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BC Legal Management Association

Topics

A newsletter to help our members and partners
stay current with the business of law ♦ Winter 2009/2010

LET THE OLYMPIC OFFICE GAMES BEGIN

Vancouver law firms brace for two-week Olympic business challenge

By Mike Bowerbank of Topics

I truly admire the talented athletes who will push themselves to their limits for the 2010 Olympic Winter Games, but even their efforts may pale in comparison to what some businesses may have to go through to keep their offices running if they don't do a little planning in advance.

The last North American city to host an Olympics was Salt Lake City in 2002, and due to its attention to detail and organization it was able to host the games with minimal disruption.

I was fortunate to exchange emails with some helpful people in Salt Lake City and they generally were of the mind that most of the worry was for nothing.

"My news station and many other businesses in Utah staggered employees' work schedules so that they could avoid major traffic jams on the highways during the Winter Games," Jennifer Bolton of Utah's ABC affiliate wrote me. "I must say that I felt our city's Olympic Organizing Committee was well prepared for the crowds and that made the whole Olympic experience enjoyable whether you were going to the events or just going to work."

When asked about his greatest human resources challenge during the Olympics, Mitt Romney, who was the head of the Salt Lake Olympic Organizing Committee, said:

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WORKPLACE POLICIES INCREASINGLY DEPLOYED

How social media affects the way business is being done by law firms

By Doug Jasinski, LL.B.,
Agency Principal
Skunkworks Creative Group

Social media has emerged in the past year as an area of significant interest in the legal sector, in part because it affects so many different aspects of law firm operations. Consider these.

Internal Operations:

- ✓ *Human Resources* – Law firms are recognizing the importance of developing internal workplace policies regarding appropriate Web 2.0 behaviour, and addressing privacy, confidentiality, productivity and reputation management issues
- ✓ *Information Technology* – I.T. departments are being tasked to assess and manage risks associated with malware and network speed capacity
- ✓ *Knowledge Management* – Progressive firms are exploring ways to use social media technologies to source and manage relevant legal and business intelligence information more effectively within the organization

Client-, Stakeholder-Facing Ops:

- ✓ *Labour & Employment Advice* – Business clients are wrestling with the same internal human-resources issues law firms are facing, and will increasingly

Can you solve this bottle o' trouble? See Paula Butler's latest HR case challenge, "Double Trouble", on page 6



look to their legal counsel for guidance on social media best practices

- ✓ *Litigation Evidence* – News reports continue to accumulate of trial proceedings being affected by social media evidence, such as *Facebook* entries posted by a litigant that are at odds

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ing Committee at the time, replied that it was “the dilemma, constant discussion, and worry about what to do. Close school, not close school. Have subs, allow people to take time off or not. It was all a worry for nothing. The activities were extremely organized, parking areas and shuttles didn’t create any traffic issues.”

So then, does this mean the 2010 Olympics will be as smooth as the bobsledding track? Not so much.

Comparing Vancouver to Salt Lake City is akin to comparing figure skating to ice hockey. Vancouver is the largest city ever to host a Winter Olympics. Salt Lake City is only the size of Burnaby, around 197,000 people.

Greater Vancouver is 10 times that. Getting in to work in Vancouver might seem more like a triathlon than speed skating.

THE EMPLOYEE DASH

Vancouver: 2 million people, 600,000

cars, and only six major roads into downtown (if downtown is the city’s heart, then it should have gone into cardiac arrest and keeled over by now).

Our city’s infrastructure was overburdened *before* the Olympics, so you can imagine what it may be like with the Winter Games in town, even if organizers get their 30% reduction in vehicle traffic in the Vancouver core.

SECURITY HURDLES

This entire event requires commuters to get through traffic to downtown, and then get past all the venue security.

Paul Jackson, from one of the largest employers in Utah, Intermountain Health Care, told me the biggest delays for them in 2002 involved security.

“Security was unbelievable. Large office buildings boarded up one side of the elevators and security was on the other side. Everyone going in was checked. Many office buildings saw this happen. Anticipate 10-15 minutes

to get through security.”

SPEED SCHEDULING & SHIF TJUMPING

Employers participating in this race will see their staff skipping work or calling in sick to take in the more-exciting Olympic events.

Add into the mix those staff members who booked vacation days during the Games and you could have a nearly empty and unproductive office.

CROSS COUNTRY PLANNING

Imagine this scenario: Your client flies in from back east and spends several hours just getting through airport line-ups and security.

Your manager is delayed picking him up too, by heavy traffic. Security has those “mirrors on wheels” checking his car, and his vehicle’s trunk is being inspected, even though he is only picking someone up!

Worse, when the client arrives at your office, none of the people he is supposed

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Olympic Office Games → from Page 2
to meet with have made it in to work yet.

YOUR GOLD MEDAL SOLUTIONS

In all cases, the easiest solution is simply to plan ahead. Leave for the airport an extra half hour earlier than normal. Alert your clients and anyone else flying into town to anticipate delays. March 1, the day *after* the Olympics Closing Ceremonies, when everybody connected with the Games is trying to get out of town at the same time, is expected to be the worst day, according to YVR officials.

Stagger your employees' hours to ease commuting woes. Put a number of staff on the 7-3 shift (Games business workshops are recommending 7-2) and others on a 10-6 shift, thus minimizing exposure to Olympic peak periods downtown of noon to 6 pm between February 12-28 because the Games's focus in Vancouver moves to Hillcrest for curling and UBC for sledge hockey – the only two venues in use for the Paralympics in Vancouver after the Paralympic Opening Ceremonies occur at BC Place March 12. Some executives should try working from home if they can.


Ask everyone to factor an extra ten minutes into their commutes for the extra volume and possible venue-area security hassles. Remind people this is a short-term inconvenience.

The eyes of the world are upon us and we should all try to be patient and show off our world-class hospitality.

Encourage employees to attend Olympic events in the evenings and weekends. Perhaps put a television in the staff room so people can watch events during their lunch hours and breaks.

Consider bringing in snacks and specialty coffees to help offset any extra stress felt by the staff. They will welcome daily treats.

Remember, the problem is not only in your office, but everyone else's too, including your clients and suppliers.

By making a lot of simple and sensible adjustments in advance, the Olympics will come and go with little or no business disruption. With the stress removed from the Olympic Games, you can actually take some time to enjoy them. 

Olympic Office Games → from Page 1

with their testimony

- ✓ *Trial Management* - Canadian courts have allowed social media to report trials in specific cases, substituted service of court documents in part via *Facebook*, and there are numerous reports in the American context of jurors using social media tools such as

Twitter to comment directly on proceedings, resulting in mistrials in some cases

- ✓ *Marketing* – Law firms are adopting a wide range of social media tools to differentiate and position themselves in the legal marketplace. Legal blogs have become a relatively mainstream phenomenon, with more than 25% of the AMLAW 200 firms currently blogging. LinkedIn shows significant growth in usage among the legal community. The JD Supra website is gaining recognition as a legal-document portal where lawyers and firms can extend the reach of their intellectual property. Several other new social-media platforms specifically geared to the legal community have also emerged in recent years

- ✓ *Recruiting* – Law firms are devoting resources to maintaining a presence on sites such as Facebook, including some specifically oriented towards student recruitment.

CHALLENGE AND OPPORTUNITY

A 2009 survey by Deloitte LLP entitled *Social Networking and Reputational Risk in the Workplace* lays out some eye-opening statistics regarding social media in the context of the workplace: 74% of employees surveyed feel it is easy to damage a company's reputation on social media. Answering other question, 58% of executives agreed that reputational risk and so-

cial networking should be a boardroom issue, but only 15% say it actually is. Less than a quarter of executives (22%) indicated that their company has formal policies in place dictating how employees can use social-networking tools.

These results suggest that social-media issues will likely continue to grow in importance for law firms as an area of

business opportunity, assisting clients in structuring appropriate workplace policy around these new technologies, and dealing with the consequences flowing from widespread use of social-media tools both within and external to client organizations.

IGNORE AT YOUR PERIL

The instinctive reaction to the identified risks of social media for most lawyers might well be to give tools like *Twitter*, the micro-blogging platform, a wide berth indeed. However, others see opportunity, and are rapidly embracing these new tools. Lextweet.com, a website developed by a leading American law blog development company to track use of Twitter in the legal community, counts more than 5,000 lawyers and legal professionals – in-house legal marketing staff, law librarians, etc. – in its database.

A survey conducted on behalf of *Forbes Magazine* suggests that these lawyers are in sync with a younger generation of business executives who have adopted social media tools much more rapidly than their older peers. The survey – *The Rise of the Digital C-Suite: How Executives Locate and Filter Business Information* – polled over 350 senior executives from American companies with annual sales exceeding US\$1 billion. Over half of executives under 40 reported using Twitter daily or several times a week. One passage from the *Forbes* study summarizes the divergence between these older and younger

74% OF EMPLOYEES REPORT IT'S EASY TO DAMAGE A COMPANY'S REPUTATION ON SOCIAL MEDIA, WHILE 58% OF EXECUTIVES SAY REPUTATIONAL RISK AND SOCIAL NETWORKING SHOULD BE A BOARDROOM ISSUE, BUT 15% SAY IT IS.

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executives very well:

Ask older executives how they feel about Web 2.0 tools, and they're likely to dismiss them without a thought. Asked about Twitter, the chief legal officer for a major U.S. energy company and a member of Generation Wang [50+] gives a simple, "Frankly, I don't see the business value in it."

Meanwhile, Zappos's CEO [Tony] Hsieh, who at 35 is at the heart of Generation Netscape, jumps at the chance to use these tools. "We have over 400 employees on Twitter, and we've created a website that aggregates all mentions of Zappos [an online shoe and clothing shop]."

The workplace value of the tool, says Hsieh, is that it can be harnessed "to help build and enhance our company culture."

Hsieh maintains that it is important for his company to embrace cultural phenomena such as Twitter, blogging, or social networking because "our belief is that our culture and our brand are really just two sides of the same coin." The brand may lag behind the culture, he explains, but eventually everything catches up. "The world is becoming more and more transparent whether companies choose to accept it or not." At Zappos, says Hsieh, "We've decided that we want to embrace transparency as much as possible."

As social media technologies continue to increase their influence on how information is generated, disseminated and acted upon at all levels of society, the key insight for lawyers and law firms is the need to turn focused attention towards first understanding these new tools, and then assessing which of them are relevant for the particular needs or objectives of the specific lawyer, law firm, case or client in question. Adjacent is a suggested reading list of relevant materials including social media research, workplace policies, ethical guidelines and articles I've found to be of particular value. 

Doug Jasinski is the Agency Principal at Skunkworks Creative Group (www.skunkworks.ca), a boutique professional services marketing agency with a primary focus on marketing for the legal profession. Prior to founding Skunkworks, Doug practiced law for five years in the Vancouver market, first with a large downtown law firm and later with the City of Vancouver's in-house law department. He can be reached at: Doug@Skunkworks.ca

More to Explore:

Social Media Research

Deloitte LLP 2009 survey on social networking and reputational risk in the workplace
http://www.deloitte.com/dtt/cda/doc/content/us_2009_ethics_workplace_survey_220509.pdf

Leader Networks on behalf of LexisNexis Martindale-Hubbell: 2009 Networks for Counsel Study
http://www.leadernetworks.com/documents/Networks_for_Counsel_2009.pdf

*Forbes Insights – The Rise of the Digital C-Suite:
How Executives Locate and Filter Business Information*
http://www.forbes.com/forbesinsights/digital_csuite/index.html

ABA Law Practice Magazine (March 2009) :
Online Social Networking - Is it a Productivity Bust or Boon for Law Firms?
<http://www.abanet.org/lpm/magazine/articles/v35/is2/pg28.shtml>

Business, Government and Legal Articles:

Forbes Magazine - A Corporate Guide for Social Media
<http://www.forbes.com/2009/06/30/social-media-guidelines-intelligent-technology-oreilly.html>

Office of the Privacy Commissioner of Canada (Multiple Articles):
http://www.priv.gc.ca/information/social/index_e.cfm

Deacon's social-media spotlight:
<http://www.deacons.com.au/news-updates/search/eyelevel/>

CNW Group - Canadian Law Firms and Their Use of Social Media
http://www.newswire.ca/en/extras/custom/mediaroom/CNW_LawFirms_SM.pdf

Social Media Policies for the Workplace:

20 things law firms need to have in their social-media guidelines:
<http://virtualmarketingofficer.com/2009/03/19/20-things-law-firms-need-to-have-in-their-social-media-guidelines/>

30 sample social media policies
<http://123socialmedia.com/2009/01/23/social-media-policy-examples/>

Jaffe Associates: Social Media Policy Template:
http://www.jaffeassociates.com/pages/articles/view.php?article_id=330

Doug Cornelius: Blogging/Social Media Policy for a Law Firm:
<http://www.jdsupra.com/post/documentViewer.aspx?fid=44b6b9e9-d303-4399-ba73-47076fc6e592>

Ethical Guidelines:

Canadian Bar Association (August 2009): Your presence in the E-world - Guidelines for Ethical Marketing Practices Using New Information Technologies:
<http://www.cba.org/CBA/activities/pdf/ethicsguidelines-eng.pdf>

LAST-MINUTE CHECKLIST FOR OLYMPIC GAMES-TIME OPS

BCLMA's Human Resources Section offers best practices for handling your firm

By **Kimberly MacMillan, Co-Chair, BCLMA Small Firms Section, Simpson Thomas & Associates**

The meeting of the BCLMA's Fall Human Resources subsection shared best practices to meet client needs of law firms during the 2010 Winter Olympics.

Firms in the downtown core of Vancouver and Whistler are primarily affected, and for the most part only during the Olympic portion of the Games, from February 12-28. However, there are some implications for firms throughout the Greater Vancouver area.

Here are the highlights discussed at that meeting to help all firms maintain business operations throughout this historic event.

BUSINESS & WORK HOURS

- ❑ Flexibility with hours to allow for transportation delays
- ❑ Compressed work days to allow for less days per week (e.g. 12-hour days for three days a week)
- ❑ Some firms will opt for a shorter work day (8 am – 4 pm)
- ❑ Fewer mediations, trial and X4D have been booked for this period
- ❑ Firms are willing to have lawyers commute to drive to meet the client during this period when necessary so clients can avoid the downtown core
- ❑ A few firms plan to close early or for the entire day for the opening ceremonies Friday, February 12 (the closing ceremonies are on Sunday, February 28).

TRANSIT OPTIONS

- ❑ Firms will assist staff with the organization of carpools to reduce the number of vehicles on the road
- ❑ Olympic lane closures and parking restrictions will be posted on intranets

WORK FROM HOME

- ❑ Allowing lawyers and staff who are

usually required to be in the office to work from home through remote log-in.

VACATION TIME

- ❑ Encouraging employees to take time off during those two weeks
- ❑ Allowing employees to take time before it is actually accrued
- ❑ Allowing extended leaves for those who have volunteered (unpaid or vacation time).

SUPPLIERS, VENDORS & BANKS

- ❑ Most companies have indicated that it's business as usual, and have obtained the proper permits for the high-security zones
- ❑ Some firms plan to stock up on supplies early so they can minimize deliveries
- ❑ Increased use of e-filing
- ❑ Altered schedules for regular courier and bank runs.

EMERGENCIES

- ❑ Pandemic/Emergency plan in place to communicate with staff
- ❑ Offsite replica server in case of power outages.

SOCIAL

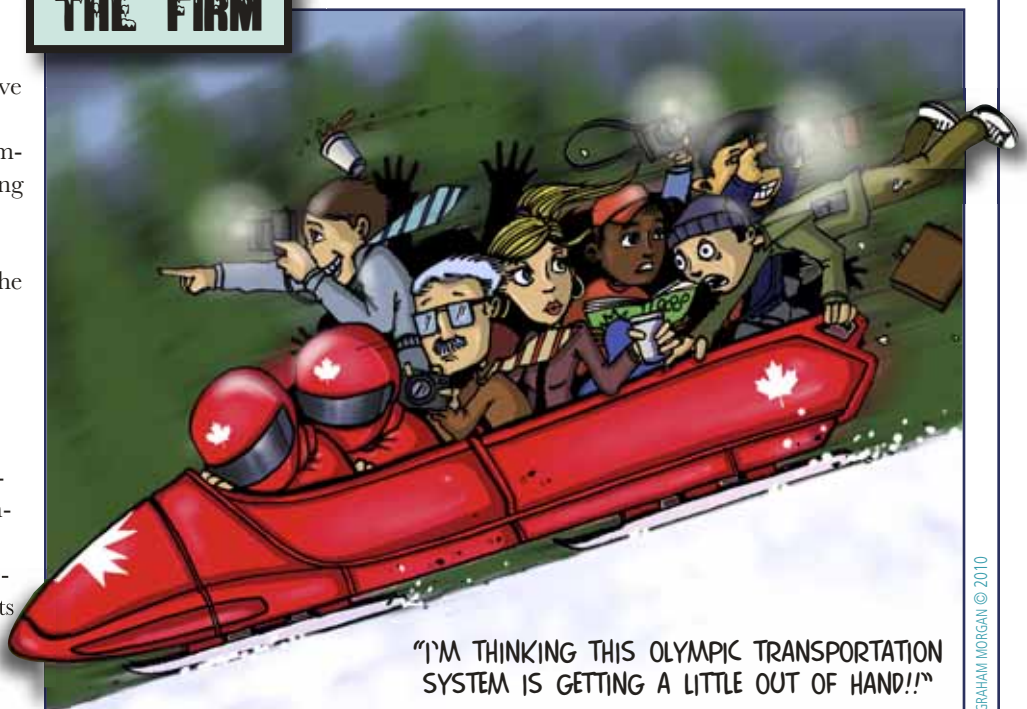
- ❑ Olympic-themed events throughout the two weeks
- ❑ A designated room with telecasts
- ❑ Special website with Olympic updates, traffic delays, etc.
- ❑ Casual dress for the two weeks of the Olympics.

IMPORTANT DATES & FACTS

- Olympics:* February 12 - 28
- Paralympics* March 12 - 21
- Transit:*
- ✓ SkyTrain, which now runs about every 2 to 2.5 minutes on the Expo line and 3 to 5 minutes on the Millennium line, will provide service at just under 2-minute intervals. There is also a plan to add 48 new train cars.
- ✓ The West Coast Express will offer six additional trips on weekdays and a third SeaBus will be added.
- ✓ An additional 180 Translink buses will

Olympics Checklist → to Page 7

THE FIRM



"I'M THINKING THIS OLYMPIC TRANSPORTATION SYSTEM IS GETTING A LITTLE OUT OF HAND!!"

GRAHAM MORGAN © 2010

YOU BE THE JUDGE

By Paula Butler, Lawyer

Below is the case we posed to you last issue, followed by a response from within the BCLMA. On the right is a new scenario for you to judge, followed by instructions on how to let us know what you would do in that situation.

Bonus! A respondent will be randomly chosen to receive a \$25 gift certificate to Chevron. Note that 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 Peter's anger

Peter has worked as a lawyer at Whittaker, Sturgeon for 12 years. Over the last year, his behaviour has changed. Sometimes he is loud and irritable, working 16-hour days for long periods. Then he becomes withdrawn and quiet for other periods, then misses work. As the

Human Resources Manager, you've had complaints about Peter's loud phases. He disrupts others, and is rude at times. You are also aware that there have been client complaints recently as he has missed meetings and important deadlines.

You decide that you need to have a discussion with Peter to see what is going on, and to suggest he consider the employee assistance plan to help him with whatever is going on in his life. The meeting goes badly. He tells you that he is perfectly fine, and that it is none of your business what is going on in his life. You decide to leave him alone and

hope that the situation improves.

Today, within half an hour of arriving at the office, Peter starts screaming at his paralegal, and sweeps files off his desk. Then he throws a mug of coffee at the mail-room clerk.

What do you do?

RESPONSE FROM BCLMA MEMBERS: *I would fire Peter. You have already spoken to him once, and he said he is fine. His behaviour cannot be allowed in a business.*

Hi, this is Paula.

You could fire Peter, but this may not be the best thing for the firm as he may file a human-rights complaint if his behaviour is the result of a mental disability. It also may not be the

The Case of Peter's Anger → to Page 7



OUR NEW SCENARIO – TELL US WHAT YOU'D DO IN:

THE CASE OF A DAY'S DOUBLE TROUBLE

It is the middle of the Olympics, and traffic is a nightmare. One morning, five of the 12 staff at Turner, Johnson & Billings call you at the office to say that Skytrain is down, and the traffic is snarled. Each one will arrive very late to the office. All five manage to arrive after 11 a.m., one straggling in as late as 1:30. The Managing Partner comes to you, the Human Resources Manager, to say that she does not think that these employees should be paid for a full day. *What do you do?*

In the meantime, Holly Johnson, the receptionist and

the daughter-in-law of the Johnson in the firm's name, calls in to say that she has been exposed to H1N1, and asks if she should come into work. She was earlier offered the vaccine at work, but declined. What should you

tell her as the Human Resources Manager? You sure don't want her at the office, but if she stays home, what do you say? *Should she be paid?*



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 on the BCLMA domain below to go directly to the 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.*

STYLEPHOTOGRAPHS PAUL PRESCOTT

Games Checklist → from Page 5

- be on standby for overloaded routes.
- ✓ Designated Olympic Lanes for Translink buses, Olympic buses (the number of which are about the same as the number of Translink coaches) and Olympic cars will be in place in one lane of traffic for 24 hours, seven days a week at:
 - ✓ Burrard Street, Burrard Bridge to Pender Street
 - ✓ Seymour Street, Granville Bridge to Hastings Street
 - ✓ Howe Street, Hastings Street to Granville Bridge
 - ✓ Pender Street, Cambie Street to Howe Street
 - ✓ Cambie Street, Cambie Bridge to 59th Avenue
 - ✓ Broadway, Arbutus Street to Commercial Drive
 - ✓ Georgia Street, Richards Street to the Stanley Park Causeway
 - ✓ Hastings Street, Seymour Street to Boundary Road 

Peter's anger → from Page 6


best thing for Peter, who likely needs psychiatric help rather than the loss of his job.

But you are right that his behaviour cannot be allowed to continue at work. If an employee who has been productive and has behaved appropriately at work for years begins to behave erratically, the employer has the right to tell the employee that he must leave the workplace and that he cannot come back until he provides a certificate of fitness from his doctor.

You can provide the employee with a job description to give to the doctor, and a letter asking if the employee is able to perform the functions of the job in his current condition. If the employee is not already under the care of a doctor, your request may result in Peter getting the help he needs. If Peter has a sick-leave plan, he would be paid sick leave while he is off work waiting for the

doctor to provide the medical opinion.

If Peter's doctor confirms that Peter has a mental disability, he may be off work temporarily for treatment, and he may eventually come back to work on a gradual basis or with a reduced file load, on his way to a complete return to work. Allowing this kind of return is part of the employer's duty to accommodate an employee with a mental disability.

Conversely, if Peter doesn't have a mental disability, and his behaviour at work is simply bad, you can warn him about it, and eventually fire him for just cause if there's no improvement. 

Don't forget to have a look at our latest HR challenge, on page 6, "The case of the day's double trouble."



Paula Butler

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TOO EARLY YET TO SAY WHETHER NEW GOALS WILL BE MET

Competition Act upgrade imposes 'fundamental change of approach'

By Mark Fancourt-Smith,
Associate, Fasken Martineau

The *Budget Implementation Act (2009)* came into force last March, and with it, significant amendments to the *Competition Act*.

The amendments are wide-ranging and, in cases such as agreements with competitors and price maintenance, represent a fundamental change of approach. While the main thrust of the amendments is to provide an increased focus on enforcement, and greater, more nuanced oversight, only time will tell how it will be received by the business community.

The goals of the amendments are to modernize the *Competition Act*, bring it more closely in line with the competition laws of Canada's major trading partners, and to enhance the predictability, efficiency and effectiveness of its enforcement.

- The most significant amendments:
- ✓ Creation of a "two-step" merger-review process;
 - ✓ Introduction of a civil-enforcement option for agreements between competitors;
 - ✓ Decriminalization of resale-price maintenance, price discrimination and predatory pricing; and
 - ✓ Expansion of penalties and civil remedies.

MERGER REVIEW

Under the amendments, fewer mergers will be subject to review by the Commissioner of Competition, but a review it-

self may be more extensive, with less certainty as to timing.

The amendments also increase the "value of the transaction" threshold required for pre-merger notification from \$50 million to \$70 million. A proposed transaction will therefore be notifiable



only when the total value of the assets in Canada or the gross revenue from sales in Canada of the target exceeds \$70 million.

In the case of amalgamations, at least two of the amalgamating corporations must exceed the \$70 million threshold. The threshold is also now indexed annually to GDP and tied to changes in the inflation rate, unless a specific amount is later prescribed by regulation.

The merger-review process has been amended to adopt a U.S. style, two-stage procedure. A proposed merger that meets the new threshold requirements is now subject to a 30-day waiting period to give the Commissioner time to assess the implications of the proposed merger.

The Commissioner may then issue a second request for additional information, resulting in a second 30-day waiting peri-

od deferring the completion of the merger.

The Commissioner also now has injunctive relief available to enforce compliance with the waiting periods. If a proposed transaction is likely to be completed before the waiting period has expired, the Commissioner may apply to the Competition Tribunal or a court for an interim injunction to prevent its completion.

Where a transaction completes before the end of the waiting period, the Commissioner may apply for an order to dissolve the transaction, and may seek to im-

pose administrative penalties of up to \$10,000 for each day there's no compliance with the waiting period.

The Competition Bureau recently released new *Merger Review Process Guidelines* last September 18 which describe the Bureau's general approach to administering the Act's two-stage merger review process.

The Bureau also released proposed amendments to the *Notifiable Transactions*

Regulations, SOR/87-348, last April, consequential to the new merger-review process under the Act. However, the proposed amendments to the *Regulations* are not yet in force.

AGREEMENTS BETWEEN COMPETITORS

The amendments introduce new provisions to regulate agreements between competitors, which will come into force on March 12.

The former conspiracy provisions dealing with hard core, cartel-like activities, such as price-fixing, required the prosecution to establish that the agreement in question prevented or lessened competition "unduly."

The amendments create a per se criminal offence which does not require that

Competition Act changes → to Page 9

PAVEL RYBIN

Competition Act changes → from Page 8

there be any actual impact on competition, but rather that the parties to the agreement be competitors or potential competitors.

Breach of these per se rules can lead to a prison term of up to 14 years, or a fine of up to \$25 million, and may also expose the parties to civil liability for damages.

The existing defences, such as agreements between affiliates and regulated conduct, which are exemptions authorized or required under legislation, are retained but a new defence of “ancillary restraint” is created.

That is, it’s a defence to criminal prosecution if the alleged conspiracy is part of a broader agreement between the same parties that does not itself contravene the provision, and the alleged conspiracy is directly related to, and reasonably necessary, for giving effect to the broader agreement.

There are also new provisions allow-

ing for civil review of any agreements between competitors that substantially prevent or lessen competition.

Under these new provisions, which are invoked in an application by the Commissioner, the Competition Tribunal is empowered to prohibit any actions under the agreement.

The Competition Bureau has issued Draft Competitor Collaboration Guide-

lines, describing the Bureau’s proposed approach to assessing agreements between competitors, for public comment.

In addition, these new civil provisions also do not come into effect until March 12, so parties can get opinions from the Competition Bureau about the legality of existing arrangements at no cost during the transitional period.

Competition Act changes → to Page 11

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Competition Act changes → from Page 9

**PRICE MAINTENANCE,
PRICE FIXING, PREDATORY PRICING**

The amendments repeal the criminal-pricing provisions under the *Competition Act*, dealing with unfair practices such as price discrimination and predatory pricing. These will instead be dealt with under the civil abuse of dominance provisions.

Similarly, the provisions making price maintenance a crime have been repealed and replaced by civil provisions, under which the Competition Tribunal has the power to issue orders to prohibit conduct, that is likely to have an adverse effect on market competition.

It has been suggested that the use of the adverse-effect test may lower the threshold relative to other matters in the *Competition Act*, such as mergers or abuse of dominance, where a substantial lessening of competition must be shown.

In addition, private parties are entitled to apply to the Competition Tribunal for remedies. The threshold for price maintenance-complaints is again lower than cases involving a refusal to deal, as the party must only be “directly affected,” as opposed to “directly and substantially affected.”

EXPANDED PENALTIES, ENFORCEMENT

A host of new or increased penalties have cropped up from the amendments. First, administrative monetary penalties have been introduced under the abuse-of-dominance provisions, which provide for maximum fines of up to \$10 million for first offences and a maximum fine of \$15 million for subsequent offences.


Administrative monetary penalties have also been increased for non-criminal offences involving deceptive marketing. Individuals are subject to penalties up to \$750,000 for first-time offences, and \$1 million for subsequent offences, expanded from \$50,000 and \$100,000 respectively.

Corporations are subject to penalties up to \$10 million for first-time offences and \$15 million for subsequent offences (up from \$100,000 and \$200,000).

For criminal offences involving deceptive marketing practices, the maximum

term of imprisonment has been increased from five to 14 years, as has the maximum sentence for persons party to bid-rigging.

The amendments also create a new, restitutionary, remedy in the *Competition Act*, whereby a court or Tribunal may make restitution orders to consumers in for misleading marketing practices that aren’t criminal.

The amount of restitution goes up to the total that was paid by purchasers. As an additional enforcement mechanism, a court or Tribunal is also empowered to issue an injunction preventing disposal of property connected with a restitution order, to ensure that there are funds actually available for restitution to the victims of deceptive marketing. 



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CPP TO BE IMPROVED AS EARLY AS JULY 1

Proposed Canada Pension Plan changes 'generally advantageous' for beneficiaries

By Christopher M. Forman,
Manulife Securities

The Canadian government recently announced changes to the Canada Pension Plan (CPP) that we feel are generally advantageous.

Note that these changes will not impact individuals who are already recipients of CPP, with the exception, in some cases, that allows working beneficiaries to take part in the CPP, which we'll explain shortly.

Here are the main changes proposed to be made into law, assuming the legislation to implement the changes is brought before Parliament in this year's session.

Removing the work-cessation test

The *Work Cessation Test* requires individuals who apply to take their CPP benefit early, that is, before age 65, to either stop work or reduce their earnings. After having stopped work or reducing earnings for at least two months, the individual may return to work and/or earn more.

The changes propose to remove the *Work Cessation Test* in 2012. Individuals would be able to take their benefit as early as age 60 without any work interruption or reduction in hours worked or earnings.

This change would benefit those who would like to take up their CPP pension while continuing to work either full or part-time. No reduction in work would be required. We view this as the most beneficial change for several reasons; most importantly, it allows an individual to scale down their work hours, or not, and collect CPP.

Increase the general low-earnings drop-out

The CPP retirement amount is based on the number of years people work and contribute to the plan, as well as the salary or wages they've earned. The average of earnings over the span of the career is calculated, allowing an exemption

for 15% of the years where earnings are low or nil for some reason.

This provision is called the "general low earnings drop-out." The 15% gives individuals who take their CPP at age 65 almost seven years of low earnings that can be dropped from the calculation of their average career earnings, so they don't impact on their pension amount.

The proposal is to increase the general drop-out to 16% in 2012 – this would allow almost 7.5 years to be dropped – and then to 17% in 2014 (up to eight years). This change would benefit virtually all CPP contributors by improving their basic retirement pensions.

Working beneficiaries to participate in the CPP

This is the item that could affect people who already receive a pension.

Currently, those who receive a CPP pension and return to work, making them, working beneficiaries, don't pay CPP contributions and, therefore, do not continue to build their CPP pension.

The proposal is to require people under 65 who receive a CPP retirement benefit and work, as well as their employers, to make contributions that will increase their CPP retirement benefit.

This would be voluntary for individuals aged 65 or over, but employers of those opting to participate in the CPP would be required to also contribute.

This change would allow working beneficiaries to continue to build their CPP pension – a secure, inflation-protected, lifetime stream of income.

This could be particularly helpful to those whose CPP pension isn't near the maximum amount, or people without other sources of retirement income that are protected against inflation and financial market volatility.

Because employers must contribute to the plan for those under 65, some see this as a tax grab, but employees will benefit

from the higher pension.

Improved fairness in pension adjustments for early and late CPP take-up

The normal age of CPP take-up is age 65. The CPP's flexible retirement provisions allow it to occur as early as 60 and as late as 70.

To ensure that there is fairness in the provisions, regardless of the age that the retirement benefit is taken up, a second step in the pension calculation makes "actuarial adjustments" to the basic amount that would be provided at age 65.

These adjustments are made for pensions taken early, that is, before 65, and late, or after 65. The adjustments take into account the fact that, in the case of early benefit uptake, contributions to the CPP have been made for a lower number of years and CPP benefits will be received over a larger number of years.

The converse is true in the case of CPP uptake after the normal retirement age of 65. The current adjustments reduce the early pension by 0.5% per month for each month that the pension is taken before an individual's 65th birthday to age 60 and increase the pension by 0.5% for each month that the pension is not taken after age 65.

Proposed changes would gradually restore the pension adjustments to their actuarially fair levels.

The early pension reduction would be gradually increased to 0.6% per month for each month that the pension is taken before age 65 (36% at age 60 vs. 30% today), over a period of five years, starting in 2012.

The late pension augmentation would be gradually increased to 0.7% per month for each month that the pension is taken after an individual's 65th birthday, up to age 70. This would be done over a period of three years, starting in 2011. This change would not affect existing CPP retirement beneficiaries or those taking their benefit before these changes begin to take effect.

More info will become available as the effective date – just nine months away – of July 1 arrives.



STEPPING DOWN JAN 31, BUT HELPING WITH TRANSITION

BCLMA president leaves legal industry to work at KPMG's Vancouver office

BCLMA president Stephanie Marsh will step down from her position two months before her second term ends. She is leaving the legal industry to take a more senior marketing role with the Vancouver branch of the accounting and management consulting firm, KPMG, starting February 1.

The BCLMA's Board has appointed Director Jan Whyte of Murphy Battista to become president until new Board elections are held at the BCLMA's annual general meeting on April 1.

Marsh has had primary responsibility for developing pitches and responses to requests for proposals at Fasken Martineau while undertaking various other marketing and communications work during her three and a half years at the firm. At KPMG, she will work entirely on proposals with a larger team – almost two dozen marketing professionals. Before moving to Fasken Martineau, she worked with Stikeman Elliott's national marketing department.

She has been an Affiliate of the BCLMA for 13 years, has chaired two subsections more than once, and has been a director on the BCLMA's Board, with various committee and executive roles, for six years, and president of the Association for the past two years. She joined the *Topics* Editorial Board in 2001 and has remained the newsletter's editor throughout her time in office.



Stephanie Marsh

"During my time with the BCLMA, I feel most proud about working with outstanding people as we've helped the organization increase membership, improve its structure and achieve greater professionalism," says Marsh.


"Certainly, we have seen positive effects when we communicate more with the membership from the Board level. People in the subsections have told us

they feel supported and more 'in the loop' than ever before," she adds.

Marsh says she will continue to support the Association as an advisor to the Board, and to help Whyte with the transition over the next few months. She also says she'll continue her role with the *Topics* Editorial Committee at least until the fall – which was welcome news to Committee Chair Bob Waterman of Richards Buell Sutton LLP.

Marsh says her decision to move to KPMG is bitter-sweet. "The sweet part is that the opportunity at KPMG is simply too good to pass up, within the context of my career path and what I can learn," she says.

"The sad part is that I'll miss working daily with all of the friends I've made and the colleagues I've developed within the legal industry over the years."

In the future, Marsh says she will get to enjoy the BCLMA's new Alumni status. "I will use that level of membership to stay in touch, and attend those fantastic social events – too much fun to miss!" 

MAKING THE MOVES...

WELCOME, NEW & RETURNING AFFILIATES!

Jonathan Segovia, HR, Stikeman Elliott... **Sh'eli Mullin**, Trainers, Camp Fiorante Matthews... **Olivia Berumen**, IT & Trainers, Murphy Battista... **Jill Peters**, Marketing, Richards Buell Sutton... **Sherwin Leong**, Facilities, Fasken Martineau... **Bibiane Bysterveld**, HR, Fasken Martineau... **Alexis Neufeld**, Trainers, McCarthy Tetrault... **Valerie Taylor**, HR, Murphy Battista.

WELCOME, NEW & RETURNING REPRESENTATIVES!

Carol Donohoe, Drysdale Bacon McStravick, New Member Firm

*In accordance with our bylaws, firms are the BCLMA's **Members**. **Representatives** were formerly known as Full Members. **Affiliates** were formerly known as Subsection Members. The list of the Affiliate 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 for the latest list; just click our name, below.*

Smile & Link

SMILE!

One of the features of our redesigned website includes the ability to post individual profile photos next to each person's listing in the BCLMA Personnel Directory.

If you need to know what someone looks like before meeting or want to put a face to a name, the BCLMA website can be your resource.

Kindly e-mail a professional, colour profile image of yourself (size 82px X 115px) to membership@bclma.org

Thank you for your co-operation!

LINK!

BCLMA is [LinkedIn](#)!

The BCLMA is a group on the popular business-social website [LinkedIn.com](#), which can extend your existing network of trusted contacts.

Add to the Group and enhance your professional profile!

GUESTS ENCOURAGED TO MIX AND MINGLE WITH A JINGLING BEAT

Winter Social event at Watermark a happy benchmark

The BCLMA hosted another fantastic annual Winter Social on December 3.

About 100 people attended the Watermark Restaurant in Kitsilano. The event had the same format as last year: an initial cocktail reception followed by food stations with chefs on stand-by to customize individual dishes.

Guests were encouraged to move about the room,



Barb Marshall (BCLMA Director); Penny Harvie (Alumni), Dean Leung (Davis LLP), and Annie Ronen (Lawson Lundell).



Lisa Dick (Fasken Martineau), Sh'eli Mullin (Camp Fiorante Matthews), Ruth-Ann Spencer (BHT), Eva Handeland (Farris) with her spouse and Nathalie Fulton (Camp Fiorante Matthews).

PHOTOS BY BRENDA JOHNSON, EDWARD, KENNY, BRAY



Victor Montagliani (HUB International) awards a door prize to John Hawke of Lang Michener.



Alfonso Bruno (Clark Wilson), Tom Doyle of Klein Lyons and Victor Montagliani of HUB.



Elizabeth Jackson, Jennifer Berman and Wilma Macfarlane, all of Farris.

and trade seats and tables throughout the evening to maximize socializing with members and vendors.

BCLMA President Stephanie Marsh introduced and thanked all the sponsor representatives:

- Connie Fenyo, Cynthia Nerland, Clive Bellian and Gord Hollie of Dye & Durham;
- Victor Montagliani and Steve Beemish from HUB International;
- Barry Riback and Rob Antejos from Systems Auditing.

Marsh also introduced and thanked all attending Board members and subsection co-Chairs (please see the last page of



Ellen Zheng (Klein Lyons), Gary Carter (Paine Edmonds) and Marian Verdiccio (Hamilton Duncan Armstrong & Stewart Law)



Susan Dick of McCarthy Tetrault, with Alumni members Allison Milroy and Colin Cameron.

[Winter Watermark Event](#) → to [Page 15](#)

Winter Watermark Event → from Page 14

this issue of *Topics* for the complete list of names and contacts).

As usual, we had several door prizes to give away.

Winner's Lists

From Sponsors

From Systems Auditing: Vancouver Canucks Hockey Tickets, *Winner:* Carina Bittel, Clark Wilson

From: Dye & Durham: Digital Camer, *Winter:* Anthony Cameron, Harper Grey Wine in a Box:

Winner: Nadia Morrison, Clark Wilson

From: Hub / TOS International:

Spa Utopia, *Winner:* John Hawke, Lang Michener

From the BCLMA:

\$50 Gift Certificate from the LCBO, *Winner,* Lori Maida, McCarthy Tetrault

\$25 Gift Certificate for Milestones, *Winners:* George Lo of Harper Grey and Carol Donohoe of Drysdale Bacon McStravick

\$50 Gift Certificate for Winners, *Winners:* Brenda Plowman, Fasken Martineau

Coffee/Chocolate gifts worth \$35 each, including \$15 each for Starbucks. *Winners:* Kathy Barry & Wilma McFarlane, Farris

\$50 Chevron Gift Certificate, *Winner:* Don Kerr, Clark Wilson

\$75 Gift Certificates for Pacific Centre, *Winner:* Pelar Davidson, Oyen Wiggs Green & Mutala

We hope you enjoyed the Winter Social.

See you at the Summer Social later this year. 🍷



Barry Riback of SAI (far right), ribbed by BCLMA President Stephanie Marsh (with microphone). Cynthia Nerland, Connie Fenyo and Victor Montagliani (HUB International) react.



Colin Cameron (Alumnus), Clive Bellian & Gord Bollie (Dye & Durham) and Gary Carter (BCLMA Director).



Eric Pederson (Farris) and his spouse, Alison Robbins.



Wilma Macfarlane (Farris), BCLMA President Stephanie Marsh (Fasken) and Kathy Barry (Farris)



Event Sponsor Connie Fenyo of Dye & Durham awards a door prize to Anthony Cameron (Harper Grey).



Event Sponsor Barry Riback of SAI awards a door prize to Carina Bittel (Clark Wilson)



Agustino do Souto (Harper Grey) and Janice McAuley (Lawson Lundel).

WEBSITE CORNER: A PERIODIC FEATURE THAT EXPLORES BCLMA'S WEB PORTAL

How to use the BCLMA Discussion Board to your advantage


The BCLMA Discussion Board is a great resource.

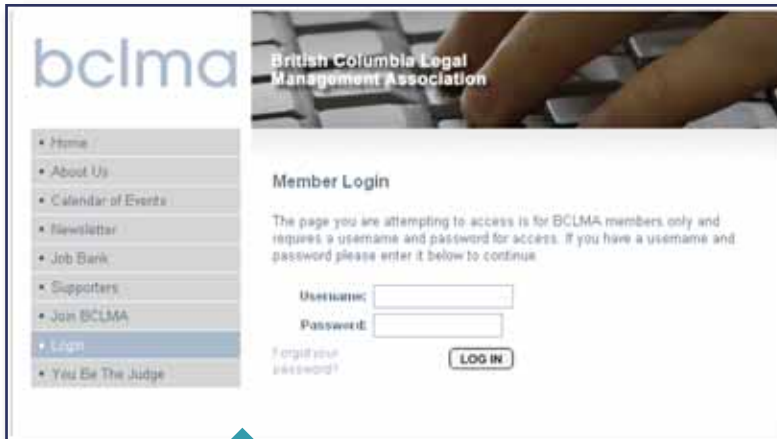
You can browse through previous discussion topics, reply to current inquiries, or post new topics.

If you have a question you would like to present to specific individuals or to subsections, first, please check the Discussion Board to see if a colleague has al-

ready posed a similar question. If not, please post your question; others will post their replies and everyone will benefit from our collective knowledge.

Here's a step-by-step outline of how easy it is to use the Discussion Board to your advantage.

We're always trying to improve, so we welcome your feedback. 



A HOW-TO SELF-HELP CHECKLIST

Seven ways to become a Grade A speaker

By **Bill Lampton, President, Championship Communication**

You keep a checklist handy for many of your regular tasks – grocery shopping, scheduling your day and week, and creating a hyperlink, for example.

Because your profession requires you to speak to groups frequently, you have often wished you could keep a speech preparation check-list handy, to remind you how to get ready to generate the results you want. You won't have to wait any longer. Here is your checklist for top-level speech preparation.

Adopt an upbeat attitude

Form a mental picture of success. Assume you have something worth saying, and that you will say it well. Anticipate your audience's unbroken attention, laughter, and applause.

Picture your listeners participating actively in discussion, with relevant questions and comments reflecting their rapt attention.

Saturate your mind with these affirmative expectations, leaving no room for doubt and fear.

Focus on the audience

This way, you won't become excessively concerned about yourself; whether you are making a favourable impression.

Self-directed thoughts can become obsessive, and distract you from your main purpose: helping your listeners understand and accept your message.

Remember: audiences want you to succeed.

Successful speakers make meetings and conferences successful. Instead of thinking of your audience as your critics, think of them as your cheerleaders. Embrace audience members emotionally – even before you say your first word – and they will embrace you.

Be animated

Listeners shouldn't ever wonder if you



have a pulse. Don't read or recite your message; tell it as energetically as you would describe a fun weekend.

Move away from the podium, gesture freely, vary your voice, just as you do in casual chit chat.

Create what actors call *The Illusion of*

the First Time. If you use PowerPoint, rely on the slides as prompts, not as your script.

Take a minute to jot down the names of three speakers you rate very highly.

Note: Every one of them strikes you as energetic, vital, and sometimes dramatic. They ignite you because they *sparkle*.

Be attentive

Remain on the lookout for audience feedback. When you detect confusion, restate your point. When you see listeners nod in agreement, let their support energize you.

If participants start checking their watches, change your pace or tell a relevant story to recapture their attention. Better still, direct the group in brief interactive dialogue to elevate interest.

Use anecdotes

Some of our most cherished childhood memories revolve around bedtime, when parents or others read stories to us, stimulating our imagination and transporting

SURVEYS HELP MANAGERS PLAN AND SET SALARIES

BCLMA survey schedule for 2010 released

Surveys provide valuable data to a law office manager's business plan.

To provide maximum value, we created a committee to manage BCLMA surveys throughout the year.

Please contact any committee member for general questions such as process, cost, and confidentiality.

- Bob Waterman, Chair, Richards Buell Sutton LLP
- Wayne Scott, Alexander Holburn Beaudin & Lang LLP

- Gary Carter, Payne Edmonds LLP
- Sandy Delayen, Bull Housser & Tupper LLP
- Cindy Hildebrandt, Richards Buell Sutton LLP (representing the BCLMA Board of Directors)
- Jane Kennedy, BCLMA Administrative Assistant
- Raf Sansalone, Borden Ladner Gervais LLP

Contact any survey leader for information regarding a specific survey.

BCLMA 2010 SURVEY SCHEDULE				
SURVEY	DISTRIBUTION	RESPONSES BY	PUBLICATION	SURVEY LEADER
Law Firm Economic	April 1	May 1	June 1	Sandy Delayen
Staff Ratio	May 1	May 15	May 30	Wayne Scott
Support Staff Salary	September 1	October 1	November 1	Raf Sansalone
Associate Salary	November 1	November 15	November 25	Bob Waterman

Grade A speaker → from Page 17
us into majestic eras and scenes.

As adults, we continue to love “once upon a time,” though speakers use different introductory phrasing.

People remember and learn from your stories, not from statistics. Paint word pictures, giving a “you are there” feeling. Use suspense with the skill of a novelist.

Paul Harvey carved a grand speaking career on radio as a master story teller, and Zig Ziglar did the same from the speaker’s platform.

Sharpen your appearance

Although casual and sometimes sloppy dress have gained some acceptance (which you can verify at any public event, and even in numerous work settings), your audience wants *you* to dress a notch or two above its norm.

Tasteful, professional clothing demonstrates that you respect them and the occasion. Additionally, your grooming and manners should supplement your professional image.

Not surprisingly, you will gain confidence and energy as well when you look your best and present yourself as a polished professional.

Be atypical

Do something different from other speakers. Audiences withdraw from the same old, same old, so they are drawn to creative speakers who go beyond offering a standard three points and a summary.


Examples: include unusual props, impersonations, games, regular audience interaction, or magic if that’s your talent.

Note: Every season, new TV shows succeed because they become distinctive.

Before you face your next audience, review these seven ways to become a Grade-A speaker, and then implement them.

Together, they will enable you to connect with your audience immediately, hold their unbroken attention and encourage them to endorse your message and respond with action:

Attitude, Audience, Animated, Attentive, Anecdotes, Appearance, and Atypical. You will

welcome the results – and so will your audience. 

Bill Lampton, Ph.D., President of Championship Communication, gave the keynote address and directed a seminar at the 2008 BCLMA Conference at Whistler. His motto: “Helping You Finish in First Place.”

His top-tier client list includes Celebrity Cruises, the Missouri Bar, The Ritz-Carlton Cancun, Gillette, and Procter & Gamble. In addition to speaking and directing seminars, he serves as a Speech Coach for professionals who want to communicate with poise and power.

*Visit his Web site:
<http://www.championshipcommunication.com>*



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ARE YOU SHURE 'PROOF' IS SPELLED RIGHT? ER, CORRECTLY?

**Tips for how to proof read...
or is it proofread? Proofed? Proofred? Rats!**

By **Lisa Dawson, Administrator,**
Oyen Wigg Green & Mutala LLP

Proof reading or Proofreading? Both are correct. What's important is that the use of the spelling is consistent within the same written work.

Why have I produced an article on proofreading? For one, I am not good at it. It takes focused determination and the use of various techniques to successfully check a document for typos and grammatical errors.

Working in a law firm requires vigilant proofreading.

We all use templates and precedents which need tweaking for each client we apply it to. In fact, proof reading a document which has been created from another document provides the inherent danger of missing a reference left over from the other client.

Another challenge is the inconsistency of style lawyers within the same firm apply to basic documents.

Some use semi colons and other punctuation emphatically. Others use little emphatic punctuation at all.

Date order and reference to the client (*Mr. Tom Jones vs. Tom Jones vs. T. Jones*) are all style decisions your law firm must make, but a style guide discussion is best left for another edition of *Topics!*

The easiest way for me to review the various proofreading techniques is to discuss it in a test format.

On this page, in regular type and starting just below, you will find some material to proofread. The same article, proofed, with explanatory notes in italics (*like this*), and surplus material crossed out, is in the blue box on page 20. Use it to check your work. See for yourself how good you are. *Good luck!*

The Document Draft - It starts here:

Tips for improving your proofreading (warning: do not use as a refrance; this is filled with typos)

1. Run your document through your-computer's spelling checker. This should be done, even though it will not catch every mistake. (Do not add words to the spelling checker's dictionary unless you are certain they will be correct 100 percent of the time.)

2. Print out your work before proofing it. The human eye reads material on-screen much more quickly and less carefully than printed text. You will catch more errors if you print out your text and proofread of paper.

3. If you are unable to print out text use a distinctive font and increase the type size before proofing. When you have to proof read onscreen try 18 point and Georgia font – this makes it easier to catch error.

4. Read your work a loud at least once. This is a *must*.

5. Change your proof reading starting point. Take the time to read the entire document more than once. Start in the middle or near the end of the document to give your eyes a rest from repeatedly focussing on the same word patterns. Learn to read words backwards within sentences to double check their spellings.

6. Place a ruler under each line as you read the text. This keeps your eye from jumping ahead to the next line.

7. Work against a check-list. Make a

list of errors common to you (or common to your firm) and rigorously check for them ("they're" instead of "there;" placement of punctuation; homophones; and hyphens.) Use the "search and replace" key (Control + F) to seek for these possible errors one by one.

Proofreading Primer → to Page 20

SAVE THESE DATES!

Mark your calendar with these upcoming events and important dates:

Thursday, April 1

Annual General Meeting, Representatives only

Wednesday, April 21

BCLMA's Leadership Series, Session II

Wednesday, May 26

Administrators-Only Event with Guest Speaker, Colin Cameron

Thur-Sat, Oct 21-23

BCLMA Educational Conference, River Rock Casino, Richmond; Contact Jane Kennedy at Membership address below to join the Conference Planning Committee!



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Proofreading Primer → from Page 19

7. Question all “facts,” paying particular attention to names, addresses, professional titles and dates. Be aware the single most common mistake is to mismatch days with dates. (Example: Mon, Feb 12, when in fact it is Tuesday Feb., 12.)

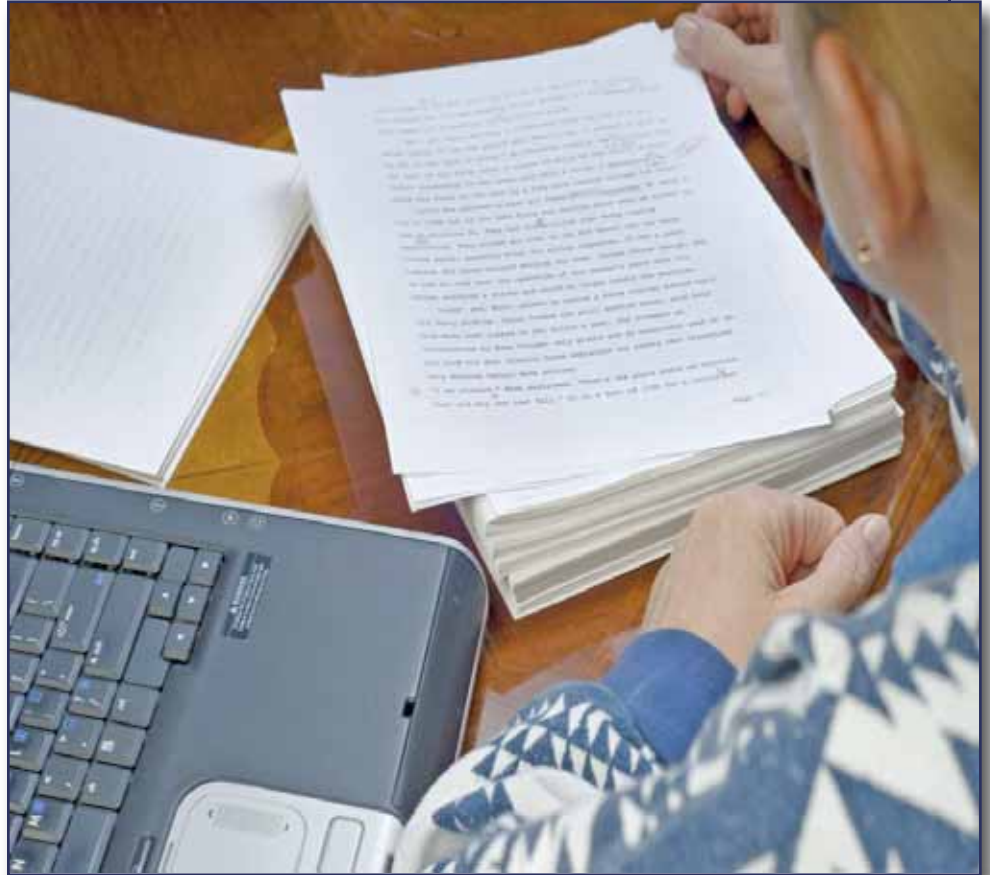
9. Watch out for the obvious yet somehow “invisible” stuff such as major headlines, sub-heads or report titles. Agreements and contracts are particularly vulnerable to faulty spelling in the headline or title.

10. When you find an error, re-read the entire sentence (we all tend to assume that a

a sentence will have no more than one error. This is untrue.)

11. If possible, leave your material until the next day to proof read. If this is no possible, trade proof reading work with a colleague. It is always easier to catch someone else’s mistakes.

A NOTE RE: CORRECTING MARKED UP TEXT FROM A LAWYER: To ensure you do not miss fixing any errors, be sure to place a tick mark over mistakes as you correct them. Then review the document one last.



The Document Proofed (how did you do?)

Tips for improving your proofreading (*Title: move to center and to the top*)

(Warning: do not use as a reference; this is filled with typos)

1. Run your document through your *space* computer’s spelling checker. This should be done, even though it will not catch every mistake. (*Do not add words to the spelling checker’s dictionary unless you are certain they will be correct 100 ~~one hundred~~ percent of the time.*)

2. Print out your work before proofing it. The human eye reads material on-screen much more quickly and less carefully than printed text. You will catch more errors if you print out your text and proofread on paper.

3. If you are unable to print out text, use a distinctive font and increase the type size before proofing. When you have to proofread (*no space*) on *space* screen try 18 point and Georgia font - this makes it easier to catch errors.

4. Read your work aloud (*no space*) at least once. This is a MUST.

5. Change your proofreading (*no space*) starting point. Take the time to read the entire document more than once. Start in the middle or near the end of the document to give your eyes a rest from repeatedly focusing on the same word patterns. Learn to read words backwards within sentences to double check their spellings.

6. Place a ruler under each line as you read the text. This keeps your eye from jumping ahead to the next line.

7. Work against a check-list (*the hyphen is okay if you are consistent with your hyphenation of words*). Make a list of errors common to you (or common to your firm) and rigorously check for them (“*they’re*” instead of “*there*”; *placement of punctuation; homophones; and hyphens.*) Use the “search and replace” key (Control + F) to seek for these possible errors one by one.

8. (*Numbering corrected*) Question all “facts”, paying particular attention to names, addresses, professional titles and dates. Be aware the single most common mistake is to mismatch days with dates.

(Example: *Monday Feb. (no comma) 12*, when in fact it is Tuesday Feb. (*no comma*) 12.) (*Watch for consistency in style.*)

9. Watch out for the obvious yet somehow “invisible” stuff such as major headlines, sub-heads or report titles. Agreements and contracts are particularly vulnerable to faulty spelling in the headline or title.

10. When you find an error, re-read the entire sentence (we all tend to assume that a (*no line break*) a sentence will have no more than one error, this is untrue.).

11. If possible, leave your material until the next day to proofread (*no space*). If this is not possible, trade proofreading (*no space*) work with a colleague. It is always easier to catch someone else’s mistakes.

A note re: Correcting marked up text from a lawyer: (*consistency in case and font to match title*) To ensure you do not miss fixing any errors, be sure to place a tick mark over mistakes as you correct them. Then review the document one last time.



THE PROTESTER'S GUIDE TO THE GAMES

Civil disobedience, the Olympics, and the lawyer who wrote the book on it all

by Peter Morgan
Morgan:Newsletters

A Vancouver employment lawyer who represents unions as well as employees on labour relations, class actions, human rights and intellectual-property issues published a 43-page booklet on November 20 called the *Protesters' Guide to the Law of Civil Disobedience in B.C., Olympic Edition*. As we'll see, the date is important.

Leo McGrady, a Queen's Counsel and partner of McGrady & Company, writes in the document's foreword that the booklet is "intended to assist those who oppose the loss of many of our basic freedoms during the upcoming Olympics, and who wish to express that opposition in the form of non-violent civil disobedience."

He later adds, "I have written this paper to inform you of your rights when dealing with the police at public demonstrations. It is designed to help you exercise your right to engage in non-violent civil disobedience, and avoid committing any criminal offence. It is also designed to assist you in the event you are arrested."

This isn't, by any means, the first time McGrady has tackled this issue. He wrote his first version for university students in BC who protested America's involvement in a long, drawn-out war overseas in which the country's military – which had no exit plan – were propping up an unpopular and corrupt government that held sway over only a small part of a nation, while a well-organized militia that had control of the rest of the nation fought to overthrow both.

(I realize as I write this you're probably thinking, 'He's talking about the US and Iraq,

or maybe Afghanistan. Or, wait! Does he mean Canada and Afghanistan?' I know it's hard to keep track when history repeats itself so often, but McGrady actually first did this for students protesting the Vietnam War in 1968, and he periodically updates his free booklet as, in the case of war or the 2010 Games, events demand.)

"Civil disobedience can be particularly effective in motivating social and political change when exercised as collective action," he adds. "The long history of civil disobedience, as practiced by differ-



ent peoples around the world, is mirrored here in British Columbia."

The *Guide* describes a wide range of activities protesters like to do when thumbing their noses or other attributes of their person or intellect at authority, and how the laws of Canada, BC, Vancouver and other Olympic municipalities may impinge on what they like to believe is a rationale for doing so. But he researches and writes about them as these ever-changing laws existed in late 2009. In it, he offers an equally wide range of advice on how to protest, including what to wear, what to bring and what to leave at home, and what lines are drawn in sand, or – in some cases – in pepper spray.

In the paper, McGrady notes that, "If



you are demonstrating at some special event, such as the Olympics, plan on there being an extraordinary number of police, armed forces and private security, as well as all forms of electronic surveillance. The Chief of Olympic Security [RCMP Assistant Commissioner Bud Mercer] has planned for at least 900 perimeter cameras, 7,000 police officers, 5,000 private security and 4,500 members of the armed forces."

McGrady also details the City of Vancouver's agreements with the International Olympic Committee and the Canadian Olympic Committee, which is the IOC's

branch in Canada.

Writing about the *Host City Agreement* the City signed with the IOC when it was awarded the Games in 2003, he says, "It is a lengthy document but bears reading, most particularly, section 4. It is a morality tale about the degree to which our elected governments will compromise [Canada's *Charter of Rights & Freedoms*] without public debate or even notice." And, he adds, "There is a real question as to whether or not the City had the capacity to enter such a contract. First of all, it appears to violate the *Charter* – perhaps several key rights. Secondly, it is very likely contrary to public policy."

McGrady's booklet also deals with **Protesters Games Guide → to Page 22**

TOTALPICS

Protestors Games Guide → from Page 21

Vancouver's Olympic and Paralympics Winter Games bylaw, but unfortunately it's one of the laws that is changing on the fly, and McGrady's treatise is about the first version, which was approved last June, and which drew the ire of quite a range of people as being unnecessarily vague and expansive.

Within a couple of months, Vancouver mayor Gregor Robertson began pledging that it would be revamped and made clearer, that it was primarily concerned with ambush marketing, and not the *Charter* rights of protestors.

The summer version of the bylaw, which also dealt with bits and pieces of noise and entertainment bylaw relaxations, attempted to give city workers the authority to come onto private property with only 24-hours notice to remove objectionable signage or immediately confiscate pamphlets or advertising materials, and to remove signage in a number of otherwise public areas of the city such as on several streets and parks in the downtown core of the city.

Some of the bylaw's components were even outside the authority provided by the BC Government in the powers it provides Vancouver in the City's *Charter* law, but as it turned out, the drafters of Vancouver's bylaw were aware of something the rest of us weren't: the BC government was about to introduce legislation that would add those powers.

Between the passage of the bylaw and the introduction of the BC government's legislation, the ultra vires sections raised reaction from the BC Civil Liberties Association (BCCLA), along with other concerns by a number of people who planned to protest their opposition to the Games, as an infringement on constitutionally protected free speech.

The BCCLA even had time to launch a constitutional challenge of the June version in BC Supreme Court, but felt it wouldn't be heard in time once the BC government introduced legislation in November to back the wording, as the lawsuit would have to be reworked.

So, just as McGrady posted his updated booklet, and the BC government was

approving the new Vancouver authorities (which also extended the powers to Whistler and Richmond), Vancouver revamped its new bylaw.

The revisions effectively made it less Draconian and narrower in scope. It reduced the geographical areas of the city where the portions regulating street-based marketing apply; scaled back the number of sites to which LiveCity Celebration Site rules apply, removed the ability for the City Manager to create new rules for LiveCity sites; and reduced the period that specific bylaw provisions will be in effect.

Other new protocols came into effect to aimed at ambush marketing (not protestors).

For example, to ensure the City's authority to remove illegal signs is used only when required and only to deal with illegal commercial signs:

- (a) *staff must use this power only in relation to illegal commercial signs;*
- (b) *staff must not enter a private dwelling to remove such a sign under this power except:*
 - (i) *with the consent of the owner or occupier, or*
 - (ii) *pursuant to a warrant issued by an independent judicial officer, or*
 - (iii) *in cases of significant risk to the health or safety of the occupier or other persons; and*
- (c) *staff will report to Council after the Games on the use of this power.*

The decision to use the legislated power to remove illegal commercial signs from private property will be made by the City Manager, Deputy City Manager, or General Manager of Community Services, but it's only to be based on this criteria:

- (a) *visibility of the illegal sign from locations with high spectator presence, key transportation routes, or media focus;*
- (b) *aesthetic impact of the sign on the city's image; and*
- (c) *potential risk to health or safety of anyone.*


The ownership of a commercial sign won't be considered in determining whether it should be removed. So, for example, an illegal sign installed by a Games sponsor will be treated the same way as such a sign installed by anybody else.

Ticketing by bylaw-enforcement offi-

cers will expand during the Games to deal with, among other things, displaying and distributing unauthorized advertising matter to prevent ambush advertising, vending without permits, limousines occupying a taxi stand, pedicabs or rickshaws operating in unapproved areas; displaying unauthorized advertising on a taxi, pedicab or rickshaw.

A multi-jurisdictional team of provincial liquor-control inspectors, property-use and building inspectors, fire-prevention personnel and Vancouver police will deal with overcrowding or other public-safety issues in restaurants, bars and raves. The team will also patrol the 1,100 licensed restaurants and 229 bars in the City to ensure there's no overcrowding, blocked exits or other safety issues.

The new bylaw also includes: changes that limit the definition of "advertising matter" to commercial advertising, and thus exclude newspapers, which were captured under the summer version of the bylaw; reductions in the number of sites where the security rules apply, from six to two; harmonizing the hours of liquor service in restaurants and bars during the Olympic Games (closing at either 2 or 3 a.m., depending on the licence); and temporarily allowing rickshaws on streets designated as pedestrian corridors.

We've added these last few paragraphs not just to be helpful, but also to show you that these days, not even McGrady's November 20 edition of his *Civil Disobedience Guide* can keep up when the times, they are a-changing. 

Resources

A copy of McGrady's booklet in PDF format is here:

<<http://tinyurl.com/yzbd2zt>>

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