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Who'll blink first? Microsoft, Vista, XP or its customers?

The test of wills over Microsoft Vista

BY MIKE BOWERBANK
BLAKES LLP

"NO!" came the sharp answer from the IT Manager's mouth when I asked if she was going to upgrade the OS in her firm with Microsoft Vista. "It gives us nothing that we need."



Mike Bowerbank

But what about when Microsoft stops supporting Windows XP?

"They won't," the same person replied.

This IT Professional seems oddly confident that she can bend Microsoft to her whim, but perhaps this is because she is not alone. Microsoft Vista was released as a replacement to Windows XP at the beginning of 2007 and today—more than a year later—most law firms are continuing to avoid it.

Diane Hagglund, Senior Analyst at King Research, based in Sunnyvale, California, thinks that an industry-led pushback is underway and that Redmond's behemoth company had better listen.

She conducted a survey of 961 IT professionals and discovered that 90% of them were concerned about Vista migration, citing issues such as stability, cost and compatibility.

Fewer than 1% had fully migrated to Vista while 53% had no plans to deploy Vista at all. Only 13% of the respondents planned to deploy Vista at some point in the future.

The news gets no better for Micro-

Ⓞ Vista: Continued on page 2 →

BCLMA 2007/8 in review

A great year, with another coming up

BY DOUG AUSMAN
BCLMA, PAST PRESIDENT
2007/8

Wow! BCLMA's 35th year, and my year as BCLMA President, have so quickly passed!

In my incoming message published here a year ago, I noted that our Association had grown considerably. Today, in April 2008, we have more than 90 member firms and more than 300 individual members. This will increase further during the coming year.

I emphasized the services that members receive from their Association: numerous subsection sessions, several large educational seminars, the annual conference, networking, the Topics newsletter, website services, valuable surveys and great social events.

I acknowledged the value of financial sponsors for our events, and encouraged more members to volunteer for various roles essential to the ongoing services to

our members. All of that, too, improved over the year.

I have been particularly impressed with your Association's accomplishments at the hands of so many such vol-

unteers. By my count, there are over 30 BCLMA member-volunteers who keep things going. For example:

- ✓ The October 2008 Whistler Conference: *Under Construction / Building Solutions*, has nine individuals on the organizing committee under Allison Milroy's leadership;
- ✓ The website-improvement team,

→ A great year: Continued on page 6



Doug Ausman



BUSINESS TIME
Ernie Gauvreau of Gowling Laffleur Henderson LLP and Jane Kennedy, BCLMA's Administrator, as the 2008 BCLMA Annual General Meeting is about to get underway in downtown Vancouver



soft as the survey continued, as 9% of the respondents said they had already switched to a non-Microsoft OS to avoid Vista and 25% expected to be switching to one within the next year.

HASTA LA VISTA?

So what is the big problem with Vista?

Joe Wilcox who writes *Windows Watch* on the eWeek website, noted that Vista introduces too much complexity compared to Windows XP, that XP was "good enough," that Microsoft had the wrong priorities in Vista's design, and that ultimately Vista shipped before it was ready. Or perhaps it shipped before the marketplace was ready.

A quick Internet search reveals hundreds of websites with instructions on how to fix Vista bugs, and many suggested necessary hardware upgrades, as well as getting rid of most of your other software that is suddenly not compatible with your PC's new operating system.

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rated Microsoft Vista as one of its *Top Ten Terrible Tech Products*. As it so bluntly put it, Vista made the list because "its incompatibility with hardware, its obsessive requirement of human interaction to clear security dialogue-box warnings, and its abu-

sive use of hated DRM [Digital Rights Management], not to mention its general pointlessness as an upgrade."

The national American newspaper *USA Today* released an article, also last

→ Vista: Continued on page 4 →

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year entitled "Vista causes an array of problems." Reporter Andrew Kantor stated that backups crashed, and that using "shortcuts to search folders causes *Windows Explorer* to crash, and *Photo Gallery* doesn't rotate images properly. In short, unlike with *XP*, when I sit down, I'm never 100% sure things are going to work properly."

So with all the howls of protest from its customer base, Microsoft is reconsidering phasing out *XP* support, right? Well, not as of this writing.

Microsoft points to its sales of 60 million *Vista* licenses, but they don't bother to tell you that the overwhelming majority of those millions are shipped out on new PC's; not because it's the choice of consumers to switch.

It's no coincidence that Dell and Lenovo are now shipping *Linux* on many of their new desktop PC's. Dell's customers complained about *Vista* and the company listened. It continued to use *XP* and not *Vista* until the end of January 2008, when Microsoft closed the door on *XP*.

When asked about Dell using *XP*

and not *Vista*, the arrogance from Redmond was palpable: "Dell is responding appropriately to a small minority of customers that had this specific request," Microsoft product manager Michael Burk said in a statement.

BUENA VISTA?

The Network Administrator of another large downtown Vancouver firm didn't rule out upgrading to *Vista* at some point, but stated emphatically that there are no plans to do so now.

"Upgrades to hardware and driver issues with older printers" was one reason he cited, coupled with "rumours that *Vista* and older AD environments have problems that would need some investigation."

On the non-technical side, the same Administrator added that there was "no perceivable gain" for the firm. "Upgrade to *Vista* and you get... a computer with an OS. I have one of those right now. So I get a little but it takes great effort, and I have to—once again—take staff through training."

I told him that the clock was ticking and that Microsoft would stop sup-

porting *XP* soon, but he dismissed this, predicting Microsoft would "come to a sad realization," picking up a line from an Apple vs. Windows ad. He points to a new service pack for *XP* pending as proof that perhaps Microsoft is getting the message. He does not, however, rule out an eventual upgrade to *Vista*, but says that "lack of current return [on investment] is making me think, 'Not right now.'"

Vista is not dead, and most companies will eventually migrate to it but, with any luck, Microsoft has learned a lesson for future releases. *Vista* needs some serious processing power and newer hardware to work properly, and with budgets already strained, that was a large leap Redmond wanted its customers to take all at once.

Why would Microsoft do that? Spending five or six years on a product is a long time to go without revenue returns. Yet the product screams of being rushed to market, and, sadly, it is the market that suffers for it. Short-term profit seemed to be more on Microsoft minds than shipping a good product.

Linux anyone? ■

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Annual General Meeting

Stephanie Cornell elected BCLMA President, Committee formed for 2008 Conference

BCLMA's Annual General Meeting was held on April 2 at the offices of Fasken Martineau DuMoulin LLP.

Eighteen Association members attended the lunch meeting as our 2007/8 President, Doug Ausman, chaired the meeting. Doug provided a report on the past year, which included such highlights as:

- › Our current membership status: 93 Member Firms and 310 society members;
- › The year-end Financial Statement: Current copies of the financial statements are always available from our Treasurer, Angela Zarowny;
- › The highly successful *Fresh Tracks* educational conference at Whistler;
- › The new Mentor Program: To access the complete list of Mentors, go to the home page of our website and click on the Mentor button. Our website's address is on the bottom of each page of *Topics*;
- › Website review and plans for updates; plus,
- › Our largest holiday social ever, held at Bridges on Granville Island.

COMING UP IN 2008

The Association has enjoyed great



A GIFT OF THANKS
Stephanie Cornell presents Doug Ausman with a token of appreciation for his accomplishments as President for BCLMA's 2007/8 fiscal year.

success over the past year, and its momentum continues to build, as many initiatives are already under way:

- › The 2008 educational conference will be held at the Westin Hotel & Spa in Whistler, October 23–25;
- ›› Nine volunteers currently comprise the Conference Committee;
- ›› Several vendors have already pledged their support to the October conference;
- › The annual Summer Social is less than two months away! It's set for June 5;
- › The annual Holiday Party venue

is already booked for December 4th at a terrific venue that will bring another outstanding showing of BCLMA members and their guests, as well as sponsoring vendors.

Doug thanked all of the volunteers who have donated so much of their time over the past year, making many events successful.

In particular, Doug welcomed Bob Waterman back to the BCLMA fold. Having returned from Calgary to work as the full-time Administrator at Richards Buell Sutton, Bob is the new Chair of the *Topics* Editorial Committee, and reports directly to the Executive Board on newsletter progress and developments.

Annual General Meeting: Continued on page 7 ➔

➔ A good year: Continued from page 1

- led by Gary Carter, is actively progressing;
- ✓ Several directors and members are working on various important surveys, including the Economic Survey, Staff Salary Survey, Disbursements Survey, Lawyer/ Staff Ratio Survey, and I'll be pleased to lead the bi-annual Members' Survey this Fall;
- ✓ Your new President, Stephanie Cornell and former President, Ernie Gauvreau, are investigating collaborative efforts with the international Association of Legal Administrators;
- ✓ Angela Zarowny continues, as she has for many years, to handle the Treasurer's function;
- ✓ Bob Waterman is the new Chair of the *Topics* newsletter Editorial Committee;
- ✓ Ten members, who recently volunteered to serve as mentors, have their contact information posted in the *Ask a Mentor* section of our website; and
- ✓ A number of great volunteers chair or co-chair subsections that provide an array of informative and developmental opportunities for so many members.

A year ago, I thought being BCLMA President was going to be a pretty tough job.

It has not been.

My work, while considerable in volume, has been made really quite easy by the support and share-the-work attitude continuously demonstrated by Directors Ernie Gauvreau, Allison Milroy, Stephanie Cornell, Gary Carter and our Administrator, Jane Kennedy.

I must express my sincere thanks to them for their support. We all owe them, and all of our other volunteers, a debt of gratitude for another great year for BCLMA. I truly look forward to working with the 2008/9 Board in my capacity as Past President.

And thank you to all BCLMA members for your support throughout this past year; it has been a great experience that I'm so pleased I did not miss!

We have a great year planned for events and services including many fun times . . . please join us in making it another successful year for BCLMA. #

Doug Ausman, 2007/8 BCLMA President, Chief Operating Officer, Ratcliff & Company LLP, North Vancouver

We are also pleased to announce the 2008 Conference Committee:

- › Allison Milroy, Conference Chair
- › Lorraine Burchynsky, Boughton
- › Natasha Chetty, Harper Grey
- › Gillian Crabtree, Edwards Kenney & Bray
- › Stephen Hinds, Lang Michener
- › Brenda Johnson, Edwards Kenny & Bray
- › Leslee Loree, Lang Michener
- › Sue Naidu, Watson Goepel Maledy
- › Kevin Peers, Bull Houser Tupper

Our Survey Program will continue to be undertaken by these volunteers:

- › *Annual Salary Survey*, Raf Sansalone of Borden Ladner Gervais,

- October release
- › *Annual Economic Survey*, Sandy Delayen of Bull Houser Tupper, April release
- › *Associates Survey*, Penny Harvie of Fasken Martineau, May release
- › *Staff Ratio Survey*, Ann Johnston of BHT, released every two years
- › *Membership Survey*, Doug Ausman of Ratcliff & Co., Released every two years; and,
- › *Disbursement Survey*, To be determined, November 2009 release.

Membership criteria was the main topic of business. After an interactive discussion, a motion was passed that helped to expand the definition of a *Member Firm, Full Member and Associate (or Subsection) Member*.

While the motion was approved, the discussion created an opportunity for further consideration. All members will be kept informed of any further developments in this regard. You'll find the revised bylaws in the Members Only section of the BCLMA website—click on *Mission and Bylaws*.

Having met all current membership criteria, the following individuals were acclaimed to the 2008/9 BCLMA Executive Board:

- › Stephanie Cornell, President
- › Doug Ausman, Past President
- › Gary Carter, Director
- › Ann Johnston, Director
- › Evenna Liu, Director
- › Barb Marshall, Director
- › Jan Whyte, Director

Two Board officer positions remain unchanged:

- › Angela Zarowny, Treasurer
- › Jane Kennedy, Administrator

As outgoing Past President, Ernie Gauvreau volunteered to provide ad hoc services as a consultant. Ernie has a wealth of knowledge and expertise to provide to the BCLMA. We acknowledge the value he brings to the group.

This group represents the largest Executive in several years. We are encouraged by the contributions our members provide to their colleagues, and the association at large. However, we still have one seat open: President-Elect! Interested candidates should contact our new President, Stephanie Cornell, for further information.

As the AGM was about to close, Doug passed the President's gavel to Stephanie. In appreciation for his exceptional contributions, Stephanie presented Doug with a bottle of wine along with a leather case for his new personal laptop... not that we would recommend he work on his holidays!

The BCLMA is poised for another successful year. If you have any questions, concerns, suggestions or ideas, feel free to contact any one of the Board Members or Subsection Leaders located on the last page of every issue of *Topics*.

We look forward to spending time with you, and anticipate an exciting 2008/9.



PHRASING THE COIN
Bob Waterman of RBS, Evenna Liu of Oyen Wiggs and Barb Marshall of Fasken Martineau review the annual BCLMA financial statements at the AGM.



BUILDING THE BYLAWS
Jay Cathcart of Farris Vaughan Wills & Murphy LLP comments during discussion of the new bylaws, as Jan Whyte of Murphy, Battista, considers the point.

Barriers to productivity keep getting higher

BY PETER MORGAN
MORGAN: NEWSLETTERS

Red tape, time constraints and office politics are the biggest detractors from work for employed Canadians.

In fact, according to a new workplace study from the Royal Bank of Canada (RBC) that rated the items, those three may be far greater barriers to productivity than they were 10 years ago.

The RBC Survey, conducted by Ipsos Reid and entitled *The Competition for Canadian Talent*, shows that 41% of working Canadians say it is red tape and bureaucracy that most gets in the way of their ability to do their job.

This is a significant change from 1998, according to the researchers, when only 26% of the working population agreed that rules and regulations impeded their personal productivity.

Also noteworthy is that office politics (36%) and gossip (31%) are greater annoyances than they were a decade ago, when they were only about half that, at 19% and 18% respectively. "I would like to think employers have gotten better, not worse, when it comes to office practices, but these results say otherwise," says Christianne Paris, RBC's vice-president of Recruitment and Learning.

"Policies and procedures are absolutely necessary in order to be successful," she adds, "but it's evident many employers need to do things differently in order to engage employees more effectively."

Canadians most likely to agree red tape and bureaucracy impede their ability to do their jobs are likely to be:

- ✓ Employed full-time (44%);
- ✓ Aged 45 to 65 (44%); and
- ✓ Male (45% versus 36% of females).

According to the survey, those most likely to feel that office politics (36%) are an impediment to work are more likely to be:

- ✓ Older, aged 45 to 65 (39%);
- ✓ In junior positions (38% versus 31% in senior positions) and,
- ✓ Those earning between \$80,000 and \$100,000 (53%) per year.

"There's no telling whether the roadblocks have become more of a

nuisance or workers have become less tolerant," noted Paris. "What is certain is that there's tremendous potential for improvement so that workers

can get their work done and employees can achieve maximum results."

Ipsos Reid conducted the on-line poll between November 5 and November 15. It's a randomly selected sample of 2,052 Canadian full- and part-time workers. The statistically weighted results are accurate +/- 2.2%, 19 times out of 20.

DETRACTOR FACTOR	1998	NOW
Red tape and bureaucracy	26%	41%
Not enough time		40%
Lack of resources		39%
Unclear expectations		38%
Office politics	19%	36%
Gossip	18%	31%
Insufficient independence to make decisions		28%
Boss or Manager	15%	24%
Computer or Network Systems	10%	22%
Lack of privacy	10%	22%
Too many meetings	12%	19%
Voice Mail and E-mail	10%	17%

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You might already be facing low-cost competition from legal work done in Asia, India

**BY TIM WURTZ
BAKER NEWBY LLP**

If you can think of a law firm process, you can outsource it. Professional recruitment, HR management, market research, facilities management, document reproduction services, IT support, dictation are just a few. Now, that list even includes legal services.

Almost every conceivable facet of our day-to-day internal operations can be outsourced to a third party.

Plenty of businesses—and new ones are popping up all the time—claim they can reduce a firm’s administrative overhead, increase efficiency and provide higher quality services at lower prices.

The mere notion of outsourcing may cause a knee-jerk reaction, either as an advocate or critic, based on one’s political ideology and propensity to either embrace or oppose the trends towards globalization.

Regardless of your personal bias, it’s worth reflecting on some economic principles when considering outsourcing office processes, a couple arguments from both critics and advocates, and the quickly emerging trend towards outsourcing legal services that will aid your business decisions.

DO WE OR DON’T WE?

You first need to determine the decision criteria for which you are proposing the outsourcing alternative. Is this primarily to increase profits — by decreasing expenses — or improve client service and/or the quality of the legal service provided? Ideally, it is a hybrid of the two, remembering that, in an innovative environment,

the common denominator driving business decisions is improving the value our clients receive.

Outsourcing can be viewed just like purchasing an asset (an employee vs.



TIME TO CONSIDER LEGAL OUTSOURCING?
The next frontier of outsourcing is our actual legal services. Legal Process Outsourcing is the industry in which law firms outsource legal work to countries where it can be performed at a significantly lower cost.

an outside contract). Procuring assets contains hidden costs that are ever so present during your decision-making process to outsource. Search Costs include your initial efforts to prepare and solicit RFPs, and do your own research to ensure you will be getting the services you require. Negotiating Costs includes ensuring you receive a fair price to actually realize cost savings, and Monitoring Costs includes

your on-going efforts to ensure consistent quality. These initial investments should all be considered when determining the overall benefit to your firm.

My university ECON 410 profes-



Tim Wurtz

sor would be proud to know I am citing my own notes that recall, “When an input has well-defined and measurable quality characteristics, and requires specialized investments, the optimal procurement method is a contract. A contract reduces the likelihood of opportunistic behaviour and underinvestment by creating a legal obligation between the firms.”

There are well-defined qualitative and quantitative characteristics that can be easily seen in many areas where outsourcing among law firms has become common.

Professional-recruitment firms typically employ a contingency-fee arrangement. It’s easy for accounting, and easy to budget based on expected new hires for the year. For document-reproduction services, a firm can identify historical disbursement costs, overhead allocation, and staffing costs, all to make a case for or against outsourcing this common administrative function.

On the flip side, conventional economic wisdom tells us that as specificity rises, you should bring the process in-house, by, say, vertically integrating or hiring new expertise.

Common areas where law firms have adopted this practice include IT services, where the smooth operation of the firm’s computer systems is critical to business operations, and HR services, where the personal relationships developed between HR man-

Outsourcing: Continued on page 10 →

agers and staff hold intrinsic value in the firm's culture.

Colin Cameron, Chief Operating Officer at Clark Wilson LLP, proposed three key questions when considering whether to outsource his firm's photocopying services:

- ① Are we going to save money?
- ② Are we going to get better service?
- ③ Do we have staffing issues?

The answer to all three, he says, was either "No", or negligible at best. He recognized that, "if you have the right people doing a good job, there is no reason to make a change." He added, that, "only if there are real problems would we then look at outsourcing as a possible alternative."

A firm should be careful to stay in-house with functions that simply require better delegation, communication or technology.

Therein lies a principal criticism of outsourcing: it does not actually address any underlying problems. If your primary basis for outsourcing is an issue with certain staff in a particular department, the real problem is an

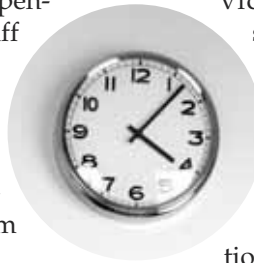
HR issue, which may indicate problems with your firm's compensation, HR management staff or the work environment. Solving these fundamental issues will likely have a greater impact on your firm's efficiency than simply changing the problem through outsourcing.

Advocates for all levels of business-process outsourcing stand by the claim that it allows you to focus on your core competencies and boost your bottom line. But what if it is now these established core competencies that are the target for outsourcing proponents?

OUR FUTURE?

The next frontier of outsourcing is our actual legal services. Legal Process Outsourcing (LPO) is the industry in which law firms outsource legal work to countries where it can be performed at a significantly lower cost, primarily in India. LPO includes, but is not limited to, legal research, document drafting and paralegal services.

RR Donnelley, a firm operating as



Office Tiger, is a provider of full-service, business-process outsourcing. Its director of legal services, Jason Brennan, suggests that, "as the global marketplace becomes increasingly competitive, corporations are being forced to streamline operations and cut costs in order to maintain profitability. Law firms are subject to increasing pressure from their clients to reduce costs and maintain profits per partner. These factors have given them an incentive to look at alternative sourcing methods."

Already a major phenomenon in the U.S. and U.K., LPO is beginning to infiltrate Canadian law firms. Significant literature and internet reference sites are appearing, and, in fact, there are now entire legal conferences dedicated to this topic.

Cameron noted he recently turned his mind to the prospect of legal outsourcing, after casually discussing the idea a year ago.

Until recently, only U.S. compa-

Outsourcing: Continued on page 11 →

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nies offered such services, and confidentiality issues were very much a concern. Cameron referred me to an article in *Business in Vancouver* (March 4-10, Issue 958) that introduced Legalwise Outsourcing, a new company that is dubbing itself as the first in Canada to offer outsourcing legal services to Canadian Law firms.

When pondering LPO, it would be prudent to reconsider the same criteria your firm has developed for determining if administrative processes should be outsourced.

Remember those questions we asked a few moments ago? Here are the first two:

- ✓ “Are we going to save money?” seems the easiest question to answer affirmatively.
- ✓ “Are we going to get better service?” seems to be the most subjective criteria at this time.

Advocates for LPO to India cite two common perceptions they claim are myths:

- ① That foreign lawyers lack the skills and aptitude to handle high-

- end legal work for the West; and
- ② That “You get what you pay for,” or in other words, “low cost equals low quality.”

Successes in the U.S. and U.K. seem to validate the quality of service they have been receiving. The third question we asked—“Do we have staffing issues?”—also seems to be tending toward an affirmative response.

The bottom line, according to Cameron, is that the decision to outsource legal services is simply being driven by our demographic shortage of workers between 30 and 50, and that there are not enough good, young lawyers entering our domestic workforce. LPO is a potential alternative. “This is a business not unlike others,” he remarks. “You need to go where labour is cheapest to remain competitive.”

Cameron feels LPO wouldn’t have a significant impact on current in-house staffing. LPO could initially be introduced as a back-up service—a night shift, so to speak. Furthermore, he suggests that this could “level the playing field for smaller firms who won’t need an

army of people in-house.”

Conventional economic wisdom suggests that outsourcing legal services seems to go against the hypothesis that you should preserve the specialized functions of your firm that bring value to a client.

However, it is our responsibility to be aware of emerging trends, and to be able to present business alternatives that will increase our firm’s profitability while protecting the quality of, and respect for, our services.

FINAL WORD

To assist your firm in deciding which processes would be appropriate to outsource, you can engage the services of companies that develop Business Continuity Management (BCM) models to manage outsourcing in a structured way.

BCM consists of a set of steps to successfully identify, manage and control business processes that are (or can be) outsourced, maximizing positive outcomes, minimizing risks and avoiding threats.

So, you can even outsource your decision to outsource. Go figure. ■

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Engage and Implement: Are they four-letter words at your firm?

BY GARY MITCHELL
GEM COMMUNICATIONS

You'll recall in the Fall 2007 issue of *Topics*, I discussed the 'wall' in the context of exchanging ideas.

Here is another aspect of the lawyer wall: engagement and implementation. Have you come up against it when trying to implement new programs, policies or approaches?

Have you ever had a plan that has been approved and then when you try to act upon it, it stalls?

You are not alone. Engaging lawyers and implementing new ideas, programs, policies or approaches is a challenge most law firm managers face. Here are a few ways you can bring down the wall and get things done.

GET YOUR MANAGING PARTNER ONSIDE

Before any new initiative, you would ideally ensure your managing partner is onside with your vision and is backing your approach.

Now, if you know for a fact this won't happen and still feel strongly that your plan is imperative, then skip this step (for now), and come back to it once you have some proven results.

START TO ENGAGE BY FIRST GETTING TO KNOW YOUR LAWYERS

This may seem obvious, however, from my experience the marketers and administrators I know that have been able to engage and implement new things within their firms know

their lawyers well.

So, get to know what they like and don't like, their strengths and their weaknesses, their career goals, and what motivates them to reach those goals. It may take some time for the trust and bond between you and each of them to build, so be patient, and it will pay off down the road.



Gary Mitchell

IDENTIFY EARLY ADOPTERS

Getting to know your lawyers better will help you identify early

tum with lawyers who have influence, who are respected within the firm.

How will you know who they are? They will be driven in their careers and therefore willing to take on new approaches to achieve their goals. They will be willing to do things differently. And, in some cases, they may even be willing to postpone their compensation for it.

The important thing is that they can see the future, and are willing to get ahead of it.

ENSURE THEIR SUCCESS

Give them what they need to succeed. This may include outside consultants or coaches. Remember, these lawyers will be leading change and that is not easy. In many cases, they will be entering uncharted territory. It is imperative that they succeed to move your program to the next stage.

DON'T GO IT ALONE

Seek other like-minded managers who are onside with your vision.

Engage them in the process and look to them to help identify the appropriate people to pilot these new programs.

If you are the only one leading this change, you are more likely to be thought of as a rebel or an outsider.

Create a team of people willing to

support you; there is strength in numbers.

MEASURE SUCCESS

Have a system in place to measure success. Be able to answer: What has changed? How has this impacted the bottom line? How has this affected client retention? How has it affected your talent retention? Are more



DRAW OUT THE PEOPLE YOU NEED TO START THE PROCESS
Getting to know your lawyers better will help you identify early adopters. Choose people at various levels within the firm but assume that most of the change will be led by people in the middle — senior associates and junior partners — since they are more likely to embrace change.

adopters. Choose people at various levels within the firm but know that most of the change will be led by people in the middle: senior associates and junior partners since they are more likely to embrace change.

This first group should include current and soon-to-become practice group leaders.

For reasons you are about to see, it's important to build this momen-

ALEXEY KLEMENTIEV

Engage & implement: Continued on page 13 →

lawyers effectively engaged in business development? Are more practice group leaders owning accountability? You will need this information later.

If you don't already have an analytical software program in place, I highly recommend getting one.

ARTICULATE SUCCESS

Results have a wonderful way of influencing change. Decide who needs to know what and when, and then articulate it. Be clear on what has been accomplished and how and why it makes sense. Express the measurements and how they affect the various outcomes you desire. Regular and consistent communication about results will make or break your longer term vision.

CONDUCT A SECOND PILOT

Building on the success of the first pilot, choose the next group of lawyers to work with.

Go to another practice group or small group of individual lawyers. You are now looking for the next wave of early adopters—lawyers who will embrace changes now that they have seen others enjoy success.

Follow the same steps as outlined above. Seek the support of the first group of lawyers to help identify and mentor this second group. They will be able to provide valuable advice and support.

You will begin to notice organic teams developing. As like-minded lawyers begin to work with each other, they will be speaking the same language and following the same approaches.

GET BUY IN FROM THE FIRM'S MANAGEMENT

You may have already included your managing partner at the onset of this program.

If not—and you were waiting for results first—start with them now. Demonstrate the value of the program with the results you have already achieved. Get their buy-in. Then, have your managing partner

present the program to the managing committee or whoever the decision makers are at your firm.

RESULTS

When all of this is established, you have a vision, a clear roadmap of how to get there, an army of generals on your side to champion the cause along with *results* and *proof*.

It will be difficult for them not to come onside especially knowing that



there is a growing demand for this new way rising within their firm as a result of the success you have already achieved.

ARTICULATE SUCCESS FIRM WIDE

Now you are ready to articulate success to the entire firm. Success has been achieved and you will notice that behaviour is infectious.

Once a number of your practice group leaders, junior partners and associates begin to behave differently—positively and with proven results—more lawyers within the firm will want to adopt a similar approach. The buy-in factor will greatly increase.

ARTICULATE THE VISION

In preparing to roll out the program or programs on a firm-wide basis, it is imperative that everyone understands the value proposition here.

It's time to share the vision or the big picture. Design it so that every member of your team can see themselves in this new model.

They understand what it will mean for their own practice and career. They will see the results and have witnessed the change in behaviour among their peers.

Champion the early adopters throughout your firm as examples of

what are possible; they are your new role models.

Some of them will even emerge as the next generation of leadership and not only support your vision for change—they will demand it. Your early adopters will lead the change efforts; you will not be alone.

IMPLEMENT YOUR PROGRAM

You have proven results. You have built your army, and you have your generals, aka practice-group leaders, in place to champion the cause.

Now the firm at large will be far more prepared to accept change. You can roll out your program on a larger scale with the full confidence that from demonstrating success in incremental stages, and with continuous communication throughout the program, the results will be far greater than had you tried this from the beginning all on your own.

If not already in place, policy changes will be a lot easier to make now that a greater number of your lawyers will have changed their behaviour.

SEA CHANGE

In most cases, in my experience, policies or approaches initiated on a large scale almost always fail.

When you are talking about getting people to do things differently, it requires behavioural change. Behavioural change does not happen overnight.

Think of it like a political campaign. Build the foundation by starting with a small group of people, pilot these new ideas and approaches with your early adopters.

At this stage, don't make it a big deal; keep it under the radar until results have been proven. Plant the seeds of change without upsetting the apple cart and look forward to harvest time. ■■

Gary Mitchell is Managing Director of GEM Communications, a firm specializing in business training for lawyers and law firms. He can be reached at 604.669.5235 or: E-mail: Gary@GemCommunications.ca

ALEXEY KLEMENTEV

Six tips to increase employee engagement in a multi-generational workplace

**BY ANTONIO ZIVANOVIC
CORPORATE OCCUPATIONAL
SOLUTIONS INC.**

Where does a company begin to address the health and wellness needs of a multi-generational workforce? What programs provide the greatest return on investment?

Which generation of worker perceives health and wellness programs designed to promote work-life balance as a need? Which generation perceives them as a perk?

Each of those fascinating questions would take a book to answer, so here we'll shed some light on some of the areas that will assist firms to seek out the best for their bottom line and their employees.

Researchers see current organizational cultures as comprising four different generations:

- ✓ *Traditionalists*: those born before 1946
- ✓ *Baby Boomers*: those born between 1946 and 1964
- ✓ *Gen-Xers*: those born between 1964 and 1977
- ✓ *Millennials*: those born after 1977

Traditionalists and Millennials make up the smallest portion of the current workforce, and Baby Boomers the largest. This unprecedented workforce composition can pose significant challenges to increasing employee engagement.

Each generation (and each individual) has a unique perspective on the organization, and on what others think about their needs and wants.

All four groups have diverse expectations, different ways of working, and wide-ranging views on the importance of workplace health and wellness programs.

These are not self-isolating groups, however. Millennials have been known to work well with Traditionalists, as both types greatly respect what the other brings to the table. Traditionalists typically have wisdom born of experience but are now less adept at change, whereas Millennials—tech-

savvy and highly prepared for change—lack the invaluable experience that enhances skills.

Here are six tips to increase employee engagement, using health and wellness initiatives.



Antonio Zivanovic

1 GET THE RIGHT PEOPLE ON THE BUS

Jim Collins, in his book *Good to Great*, uses the analogy of a bus to de-

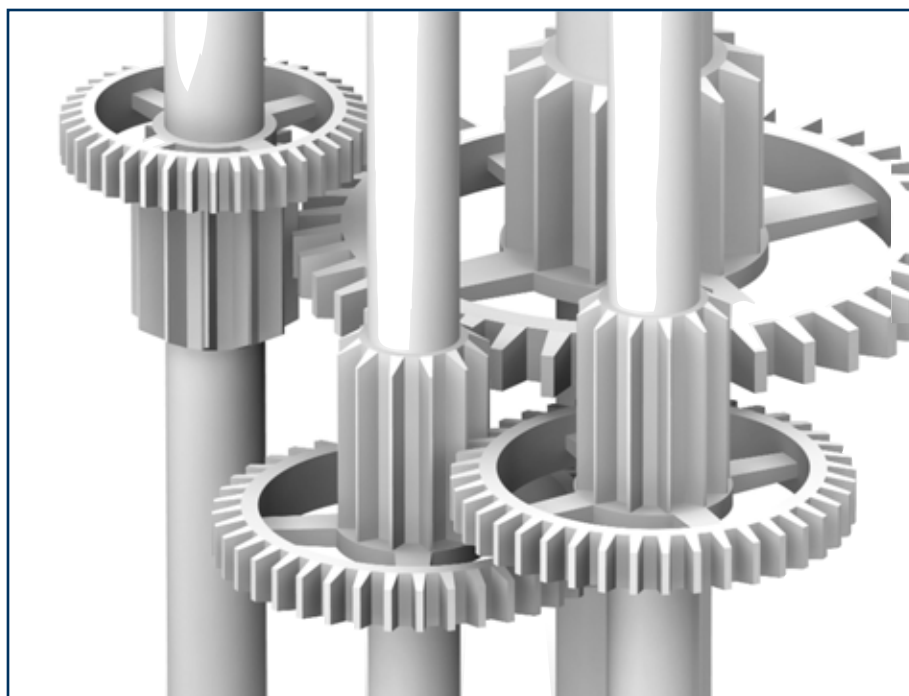
scribe the formation of a great team: "The executives who ignited the transformations from good to great did not first figure out where to drive the bus and then get people to take it there. No, they first got the right people on the bus (and the wrong people off the bus), and then figured out

where to drive it." Even though there is a demonstrated return of \$5 for every \$1 invested in employee health and wellness programs, many organizations still fail to grasp the importance of these programs.

Merely talking to employees about work-life balance, offering the odd workshop and occasional on-site activity is seen as lip service, which, in the eyes of its employees, eventually damages the credibility of the organization that's arranging the service delivery.

The people on a corporate health-and-wellness decision team need to respond effectively to real needs and wants.

This team must include management, workers and administrators, as well as a consultant who can assist in fostering the team's development—



THE GENERATION TRANSMISSION
Each generation (and each individual) has a unique perspective on the organization, and on what others think about their needs and wants. All four groups have diverse expectations, different ways of working.

scribe the formation of a great team: "The executives who ignited the transformations from good to great did not first figure out where to drive the bus and then get people to take it there. No, they first got the right people on the bus (and the wrong people off the bus), and then figured out

beginning with an effective gap-analysis, right through to the evaluation of the programs in place. That way, the ROI is clear to the employer as well as to the workforce.

Intergenerational: Continued on page 15 →

② ASSESS THE FIRM'S CULTURE

Historically, data mining and assessment tools have used rigid measurement techniques that produce ambiguous results. The outcomes are subject to interpretation and call for repeated "necessary" follow-ups. Unfortunately, these assessment techniques do not fully identify your company's needs, wants, strengths and weaknesses.

The tools used to assess the organizational culture must consider multi-generational perspectives, and provide measurable, clear information about the areas a firm should target, in order to provide the most significant return on investment, and to ensure employees are engaged.

③ DETERMINE WHAT MEASURES PAY OFF IN INCREASED ENGAGEMENT

The advent of the post-industrial era changed the workplace dramatically for many Canadians. For them, the information era largely shifted the focus from physical labour to hours of computer work.

The market is fluid, with employees leaving firms to join their competitors more often than before. Many Gen-Xers and even more Millennials investigate prospective employers for health-and-wellness programs.

They consider these services a necessary part of their employment package, and will continue to increase their expectations as they learn more about the available services. On the other hand, Baby Boomers and Traditionalists, until recently, rarely had such services, if ever, and tend to view the offerings as luxuries or perks.

Interestingly, it is commonly a Traditionalist or Baby Boomer making the company's decisions about implementing such programs. Here lies the problem: many Gen-Xers and Millennials see responses to their needs determined by those who tend to view health-and-wellness programs as a perk, not as a necessity. A well-designed program may be a perk, but it also provides significant, measurable financial benefits to the

company, so it's hardly a luxury.

The solution to this problem is simple: decision makers of any generation can confidently identify the particular ROI for the desired services by using a consultant familiar with measuring the results of various program initiatives.

Everyone wins. The employees are healthier, more productive and happier, while health-related expenditures and losses due to presenteeism, the opposite to absenteeism but which can have just as substantial negative effect, are decreased.

④ ADD AN ELEMENT OF FRIENDLY COMPETITION

There are always one or two people in a firm everyone recognizes as competitive. Perhaps the firm could foster a few more. Creating friendly competition within the workplace often works well.

Such competition must be focused on personal and company goals, though.

For instance, try providing incentives for the "top-performing" person, or for the "most improved" man and woman to reach the goal of, say, a 10% overall improvement in one's personal health and wellness performance from a previous baseline.

⑤ CREATE A COLLABORATIVE WORKPLACE

Many junior associates express a strong desire for increased emphasis on effective mentoring.

Millennials, for instance, seek collaborative workplaces and appreciate the wisdom shared by more senior employees. A company could

provide modest financial incentives and a recognition program for in-house mentors. People need to know they are valued, and appreciate honest recognition for their efforts.

Matching good mentors with the right juniors can be expected to benefit the firm, the clients, and all the workers, if only by improving the transfer of knowledge.

This fosters the development of an

Intergenerational: Continued on page 16 →

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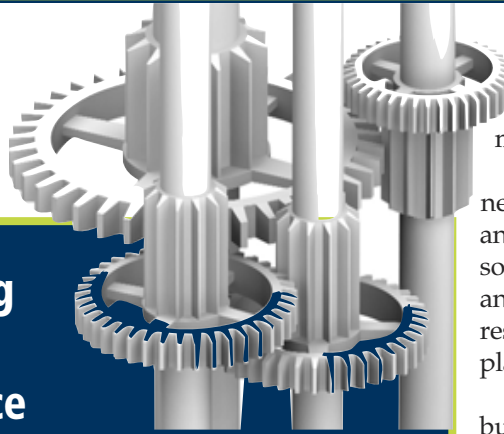
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optimal workplace that increases the company's ability to grow, change—and prosper.



“While accommodating the needs of a four-generation workforce does pose certain challenges, it also creates an unprecedented opportunity. Never before have younger generations been so well poised to learn from their older peers. Supporting the exchange of that knowledge is essential.” — Terry West, 2007

© INCREASE ORGANIZATIONAL IDENTIFICATION

Organizational identification is the degree to which a member defines themselves by the same attributes that they believe define the organization, according to research by J.E. Dutton et al., in their 1994 paper *Organizational Images and Member Identification*. Associates at a firm increase their organizational identification when they feel that the organization considers their needs and wants when setting goals.

There are many initiatives a company can adopt that will resonate with its workforce. For example, consider what corporate social responsibility means to the workforce.

How can the company fulfill its mission, vision and core values while enhancing employee commitment?

The contemporary workforce is increasingly cognizant of the value of corporate social responsibility (CSR). It is becoming apparent that fostering a balanced social, environmental and economic community enhances a firm's culture, while providing a significant return on investment.

A firm's first priority may be to provide exemplary service to its clients, but it must also have a sincere commitment to the personal and professional

growth of its employees, while expecting responsible and ethical work practices in return. When a firm is committed to business practices that are both socially and environmentally responsible, attracting and retaining employees who value these practices will reap quantifiable rewards.

For example, we know that companies that develop strategies to choose sustainable products and processes to reduce their carbon footprint, and seek to create partnerships with like-minded companies, attract innovative workers who broadcast these initiatives proudly. That positions the company as a CSR leader.

Well-integrated health-and-wellness initiatives enhance the profile of a company in a similar fashion, and, as many associates seeking a potential employer know, they also increase the attractiveness of a firm's offer of employment substantially more than that of a competitor without such services.

Conclusion

We would all love to wake up in the morning feeling eager to work, strongly identifying with our work's organization and initiatives. Most of us value the diverse perspectives of a multi-generational workforce. We are

optimistic that, with the right team to champion a cause, we can move from good to great.

It is vital that companies assess the needs and wants of their employees, and be open-minded about the resources available to them for recruiting and retaining outstanding talent. A key resource is a comprehensive workplace health-and-wellness program.

I urge you to commit to seeing your business benefit, fiscally, socially, and culturally, from such programs, and work for the day when health and wellness programs that are proven to enhance employee well-being and organizational excellence are no longer viewed as luxuries, but necessities ■

Antonio Zivanovic is President of Corporate Occupational Solutions Inc., a workplace health & wellness services provider. Prior to launching his own firm, Antonio was a consultant for leading public and private sector firms across Canada. E-mail him at antonio@cosinc.ca or visit his website at <http://www.cosinc.ca>.

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YOU BE THE JUDGE

BY PAULA BUTLER, LAWYER

Here's the case we posed to you last issue, followed by a selection of responses from the members of the BCLMA. On the right is a new scenario for you to judge, and, below it, are instructions on how to let us know what you would do in that situation.

Bonus! Three respondents will be randomly chosen to receive a \$10 Starbucks card. Your response remains 100% anonymous *unless* you attach your E-Business Signature with your text. Even if you identify yourself to us to be entered into the draw, your participation will remain anonymous to our readers. We won't publish your name, neither as a respondent nor as a winner.

Paula Butler is a sole practitioner who specializes in labour and employment law from her office in West Vancouver.

THE CASE OF BEATRICE & JIM

You are the Accounting Manager at Dunhill & Gideon, Barristers & Solicitors. Last September, you hired Jim Johnson, a young accounting clerk. Jim reports to Beatrice Allison, who is known to be a tough and demanding supervisor. Beatrice starts complaining about Jim almost right away, saying that he is "slow and lazy." You can tell by Jim's demeanour at work that he is not happy, and that he seems to resent Beatrice. Today, your assistant came in to your office to tell you to look at a web address which turned out to be for Jim's blog. On the blog, you see that the latest entry is titled "Working at Dumbbell and Idiot, Barristers & Solicitors." The entry is Jim's description of working at a "sweatshop" with a bunch of "boneheads" at "Dumbbell and Idiot." Jim also writes a paragraph about being a "slave" to his "bitch" of a boss, "Beatus Allthetime" who makes his life miserable. It is clear to you that anyone associated with the legal community would know exactly who Jim talking about.



Beatrice, you and your assistant look at Jim's blog

YVONNE BOGDANSKI

What do you do in this situation?

RESPONSE: OFF WITH HIS HEAD

I would probably look to fire Jim with an appropriate severance relative to "last September." While Beatrice is demanding, she is likely more key to operations than Jim,

The case of: Continued on page 20 →

Our new scenario—tell us what you'd do in:

THE CASE OF JOHN & THE BOTTLE

John Jones has been the Director of Finance and Administration for 17 years.

As the Human Resources Manager, you have worked with John for 12 years, and have had an excellent working relationship with him.

Lately, John is often late for work, and you have noticed that many of the things that he usually does are either not getting done or are done late. This week alone, he missed the Monday morning administration meeting without any explanation, and forgot to tell the Finance group that the auditors were coming in on Wednesday.

Over the last few weeks, you have noticed that he has been going for long lunches and coming back to the office smelling like alcohol. This morning, when you rode up on the elevator with John, you noticed that he was wearing the same clothes that he had on yesterday, and that he smelled like alcohol.

What do you do in this situation—and what does the firm do?



CRAIG WACTOR

John was wearing the same clothes he had on yesterday, and he smelled of alcohol

HOW TO BE OUR JUDGE

TO RESPOND: WWW.BCLMA.ORG

This feature of Topics, compiled by Vancouver lawyer Paula Butler, is designed to get you thinking about workplace scenarios that might happen—or have happened—to you.

Read the case above, aimed at challenging your management ability. Then, click here <<http://www.BCLMA.org>> to go directly to the BCLMA website. On the home page, click on the **Respond to Topics Scenario** button to arrive at the You Be The Judge response form. Describe how you would answer the question at the end of the scenario. **Submissions are 100% anonymous. Neither sender's name nor the firm's name will be revealed to the editors—only your response.** Next edition, we'll print a selection of your anonymous responses—and provide a new scenario.

How to get rid of that pesky, *&\$#(@% client

BY KEVIN LAWRENCE
SYNERGY GROUP

One of the most predictable, sure-fire ways to get a room full of professionals and business owners to sweat is discussing the firing of a client who drives them crazy.

Some clients cost more than they could ever pay in fees. We have all had these types of clients. Managers of professionals and business owners agonize over what to do about them, because it is a painful situation that we will do almost anything in our power to avoid.

Remember that while firing a client is a tough thing to do, continuing to work with an abrasive, rude, fee-grinding, unappreciative, unethical or incompatible client is much harder on you in the long term.

You know the stress these clients create for you and your firm. The truth is that they are not worth the stress and you know it, but you keep hoping they will just go away on their own.

If that happened, you would not be reading this article, and I would not be spending many hours each month helping people rid their firms of these problem clients.

There is good news. Firing a client is not always necessary. In some cases you can raise the bar, setting higher expectations with them, but that's a topic for another day.

Instead, let's say it like it is: you're at your wit's end, your teeth are clenched, and now it's time to bite the bullet, take your medicine, shiver your timbers or whatever other bon mot gets you through it.

There are respectful, professional ways to fire clients, and here are some of them:

RELIEVING YOUR FIRM OF CLIENTS YOU CAN NO LONGER WORK WITH

Stage One—Never fire as the first step

Be sure you've raised the bar first,

or fired a warning shot or two. The most important part of this process is to ensure that you have been fair and professional with the client. That means letting the client know your expectations, and that they are not being met.

In most cases, you or others in the firm are frustrated with the behaviour of a client and, out of frustration, want to end your relationship with them. The problem is that usually the client does not know that their behaviour is unacceptable.

The client's methods of getting results may include complaining in order to get their invoice discounted, paying only after numerous reminder calls, dropping off work without adequate time to complete it, and generally being rude to the staff. And, because they've been doing the same thing over and over for the past several years, without anyone ever suggesting that the behaviour was a problem, the client assumes things are fine. The only one to blame is you, not the client.

There is only one solution to this dilemma. Let the client know the expectations that are not being met and give them a chance to meet them. Provide your expectations in writing. If the client does not reasonably meet your expectations, move on to Stage Two. (There are some situations where you may skip Stage One altogether, such as those involving criminal activity.)

Stage Two—Firing should never come as a surprise to the client

Just as with an employee, termination should never come as a shock, unless a criminal or unethical act has been committed.

After the client has been given an opportunity to improve (*Stage One*), then you can actually consider ending the relationship.

There are two styles to ending a relationship:

- ① The *You're fired!* approach made popular by Donald Trump, and
- ② The *We are not meant to work together* approach preferred by people like us.

Now, I'm not suggesting that Mr. Trump's approach does not work. It is just not an approach that most professionals I work with would be comfortable using. I think that is a good thing.

The *We are not meant to work together* approach is effective because it relies on honesty and being straightforward. We are bombarded with people telling us what we want to hear because they want something from us. Honesty is surprisingly refreshing. This



MICHAEL POPIEL

method allows people to resolve problems with respect and professionalism.

STEPS FOR TALKING TOUGH

What I want to convey is that it is essential to speak personally with the client. No letters in the mail allowed at this point. That is not respectful.

Ideally, meet your client face to face or, failing that, speak with the client on the phone. Why? Because it can save you a ton of headaches.

One practitioner I know tried the "mail and pray" approach to firing a client. The client became so angry at getting fired via a letter, he filed an ethics complaint. That was a mess.

FOUR STEPS TO CONFLICT RESOLUTION

- ① *Get permission:* Ensure clients have time to talk, and pay attention when you make contact.
- ② *The facts:* Stick to the key aspects of the situation involving the two of you.

Firing that pesky client: Continued on page 19 →

→ *Firing that pesky client: Continued from page 18*

③ *How you feel:* Tell the client about the dilemma and the discomfort you face.

④ *Resolution:* Communicate clearly how you see the relationship ending.

This is a simple and effective approach to resolving client conflicts.

Now I'll share a few different situations and what the conversations may sound like when applying this approach.

Situation 1

Your client continues to not pay their invoices on time, and you no longer want to argue about getting paid.

Step 1—Permission

"Hi Sally, it's Jane, your _____, calling. Do you have a couple of minutes to talk?"

Step 2—The Facts

"Jane, every month we do work for you, and then we spend valuable time following up with you for payment. We spend even more time negotiating our invoice, and end up giving you a discount."

Step 3—How You Feel

"I must tell you, I find this exhausting. I just can't do it anymore. I

find it stressful and I assume it is not fun for you either."

Step 4—Resolution

"I have decided that it's best for you to find another law firm to work with. This is not working for either of us. We are obviously not meant to work together if all this negotiation is required for us to get paid. To be honest with you, it is too stressful for me. I like you, but our business relationship just doesn't seem to work.

"The only other option is to have you pay in advance. I am not sure if you will find this a reasonable arrangement, but it is the only way it will work for me. How would you like to handle this?"

Situation 2

A client keeps asking you to do things that you are not willing to do for ethical reasons.

Step 1—Permission

"Hi Steve, it's Jack, your _____. Do you have a couple of minutes?"

Step 2—The Facts

"Steve, over the past year in working with you, it's become clear that we have two very different takes on _____. You really want me to push, and do things that are much more aggressive than I am willing to

do. It is just not my style."

Step 3—How You Feel

"I must tell you that it really causes me anxiety because, while I do want to help you, at the same time I have to stick with my principles. I need to feel comfortable with my name on the work I do for you at the end of the year, and I have to be able to sleep at night."

Step 4—Resolution

"I am calling today to suggest you find another law firm, one that's a better fit with your style of dealing with the situation; a firm that's more willing to look at things the way you do. I just don't think that's us. We are going to continue to bash heads and have conflicts. From my side, I don't think it is worth continuing our business relationship."

Situation 3

A client has moved into a business that is more complicated; it requires expertise you do not possess.

Step 1—Permission

"Hi Sam, it's Brian, your _____ calling. Do you have a minute to talk?"

Step 2—The Facts

"Sam, it's wonderful to see how

Firing that pesky client: Continued on page 20 →

MAKING THE MOVES...

BCLMA Full Members who have moved and joined the following Vancouver firms:

Marian Verdicchio, Roper Greyell... Paula Keiss, McCullough O'Connor Irwin... Jan Whyte, Murphy Battista... Jill Fitzpatrick, Burns Fitzpatrick Roger & Schwartz... Jemmie-Lee Harris, Pacific Law Group

NEW MEMBERS

We welcome the following professionals to the BCLMA:

Human Resources: Susan Olar of the BC Court-house Society; Erin Minter of Blakes; Megan McAllister of David; Esther Van Leening of FH&P Lawyers; Reshmi Naicker of McCarthy Tetrault, Wilma Chen, new HR Manager at Watson Goepel Maledy LLP; Robbin Myers, new Payroll & Benefits/HR Support Administrator Oyen Wiggs Green & Mutala LLP... **Finance:** Carmen Arndt of Lindsay

Kennedy... **Facilities & Services Management:** Joyce Anoyo of Fasken Martineau; Clint Baker of Whitelaw Twining... **Technology:** Heidi Blaker of Waterstone Law Group; Marilyn Browne and Samantha Dublin of Clark Wilson; Peter Smith of Lang Michener... **Trainers:** Sabrina Menzies of Davis; Carey Nasu of McCarthy Tetrault... **Marketing:** Rob Golbeck and Suzanne Van Der Pauw, both of Clark Wilson; Simone Fell of Fraser Milner; Deanne Button of Davis...

Correction: Due to an editing error, some New Members were mistakenly listed as New Subsection Leaders in the previous edition, causing some general confusion (not to mention a couple of people new to us who were startled by our apparent method of choosing 'volunteers', and a couple of old hands wondering why they were suddenly relieved of their positions!). Our apologies to all those inadvertently involved.

The list of the Subsection Chairs and Co-Chairs as of the date of publication is always on the last page of each Topics. You can also go to our website's home page, and click on the Board of Directors link for the latest list. ■■

→ *Firing that pesky client: Continued from page 19*

your business is thriving. I am thrilled for you. The challenge for me is that your business now requires expertise that is beyond the scope of what our firm is comfortable doing.”

Step 3—How You Feel

“This is not a fun conversation to have because I like you and enjoy working with you. But I truly feel that we would be doing you a disservice if we continue as your law firm. I believe there are other professionals who could do a much better job for you because their expertise better meets your needs.”

Step 4—Resolution

“I would like to direct you to two or three other firms that you can check out for yourself. They would be able to provide more value for you by meeting

the future needs of your company.”

SUMMARY

The key to letting a client go is to be respectful and professional. Remember to raise the bar with the client so it is not a surprise when you actually have to fire them.

Use the *Four Step Conflict Resolution* model to communicate the facts without placing blame.

Explain the situation that has led you to conclude that the two of you are not meant to work together.

One final reminder: if you are unsure about this approach, get help. Eliminating a contrary client from your practice will do wonders for your morale, productivity, and will make room for more ideal clients.

If you are not comfortable doing it on your own, contact a member of the

BCLMA’s Mentor Program for tips, or consider hiring someone like me for coaching. Whatever choice you make, you deserve to have quality clients. I wish you all the best.

Critical note:

If you have any concerns that there could be a backlash (i.e. a lawsuit or ethics complaint) as a result of firing this client, be sure to contact an advisor at your industry association or another professional such as a lawyer for help *before* you take action. ■

Kevin Lawrence is a business coach, speaker and agent of change, who is driven by a relentless passion for helping entrepreneurs and business leaders get what they really want, in business and life.

For more information, call 1-877-564-6224, or visit www.coachkevin.com

→ *The case of Bernice & Jim: Continued from page 17*

and it is simply not the right fit for him and Beatrice. I would not even mention the blog during the termination meeting.

Hi, this is Paula. Terminating Jim’s employment with payment in lieu of notice is quick way to deal with the situation.

However, if you don’t mention the blog at the termination meeting, there may be more negative material posted regarding your firm.

Also, if you terminate Jim’s employment without finding out more information about his dissatisfaction, you are missing an opportunity to learn more about what is happening in the accounting department.

RESPONSE: JIM! WHAT’S GOING ON?

I would bring Jim into my office privately and tell him that I am aware of his comments on his blog, and I would ask him for an explanation.

I would explain to him that no matter what his feelings were for Beatrice that it is inappropriate to make such statements in a public forum like a blog.

I would also explain to Jim that his remarks have tainted the entire firm, which was probably not his intent.

I would then ask him to remove the comments on his blog immediately. Assuming he is willing to do this I would then ask him to give me a couple of days to deal with the problem.

I would then call in Beatrice and get her reaction to the blog and to comment on Jim’s negative comments about her.

What happens from here depends on whether Jim is willing to provide a retraction, whether Beatrice is willing to work things out with Jim and whether either one of them will demand action. Beatrice needs to understand that by firing Jim outright will likely invoke further damaging comments on his blog and we want to avoid that if possible.

As a follow-up after this matter is settled, I would call a staff meeting to discuss and hopefully encourage all staff that my door is always open, and they should come to me or the managing partner before they slander the firm or any member of the firm in writing.

This is an excellent response. Jim has to be told that his blog comments are inappropriate and that they need to be removed immediately.

It may also be appropriate to advise Jim in writing of the inappropriate nature of his actions, to emphasize the importance of the issue, and to ensure that if

he continues with this behaviour, you are in a better position to fire him for cause.

It may also be true that Beatrice needs to modify her management style, and that Jim needs to work on his performance issues.

Providing Jim and Beatrice an opportunity to work out their differences, either with the help of you or Human Resources, may assist with these issues. However, if they are unable to work them out, you will at least find out more about each employee during that process and will be better able to make decisions about further actions, including further training or terminating the employment of one or both of them.

Following up with all staff is also a good idea. Some employees may not realize that communicating about their employer in a public forum like the Internet is not acceptable, and is also grounds for discipline and potentially termination of employment for cause.

LOOK AT OUR NEW SCENARIO

Your comments and responses help all of us better understand our workplace.

Don’t forget to read the *Case of John & The Bottle*, our scenario for this issue, on page 10. Let us know your suggestions about how you would solve that workplace problem, and we’ll provide your comments in the next issue of *Topics*. ■

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