bconline.gov.bc.ca/TCOL>.

Tax certificates are the official statement from a Municipality that provides vital property information such as:

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- Victoria
- West Vancouver (coming)
- Vancouver (April 10th)



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Ausman's life busy, balanced

BY STEPHANIE CORNELL
STIKEMAN ELLIOTT LLP

You may not know Doug Ausman. He has been a BCLMA member for less than four years, having joined when he became Chief Operating Officer at Ratcliff and Company LLP in North Vancouver in May 2002. You will get to know him, however. Ausman is the BCLMA's President-Elect for 2006. Less than four years in the biz and already he's interested in giving back.

He credits his enthusiasm with the benefits the association has provided him. "Drawing on the knowledge of my counterparts has been so very helpful," says Ausman. Being able to call fellow members with questions and discuss common challenges is valuable. "And, I make a point of visiting the website-discussion page and providing whatever information I can because other members have been so helpful to me along the way."

It's been especially helpful to him since Ausman doesn't have a law firm background. With a Masters Of Business and a CGA designation, Ausman's career history is comprised



Stephanie Cornell

mainly of provincial government and university posts. The extent of his legal knowledge was having responsibility for the lawyers assigned to the BC Ministry of Lands in the 1980's, and participating in the drafting and interpretation of legislation for various government housing programs.

So when Ausman and his wife decided to move from Victoria to Vancouver to be closer to their son and his family, Ausman initially began seeking employment in those same sectors.

That is, until he read an advertisement in The Vancouver Sun for a COO position at a small firm on the North Shore. He was hired in short order, despite his lack of legal experience.

The partners were confident that Ausman could undertake the position even though Ausman had a reservation or two of his own. "I wondered what the lawyers would be like. Would they live up to the stereotypes? Would they receive me?"

Ausman was delighted with the outcome. "Ratcliff & Co is such an inviting

environment. The partners are easy to work with. At a small firm, where everyone knows everyone, there is definitely a family-feel. And everyone there happens to be very flexible. Staff find their own coverage!"

If staff members are going to be away, they will seek out another employee who can cover. And if the replacement is pulled away to attend to other responsibilities, it is up to that staffer to find yet another to step in. It's a system that works for everyone.

Apparently many of Ratcliff's systems work for the group-at-large. Ausman noted that the firm has the lowest employee turnover rate of any of the places where he has worked. Many of the associates and partners articulated at the firm.

The challenges Ausman faces, however, are not unique. The day-to-day churn of HR, *Continued on page 7* →



BCLMA
President-Elect
Doug Ausman

BCLMA's Spring Social pops its cork

IKON Document Solutions sponsored the annual Spring Social on February 23rd at the Law Courts Inn.

Gabe Baker, Facilities Management Specialist; Paddy Carroll, Major Account Manager, Legal & Accounting Division; and Gregg Coad, Director of Sales, BC; were all on hand to greet and socialize with BCLMA members.

The affair was a Wine Tasting Event hosted by For The Love Of Wine, (FTLOW) a local company that provides wine training and tasting programs, created for the entry-level wine enthusiast, as well as those who want to enhance



their wine knowledge and experience. Four stations were set up throughout the reception room, each station a different theme complete with charts and take-away info cards. Attendees learned about Food and Wine Pairings, Basic Varietals, and Tastes & Smells. FTLOW's knowledgeable staff answered everyone's questions. The food was excellent and plentiful.

The association thanks IKON for their generous sponsorship of this event. Bonnie Kirk and Leslie Morgan (pictured) were just two of the several winners of door prizes that IKON provided. Congratulations to all the winners. For further information regarding IKON's products and services, go to <<http://www.ikon.com>>

such as dealing with sick days and payroll, can get in the way of strategic planning, and convincing the partners to keep current with IT developments and initiating marketing plans can be trying.

"Ratcliff and Co. shies away from the 'Full Service Firm' label, even though they are able to address many needs of a single client." Ausman is eager to identify and respond to those needs, and recognizes that the vehicle required to bring attention to those needs is marketing.

Ausman looks forward to learning more about the legal industry, a goal certain to be realized as he settles into his chair on the BCLMA Executive Committee. Ausman was introduced at the BCLMA's AGM held on Tuesday, April 4th.

Ausman also looks forward to adding more countries of interest to his travel itinerary. For the past several years, he and his wife have been traveling the world. The UK, Asia, the South Pacific, Eastern Europe... this June, they are going to Paris.

Travel isn't their only passion. Three grandsons, fruit winemaking and skiing also occupies much of their free time.

It's a busy but seemingly balanced life for the President-Elect. The BCLMA looks forward to his continued contributions in the coming years. ■■



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If you're attending a conference, seminar or workshop and would like to share your acquired knowledge with your fellow BCLMA members, please contact Topics Editor

Stephanie Cornell.

Contact info: see last page.



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→ *Ill prepared: Continued from page 1*

and healthy. It is for this reason the medical profession becomes alarmed when influenza appears to be escalating to a level that would be difficult to control. One thing the medical profession realized from experience was that it could not combat a pandemic alone, that health workers needed the assistance of both the government and business community if they wanted to keep things under control.

In response to the call for heightened awareness, the *Facilities* and *Finance* subsections of BCLMA co-hosted a forum called *Business Continuity/Pandemic Planning*.

The subsection leaders felt there was a need for the legal community to be aware of the devastating impact a pandemic influenza could have, both on their own staff and their economy.

The high level of attendance at the event proved that the community agreed it was a topic of importance.

The forum presented speakers from the BC Government, the Vancouver Coastal Health Authority and WorkSafeBC (formerly the BC Workers Compensation Board). Collectively, they provided informative and useful information surrounding the importance of having a business continuity plan. The forum proved to be a successful event for all concerned.

Most people associate business-continuity planning with disasters that result in destruction of property and disruption of services. And rightly so, as they have never had a circumstance where an extensive level of illness causing absenteeism would require such planning.

I have adapted in this article some of the materials given at the BCP forum as they apply to our community, and outlined considerations one should address in developing your business continuity plans. I have touched on key elements common to all firms.

As this is a broad subject matter, I have covered key areas, but not every aspect to be considered. There is enough information, though, to allow you to start the planning process.

There are several ways to devel-

op a business-continuity plan for pandemics, and each firm will have concerns particular to their own environment. First, though, let's summarize some points the medical community and government have brought to light.

WHAT IS THE MEDICAL COMMUNITY OR GOVERNMENT FAIRLY CERTAIN ABOUT?

- ✓ There will be three reasons for absenteeism: an employee's illness, the need to care for an ill loved one and fear. Of the three, fear will be the number one reason for people being absent.
- ✓ People faced with a reduction in pay will not self-quarantine. This will cause the influenza to spread.
- ✓ Infrastructures require people to run efficiently. Without people, they will collapse.
- ✓ E-commerce will experience a sharp increase.
- ✓ The global economy will take a significant downturn as production levels drop.
- ✓ People will avoid public places, particularly high-rise office towers because of their nature of being places where the virus can gather.

WHAT DOES THIS MEAN FOR THE LEGAL COMMUNITY?

- ✓ Human-resource departments will be hard hit if a pandemic influenza occurs. All normally practiced procedures used to provide staff coverage will be of little use.
- ✓ Information-technology departments will be overloaded with demands for support as people opt to work from home.
- ✓ Law firms provide services that are high-

ly dependent on the state of the economy. Revenues will diminish as the economy declines.

- ✓ Law firms located in office towers would face a much higher rate of absenteeism. Worse, they could have zero attendance if fear keeps everyone away.

WHAT CAN A FIRM DO TO PREPARE FOR AN INFLUENZA PANDEMIC?

Planning for a pandemic requires a certain skill set. They are much more difficult to anticipate than other catastrophic events, say, for example earthquakes. A 'quake plan focuses on the aftermath of a brief few minutes whereas a pandemic spans an unknown period and concerns matters of the heart and home. The medical community, at the moment, feels an influenza pandemic could last up to two months. But what if it's longer?

Furthermore, the world typically gains insight into the preparation required towards future events based on the past, but this is not the case with a pandemic influenza. Each previous pandemic has been unique; they're difficult to learn from.

WHEN SHOULD YOU START THE PLANNING FOR A PANDEMIC ?

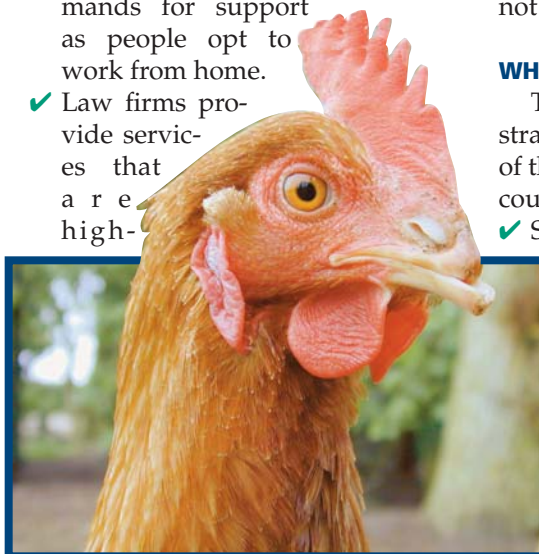
Immediately. Business-continuity plans take a significant amount of time and effort to prepare successfully. You should allow yourself enough time to rationally and systematically build a plan that can be called upon at a moment's notice. The best time to do this is when fear, or even panic, is not the driving force. There will not be a lot of forewarning.

WHERE DO YOU START?

The first step in implementing a strategic plan is to state the purpose of the plan. For example, the purpose could be to:

- ✓ Safeguard the firm's most important resource—its people.
- ✓ Safeguard the firm's second most important resource—its clients.
- ✓ Ensure all facets of operation are covered through redundancy training, and
- ✓ Ensure facilities are in place to enable a continued

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→ *Ill prepared: Continued from page 8*

work flow through remote access.

Once you have outlined the purpose of the plan, the next step is to do some fact-gathering. Using the above example, the objective of this exercise would be to discover:

- ✓ *What functions or procedures are currently in place?* And what it would require to continue those functions, those procedures from a remote location?
- ✓ *What functions are performed solely by one person?* It is common to have an individual within the firm that takes care of things and few realize they do it. Additionally, even though you have functions cross-trained, there is always a portion that the back-up does not know.
- ✓ *What do lawyers practice apart from all others?* Redundancy training is not just for support services. It is important that work on active files continues even in the absence of the primary lawyer.

Much of this type of information could be achieved through the use of

a survey. If a survey were to be used, though, care must be taken on how it is worded as the subject is volatile and could create wide-spread panic. Once you have identified all functions and procedures, you then review the production cycle associated with the life of a matter.

PRODUCTION CYCLE CONSIDERATIONS

In considering remote access, an in-depth review of every stage of production must be performed. For example, the first stage in the life of a matter is the entry of time. It is not uncommon in many firms for an assistant to perform this task. This could be problematic if the assistant is not available. Steps should be taken to ensure all revenue producers have both the tools and the training to enter time, by whatever means are available—blackberries, laptops and the like—without being dependent on someone else.

Entering time is only the first stage of production, not the answer to business continuance. Work-around solu-

tions must be found for all stages through to payment of accounts. Answers should be found for questions such as:

- ✓ *Who will review/edit/prepare the final account?* For many firms the review is handled by the lawyer, the remainder by the accounting department. To handle the accounting side remotely, off-site access must be set up.
- ✓ *How will the bill be sent to the client?* By mail, courier, e-mail? Labour-intensive services such as mail and courier may not be available. Furthermore, paper and envelopes must be available remotely if a hard copy is produced.
- ✓ *How will the client remit payment?* If both mail and courier services were out of commission, direct-deposit may be the only option. Arrangements with the client would have to be made.

FINANCIAL CONSIDERATIONS

Another area that must be monitored closely is the financial side of

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the firm's operation. If revenues decrease as the economy declines, you have to know how many revenue hours will be required to cover cash requirements. This can be accomplished by dividing your cash requirements for one month by your average hourly rate. Once you have determined how many hours are needed for the month, divide that number by the number of producers. That will tell you the minimum average requirement per person.

In reviewing your monthly cash requirements, keep in mind that many routine costs will stop quickly, perhaps immediately. For example, most business-development costs that involve travel and hosted functions will be first postponed, then terminated. Professional-development expenses, for things such as courses, and seminars, will be affected. Some costs will diminish as the pandemic escalates, such as postage. If the postal service is temporarily discontinued, then you will not be buying stamps. One cost that does not appear on an income

statement is the partners' monthly compensation. This should be included as a requirement.

In addition to keeping aware of your cash requirements, new-matter openings should also be watched closely. Clients will be keeping a close eye on their own cashflow, and may choose to postpone starting new work.

SUMMARY

Dealing with a pandemic influenza is uncharted territory for sure, and it conjures up uneasy feelings. But regardless of how we personally feel, — both about the subject and at the time—we will be called upon to be part of the solution.

A successful business-continuity plan requires teamwork, commitment and strong communication with all concerned. By starting early, you will allow yourself the time needed to rationally work your way through such a massive project.

What if you go through all this effort and the pandemic influenza doesn't materialize?

Contingency plans are for, well,

contingencies. By moving fast, with contingency planning by health authorities, SARS was finally brought under control in Toronto.

But look at the planning this way: Your firm will have reviewed all of its practices and procedures, cross-trained staff, ensured coverage for matters, made people self-efficient and taken a tighter control over financial matters. You have just turned your firm into a highly efficient operation and that has always been the number one objective in any organization.

Remember, this brief outline is just the tip of the continuity-planning iceberg. Developing a program would, at the least, take several dedicated months.

Hopefully, this would be a plan that never has to be put in use, that the medical profession will be successful in developing a vaccine before the virus has a chance to escalate out of control.

But being that we do not know for sure if it will become a reality, there are times where being over-prepared is far safer than being ill-prepared. I think this is one of those times. ■■

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ative in their compensation packages.

How many roles can a Small Firm Administrator expect to fill?

Never just one. "We wear multiple hats. We are all things to all people," says Main. Small Firm leaders direct functions such as Human Resources, IT, Accounting, Bookkeeping, Marketing and Facilities. They write and implement policies and procedures, work with lawyers to develop their individual business plans, as well as those of the firm.

"With such a volume of responsibilities," says Cook, "you are always on your toes. There is no middle management to fall back on when big projects come your way." A premises expansion, for example. "Whether it's 50 feet or 5,000 feet, I'm looking after the entire project, and still looking after the day-to-day."

Additionally, they need to keep current on all the latest news and developments in the legal community. Where a big firm may have a committee as-

"WE WEAR MULTIPLE HATS. WE ARE ALL THINGS TO ALL PEOPLE"

signed to developing a firm's Business Continuity Plan or educating its members on TAF, Small Firm leaders carry the responsibility themselves. There are no committees; they are the committee.

One way the Small Firm leaders keep current is through the BCLMA. Each agreed that membership affords them great networking and educational opportunities, but most importantly they find the Small Firm subsection meetings to be the most valuable area, since they deal with matters that are most relevant to them and are addressed on their scale.

Attending every meeting can be difficult, however, conferencing in is encouraged, and is an excellent way to stay involved and informed. Log onto the BCLMA's website (address at the bottom of the page) for the schedule of events for each sub-section. ■■

FEES, BUDGETS AND PRICING

Reynolds discussed the preference to work with lawyers who understood that even complicated projects were run on budgets. It was not helpful when firms were unable to provide fee estimates and live close to them.

Several panel members spoke of the need for improved and more frequent communication on fees and budgets as they all disliked surprises. Crane and Readman expressed frustration over late billing and lack of communication.

Crane also praised value billing, saying that they are seeking more firms to offer this. Readman now expects fixed fees or staying on budget for smaller or routine matters. Several referred to the fact that former in-house lawyers were better at budgeting and communicating about fees.

In response to an audience question, Crane said that the "excessively high rates" charged by Toronto firms have caused them to move more to local Vancouver firms.

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"After 25 years, you deserve it," beamed the senior partner, and Ibbotson once again regretted joining a big downtown law firm.

Marching on, LMA Vancouver also hosted a breakfast meeting on March 28th at the offices of Farris Vaughn. Almost 20 people attended to capture the knowledge brought back by those who attended the 20th annual LMA conference in Chicago.

Jessica McDonald (Fraser Milner Casgrain), Arthur Klein (Borden Ladner Gervais), Shirley Law (Lawson Lundell) and Heather Gray-Grant (Alexander Holburn) each shared their key understandings acquired at various workshops provided throughout the three-day retreat.

(Shockingly, none skipped any part of the conference to attend a live taping of the Oprah show!)

The LMA's Vancouver chapter will meet again in May. For details, please contact Allison Wolf at <AWolf@Harper Grey.com>.

More details about panel views and related articles by corporate counsel explaining their views on selecting external lawyers can be found at <<http://www.2nvision.com>> ■■

"Take my anniversary... please!"

How to use your corporate anniversary to market your firm to your community—or community of interest

BY TIM WURTZ,
BAKER NEWBY LLP

Aniversaries are the days for couples to commemorate the happy bliss of their wedding day.

For law firms, an anniversary is a self-congratulatory pat on the back for remaining profitable for an extended period while trying to get the best promotional bang for its buck promoting this anniversary.

Cynical? Perhaps. True? Maybe more than we would like to admit.

Marketers and partners should welcome the occurrence of an anniversary as an opportunity to create a synergy between the firm's existing promotional campaigns, and the extra PR the firm can garner from the occasion.

Most firms make at least some ef-

fort to celebrate milestone anniversaries. The effort of your anniversary

Sticking it: "A small way our firm communicated our anniversary to clients was to place small stickers on all our out-going correspondence. We used The Stephen Fossler Sticker Company for these discreet gold foil markers." — Tim Wurtz



should match the culture and style of your firm. A firm known for its colorful and unpretentious demeanor can afford to host an elaborate event, while a more traditional, conservative firm may want to only subtly pronounce its landmark anniversaries, if they choose to do so at all.

First of all, a landmark anniversary

provides a good opportunity to update all your promotional materials.

Update the photography and profiles of your lawyers, your firm's practice profiles, and your listing of charitable or community organizations in which your lawyers are members or directors. Once you have these updated materials, it may provide a good opportunity to make a customized anniversary brochure or promotional package. This could be included in your ordinary outgoing correspondence, or sent out as a special mailing.

Firms have also made a special anniversary DVD or CDROM business cards. If your firm has never explored this side of *Continued on page 13* →



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technology, the anniversary again provides a good opportunity to do something just a little out of the ordinary, or outside your normal comfort zone of marketing materials. Think outside the box. Instead of a traditional brochure, why not try, for example, an anniversary cookbook, with recipes from staff and their families. Be sure to include some anniversary-related firm information at the beginning of the book.

A traditional way to celebrate an anniversary is to host an open house, party or similar event. The focus of your event could be staff appreciation, client appreciation or both. Our firm celebrated our 60th anniversary in 1997. This anniversary coincided perfectly with some recent expansion and renovations, so an open house was appropriate. Lawyers were asked to identify prominent or top-billed clients to be invited, and we hosted a nice catered reception. A small ad in the local newspapers reinforced our message to the community.

But what about when firms merge? Borden & Elliott, founded in 1936, Ladner Downs, founded in 1911, and McMaster Gervais, founded in 1823, merged to form Borden Ladner Gervais LLP in 2000. Who's anniversary should be used to celebrate landmarks?

The answer, it turns out, is fairly obvious, as explained by Arthur Klein, Manager of Marketing & Business Development with the national firm. "We did give ourselves an internal pat on the back for our five-year mark, but while we retain a lot of goodwill with the name Ladner Downs, our on-going branding efforts to position ourselves in the marketplace is to engage the community as BLG." In cases such as this it seems obvious to move forward with the new name to reinforce the cohesiveness of a large-scale merge. It may not make sense to remind your local communities of who you were, while at the same time trying to differentiate your new brand of who you are.

As with all marketing, it will be the creative ideas that leave the best and longest-lasting impression. Wendy Leibowitz, a law-firm marketer, recalls one firm that gave away 50 Thanksgiving turkeys for its 50th anniversary.

The firm provided a tongue-in-cheek description of their deeds on their website, and no doubt received various local media attention for their generous effort. Leibowitz



50 years ago this June, DJ Red Robinson hosted Vancouver's first rock and roll concert as Bill Haley and the Comets blew them away at Kerrisdale Arrent. An estimated 6,000 fans screamed for more.

Across town, in a slightly less publicized affair, the law firm of Wurtz & Wurtz was founded, opening its doors for the first time. No word on whether fans were screaming, but they've been getting more from us for 50 years.



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goes on to note there are potential variations on this theme, suggesting you could choose one organization (eg. a founding partner's law school or favorite cause) and help it in fifty ways, either through donated time, talent or treasure. This is the direction I will recommend to our firm with our 70th just around the corner.

Take this opportunity to toot your own horn a little bit. Tenure is invariably associated with experience. It is not self-indulgent to remind your clients and community that they can rely on you to be there, now and in the future.

Resources:

Wendy Leibowitz:

<<http://www.lawmarketing.com>> #

Adding it: "An advertising campaign could include discovering what was happening in your community in your founding year, and tying that in with a new modern message. Creative minds could find several historical events to weave a creative and enduring message. My stab at a fictitious firm's 50th anniversary ad is on the left. — Tim Wurtz

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Word-of-mouth marketing getting a lot of buzz

How to market in the boring old traditional effective modern way

BY VANDANA TAXALI J.D., LL.B.

Is it true that the simple act of telling your friends and family about a product—something we do every-day without even thinking—is gaining momentum as the fastest growing form of marketing strategies being used by advertisers everywhere?

That's what Patrick Thoburn thinks. He is the co-founder of Matchstick Inc., a Toronto-based company devoted to word-of-mouth marketing, which is surging to become a popular form of marketing to consumers, even replacing other traditional forms.

Word-of-mouth marketing works by putting a product or service in the hands of an individual, and gets them talking about the product or service to others to create a buzz about the product or service.

It's gaining popularity over traditional glitzy expensive ad campaigns as a more effective means of persuading consumers about a product or service, and is being used by such companies as Nike, Chrysler, Sony/BMG and Fuji.

Thoburn, along with legal expert Beryl Green, partner at Miller Thomson, Toronto, spoke about this new paradigm shift in marketing strategies to a group of marketing and advertising lawyers in late January at the Canadian Institute's Advertising and Marketing Law Conference in Toronto.

Thoburn is not the only advocate of word-of-mouth marketing. Malcolm Gladwell says in his book, *The Tipping Point*, "Word of mouth appeals have become the only kind of persuasion that most of us respond to." He asks how else can you explain how a few East Village kids helped start the *Hush Puppy* epidemic.

Gladwell explains that most phenomena are caused by a few individuals, supporting his theory of 'power in the few'. It's the reason that marketing companies across the country

are refocusing their efforts on giving new products to trendsetters to create excitement and buzz.

Why caused this power shift? Quite simply, technology has given the consumer a voice where e-mails, blogs and websites allow them to spread a message quickly and efficiently.

The basic premise underlying word-of-mouth marketing is that the product or service is placed in the hands of certain individuals who have the power and ability to shape public opinion. Marketers are interested in finding influencers who have persuasive abilities in a particular market, industry and age group—whether it is trying to sell new digital cameras, promoting a new band or introducing a new luxury vehicle. These individuals spreading the news are hand-picked because they have the ability to shape the opinion of their peers. Word-of-mouth marketing includes techniques such as:

- ✓ *Brand blogging:* Creating blogs and sharing information of value that the blog community may talk about;
- ✓ *Buzz marketing:* Using high-profile entertainment or news to get people to talk about your brand;
- ✓ *Conversation creation:* Interesting or fun advertising, e-mails, catchphrases, entertainment, or promotions designed to start word-of-mouth activity;

- ✓ *Influencer marketing:* Identifying key communities and opinion leaders who are likely to talk about products and have the ability to influence others;
- ✓ *Product seeding:* Placing the right product into the right hands at the right time, providing information or samples to influential individuals;
- ✓ *Viral marketing:* Creating entertaining or informative messages that are designed to be passed along in an exponential fashion, often by e-mail. A marketer's 'street rep' is an agent who hands out flyers and goodies for a particular event, and a 'tastemaker' is a trendsetter whom people look to or listen to in terms of what's in fashion.

Word-of-mouth marketing is effective because the message is more believable when it comes from the testimonial of an individual who is not paid or asked to do so by the company selling the product. It is a more credible way to communicate the truth about a product or service.

Thoburn says, "Nearly 76% of consumers don't believe advertisers. The most powerful endorsement of a product is the consumer. Word-of-mouth marketing can't be faked."

When a consumer gets an objective unbiased positive opinion, others are more likely to believe that the product or service will deliver on its promise, because it is coming from an objective source who has no stake in the outcome.

In fact, consumers look to independent sources for advice on new products, trends and restaurants. The website SweetSpot.ca is one such source for the women—in Toronto, Montreal and Vancouver—to find out about new

Continued on page 15 →



beauty products, restaurants, clothing stores and services. It describes itself as, “the place to be in-the-know about all that’s fun, fashionable and just plain fabulous in your city.” Women get an e-mail every day with a report on a new product or service that the writers have independently tried out. Women forward the e-mails on to their friends. More women sign up and it goes, on and on.

The reason for the resurgence of word-of-mouth marketing is due to a shift from the power in the advertiser to power in the consumer in delivering powerful marketing messages—resulting in more honest and truthful advertising—great news for consumers. However, it still leaves open the question that, if such messages and advertising are not being reviewed by advertisers or their lawyers beforehand, how does one ensure that their campaigns are on-side the law?

Word-of-mouth marketing is independently regulated by the Word of Mouth Marketing Association, the self-regulating body for word-of-mouth advertising, where Thoburn’s company, Matchstick, was one of the founders. WOMMA ensures that trust is created between the marketer and the consumer and that ethical and fair practices are followed by marketers. Its members follow a *Code of Ethics* to ensure the integrity of word-of-mouth campaigns. The Code includes such principles as:

- ✓ Consumer protection being paramount; honesty of relationship, opinion and identity;
- ✓ Respecting the rules of the venue;
- ✓ Managing relationships with minors responsibly;
- ✓ Promoting honest downstream communications; and
- ✓ Protecting the privacy of individuals.

A marketer using word-of-mouth marketing has to abide by statutes such as the Consumer Protection legislation, privacy laws, the *Competition Act*, and the *Criminal Code*.

Consumer protection legislation prohibits representations that misrepresents or exaggerates the benefits that are likely to flow to a consumer if the consumer helps a person obtain

new or potential customers. The law also makes it an unfair practice to make a false, misleading or deceptive representation. Privacy laws would also apply in the collection of consumer personal information. The Competition Act and Criminal Code also include provisions on misleading advertising, performance claims and promotional contests.

An advertiser would also have to take into account any special consideration for Quebec residents and advertising to children. The WOMMA *Code of Ethics* prohibits engaging children under the age of 13 in word-of-mouth campaigns.

In fact, it is strongly advisable that marketers obtain parental consent if retaining anyone 13 and over but under the age of majority.

Green recommended to conference attendees that there be proper disclosure of all terms and conditions of a word-of-mouth campaign which could be done on a website devoted to the campaign. All aspects of a campaign should mention the website. She also recommended that all consumer advocates identify their connection with the advertiser and product in any communications with marketers or consumers. Also, a written agreement with the ‘influencers’ should set out the parameters of what they can and cannot say or do in connection with the product or service is also advisable.

It is important to ensure that it is clear to consumers that the influencers are speaking completely independently and sharing their opinion without any compensation of any kind. They should not be viewed as speaking on behalf of the advertiser or as an agent or rep.

If an advertiser does hire or compensate an influencer in any way, the advertiser may be liable for claims, misrepresentations or any defamatory remarks by the influencer. Therefore, an advertiser should ensure that any influencer be fully aware of all product claim, product representations and company claims and sign an agreement to that effect. They should also disclose that they are not an independent third party and are being paid by the firm to sell the product.

You also have to be careful where the influencer shares their information. Certain on-line chat forums may prohibit endorsements of any product.

An advertiser may also be able to use the influencer in future campaigns if they find the ‘influencer’ spreads the word about a product in a positive light. That’s what happened with the *Subway* chain. An individual independently lost a lot of weight by regularly eating *Subway* sandwiches, and then wrote to *Subway* to provide his testimonial. *Subway* decided to hire him as its rep after the fact. A written release of publicity and rights from the influencer to use their testimonial in future media campaigns should be obtained.

It seems rather paradoxical that as technology grows, marketers are reverting back to basics, where selling the old fashioned way has become big business.

Resources:

Word Of Mouth Marketing Association: <<http://www.womma.org>>

Vandana Taxali is a marketing and advertising lawyer, based in Ontario. Contact her at <vandana@entcounsel.com> Somebody told us about her. We thought we’d pass it along; create a buzz. ■■

VAN HORN APPOINTED MANAGER, VENDOR RELATIONS/ADVERTISING

Gordon van Horn has been appointed to the *Topics* Editorial Committee as Manager, Vendor Relations/Advertising.

Association members and vendors are invited to contact him regarding advertising and promotions at <GVanHorn@BLGCanada.com>

TOPICS would be thrilled to welcome *you* to the Editorial Committee. Writers/contributors are desperately needed!

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Please contact Stephanie Cornell if *you* are interested in contributing to the BCLMA’s interesting and informative magazine.

Sub-section popularity now means co-chairs

BCLMA Trainers sub-section topics well beyond PowerPoint tips

**BY STEPHANIE CORNELL
STIKEMAN ELLIOTT LLP**

Are you one of the many people who think of computer skills development when you think of the BCLMA's Trainers sub-section? Do you imagine a room full of new employees seated at terminals, learning how to use Microsoft Word, Excel and Interaction? Think again.

The Trainers provide a lot more than just Microsoft Word shortcuts and PowerPoint proficiency. They go beyond training people on how to use computers. They focus on how to train and what training resources are available.

In its second year of operation, the Trainers Sub-Section is growing and is expanding outside of the Trainers field. Meeting discussions



Stephanie Cornell

appeal to a wide range of legal professionals, including those who do not have "Trainer" in their title.

Law-firm managers, in any department, need to train their staff. For instance, law-firm accounting and human-resources leaders in Vancouver who work at a national law firm may need to train their own department members to use forms that are generated in their head office back east.

Though the initiative is borne from the head office, local staff needs to be educated on the proper use and implementation; local managers need to provide the education.

Even if they are not a trainer *per se*, they certainly need to train their staff well if their department is to thrive. Those managers may find value at a

THE SUB-SECTION'S 2006 PLAN INCLUDES DEVELOPING A PLATFORM SO IT CAN REACH AND INTERACT WITH MEMBERS WITHOUT USING E-MAIL.

BCLMA Trainers meeting. They will learn how to develop their training skills, and gain access to resources and tools.

Tara Cain of Fasken Martineau Dumoulin and Christina Saremba of Alexander Holburn Beaudin & Lang lead the group. Both are responsible for various training aspects in their respective firms.

With a background as a legal assistant, and the co-ordination of a software-sup- *Continued on page 17* →

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→ Trainers — From page 16

port department and helpline, Cain's expertise led naturally to a training position, one she has enjoyed for the past three-and-a-half years.

Saremba has been employed in the training vein, providing technical and soft skills training and consulting services for many years. With a degree in Adult Education, she has provided technical training and soft skills to educational, government and corporate clients.

She has been the IT Trainer at AHBL for two years, and recently helped implement a Learning Management System (LMS).

The LMS is used to manage and track all the educational programs offered in the firm's *Ascend* training program for lawyers and staff. Saremba is currently evaluating e-learning resources that will link into the LMS.

Cain says some aspects of her position were unexpected. "There's more to it than just training. I'm also doing technical writing, and conducting project management."

Law-firm managers across the board continuously note how slow legal organizations can be at recognizing and embracing cutting-edge technology and marketing initiatives that other professional firms seem quick to adopt. The same trend exists in the training field. Both agreed that this is a familiar challenge.

Advanced technology promotes greater efficiency, "particularly for staff," Saremba pointed out. Indeed, law firms need to keep pace so that they can appreciate that efficiency.

Currently, the sub-section has more than 17 members, representing 13 local law firms, but that number is expected to grow as the Trainers group becomes better known. Cain and Saremba are also planning a marketing blitz to unrepresented firms in order to reach that untapped market.

The sub-section's 2006 plan also includes developing a platform so it can reach and interact with members without using e-mail. They are look-

ing at more highly evolved electronic methods that currently surpass the capabilities of the BCLMA website. This platform would not only post previous-meeting minutes and a calendar of events, but would also sup-

Service Management, Knowledge Management and Finance sub-sections feature two leaders each. "There's always back-up," said Cain.

"It provides brainstorming opportunities," explained Saremba. They also believe that having two leaders presents a more shared vision. "It's more democratic," they chimed together.

Both find their BCLMA membership valuable in that it gives them occasion to network with their colleagues, share information, brainstorm and remain current with what is going on in other firms and outside organizations, such as ILTA.

Upcoming Trainer meetings include Storytelling in the Classroom in April and Instruction Materials in May.

For more information on these and other training matters, please contact Cain at <TCain@van.Fasken.com> or Saremba at <CSaremba@ahbl.ca>. ■

THE SUB-SECTION HAS MORE THAN 17 MEMBERS, REPRESENTING 13 LOCAL LAW FIRMS, BUT THAT NUMBER IS EXPECTED TO GROW, AS THE TRAINERS GROUP BECOMES BETTER KNOWN.

port continued information-sharing, learning, and professional development. Cain and Saremba are currently sourcing suitable hosts and programs.

Sitting and speaking with the pair, it is easy to see what a solid team they are and how excited they are about co-chairing the Trainers sub-section.

Co-chairing a BCLMA group is popular these days, as the Facilities &



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New trust-assurance program said to be more effective, less costly

The Law Society is responsible for setting and upholding standards of financial integrity in the legal profession—which includes standards for trust accounting.

A rigorous trust-assurance program is important for the protection of clients and others who rely on lawyers to handle trust money, and to help prevent claims against the trust-protection coverage.

BC law firms fulfill their obligations by meeting accounting requirements of the *Law Society Rules*. Currently, firms file an annual trust report with the Law Society, which includes a self-report component signed by a lawyer and a report prepared by an outside accountant retained to conduct a specific review of books and records.

The Society follows up with firms on notable exceptions in the reports. Significant problems or exceptions in a report can result in an audit of the firm's books and records.

Recently, the Society studied trust compliance schemes from across Canada and internationally, and reviewed its own program with an eye to making reforms.

What is clear is that regular law firm audits are a primary feature of the trust-assurance programs in several other jurisdictions.

Last December, the BC Benchers approved a three-year plan to restructure the Law Society's own program to make it more effective and less costly for law firms.

A new model of trust assurance, to begin this year and be phased in over three years, will consist of these key components:

✓ *Law firms will now file their trust reports directly.*

By late this year, BC law firms will be asked to file a revised form of the trust report. In most cases, firms will simply self-report on their trust activities and will no longer need to retain an outside accountant to review their records or complete

a portion of the trust report.

✓ *The Law Society will conduct site visits/audits* The Law Society will begin conducting rotational audits in law firms. The intention is to make each BC firm subject to an audit every six years, or more frequently if there is reason to do so.

How will audits be prioritized?

Law Society *Rule 3-79* authorizes the Society to conduct an examination of a lawyer's books, records and accounts to ensure they are properly maintained. *Rule 4-43* provides for a Benchers to order the investigation of the books, records and accounts of the lawyer or former lawyer who may have committed a discipline violation.

To date, most Law Society audits have been in response to situations of identified risk. It is important to note that law firms in which serious problems have been identified will continue to receive highest priority as part of the Law Society's program of forensic audits and investigations.

In deciding whether other firms will receive priority for an audit, the Law Society will weigh various factors, such as whether a firm has had significant exceptions on previous trust reports, or whether the firm has open files on financial difficulty or complaints.

As the Law Society collects more information through its trust report filings and audits, it will be better able to identify additional risk factors.

Because the Law Society is introducing a universal audit program, however, each BC law firm will be required to participate in an audit at some point. For most firms, this will be a straightforward review and will provide an opportunity for the firms to raise any questions they have on trust systems and procedures.

In that respect, the Law Society wants to give some priority to new law firms so as to help them set up accounting systems that work well and do not lead to problems down the road.

There are multiple benefits of the

new trust assurance program:

✓ *Assistance to law firms, and new firms in particular* The Law Society's trust assurance team will assist lawyers and their staff, in particular lawyers setting up in practice on their own or in small firms, to adopt proper accounting systems and procedures from the start.

✓ *A cost-saving for firms* The new program will be funded entirely through the trust administration fee (TAF), which law firms now collect and remit in the course of their trust administration for clients. A primary purpose of the TAF has been to fund trust reforms. As noted, law firms will continue to file reports on their own trust activities and be subject to periodic Law Society audits. But by early next year, it is expected that 95% of firms will be relieved of the requirement to engage an outside accountant to prepare a trust report.

✓ *Earlier detection of serious problems* By introducing improved risk analysis as a basis for deciding priority audits, the Law Society will be better prepared to detect serious trust breaches in the few firms where these exist, and to do so earlier. Taking proactive steps is intended to prevent thefts and claims against the Society's *Part B* (trust protection) insurance coverage.

✓ *Greater confidence in the profession and the public* The Law Society intends its trust compliance program to enhance the confidence of lawyers, clients and the public as a whole. By being at the forefront of trust assurance reform, the profession can take pride in its standards and in the prevention of substandard or improper trust handling by a few lawyers that may tarnish the reputation of many.

More information will be available in the *Regulation & Insurance / Trust Assurance & Reporting* section of the Law Society website later this year. Law firms can also expect to be advised directly of any changes in advance of their 2006 trust report filing.

From the January-February issue of Benchers' Bulletins, reprinted with permission of the Law Society of BC.
<www.LawSociety.BC.ca>

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