

A newsletter to help our Members, Representatives, Affiliates and partners stay current with the business of law ♦ Summer 2012

NOTICING WHAT COMPUTERS NOTICE

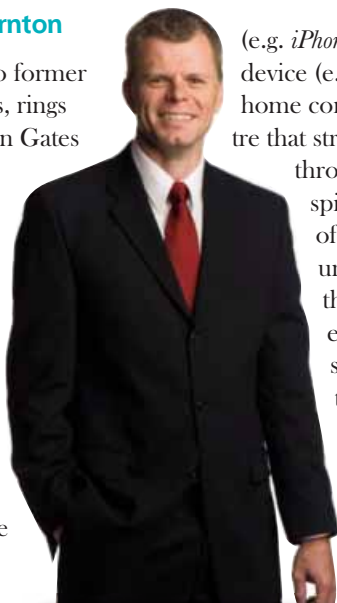
'Smoking gun' data on smartphones to mainframes helps resolve cases

By Dave Iverson, Grant Thornton

This quotation, attributed to former Microsoft CEO Bill Gates, rings more true today than when Gates spoke it in 2005:

Personal computing today is a rich ecosystem encompassing massive PC-based data centers, notebook and tablet PCs, handheld devices and smartphones. It has expanded from the desktop and the data center to wherever people need it – at their desks, in a meeting, on the road or even in the air.

Technology has evolved so much that people no longer have just one device connected to the Internet. They may have a computer at work, a mobile device



Dave Iverson

(e.g. iPhone or Blackberry), a tablet device (e.g. iPad or Playbook), a home computer, and a media centre that streams music and video throughout the house. Yet, despite the increased methods of accessing information, the underlying premise remains the same: Each of these electronic devices contains some form of record or trail detailing what information it accessed. And, in an investigation, these digital footprints can become the equivalent of a smoking gun in a murder investigation.

Computer forensics → to Page 2

COST RECOVERY – ALIVE OR DEAD?

The latest strategies in recovering our incremental client costs are evolutionary

By Barry Riback, SAI

The topic continues to rear its head – over and over. I can assure you – it is alive and well!

To understand where cost recovery stands today, and where it is heading, you need to understand the history of technology that has occurred at your firm.

Back in the '80's, cost recovery was basically a piece of paper beside a photocopier. Users would write down the file numbers and the number of copies made. Accounting would



Barry Riback

then multiply that number by a set cost-per-copy and charge the file the dollar value. Thank goodness users did a terrible job of manual recording! It paved the way for technology to get invented to force these types of transactions.

Next came the fax machine. "How can we charge for a fax? There is no cost," administrators wondered, at first. But there is a cost, of course. Consider phone lines, paper, toner, labour to

Cost recovery evolves → to Page 4

Read all about it!

When evidence of a torrid love affair is discovered on a staffer's computer by a partner who soon sets tongues a-wagging, personal and professional problems loom, along with one key question: Who's exposed? Page 7



TOPICS in TOPICS

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Who we are

The BCLMA, founded in 1972, is a non-profit organization with 120 Representatives and 240 Affiliates across BC. It is the BCLMA's goal to provide educational and networking opportunities, to enhance skills as legal administrators and managers, and to provide professional and personal benefits to its registrants.

Member services:

- ◆ Opportunities to network with other law firm administrators and managers are provided by events such as our annual Spring and Winter socials, or our monthly subsection meetings. We host an annual Managing Partners Event, and a large conference every other year.
- ◆ The Job Bank on our website outlines information on potential employment opportunities for all types of legal-related and lawyer positions.
- ◆ The Discussion Board on our website enables Representatives and Affiliates to quickly get questions answered and obtain advice from others who may have faced similar situations. The best way to get involved is to become a part of the BCLMA.

Newsletter services:

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Digital forensics → from Page 1

About 10 or 15 years ago, the sources of those electronic devices were limited: desktop and notebook computers and file servers. However, as the pace of technology continues to expand and evolve, electronic devices can now be classified as anything that contains digital information.

Some of these devices include, but are not limited to, mobile phones, services in the cloud, photocopiers, digital cameras, MP3 music players, fax machines, building-access cards and point-of-sale (POS) terminals.

The increasing number and variety of electronic and storage media means that when litigation in a dispute or a disagreement starts or occurs, how to deal with the electronic media needs to be taken into consideration.

WELCOME TO THE WORLD OF COMPUTER FORENSICS

This area of specialization – electronic-document retrieval and analysis – is known as computer forensics. Broadly defined, it's the practice of retrieving in-

formation from electronic devices, and doing so in a manner that is consistent with the rules and evidence of court. People who work in the area are sometimes known as computer-forensic examiners.

They differ from standard in-house information-technology staff in that the examiners are trained in handling evidence, as well as the steps they need to take, since part of their investigation can be repeated or peer-reviewed, or both.

The rules of court dictate how the electronic evidence is to be preserved, and the examiner must be careful to not destroy any electronic files, or undertake actions which would disrupt the chain of evidence.

Additionally, computer-forensic examiners are often sought to offer expert opinions in court or in arbitration matters that focus on electronic media. By working independently as a third-party examiner – and not directly employed by the organization involved in the litigation or arbitration – they can provide expert witness testimony regarding electronic files and detail the steps taken to arrive at their conclusions.

Computer forensics → to Page 14

THE FIRM



"THIS COMPUTER'S METADATA CAN'T TELL US **ANYTHING** ABOUT OUR **CASE**. HOWEVER, I'VE FOUND TWO INSIDE PHONE NUMBERS TO BYPASS SHAW TECH-SUPPORT QUEUES, A WAY TO MAKE A **MILLION** IN NIGERIA, AND TWO TRICKS TO BRING THE CANADA REVENUE AGENCY TO ITS **KNEES**."

MORE IN OUR SERIES ON HOW LITIGATION TODAY NEEDS SOPHISTICATED SUPPORT

How to strategize when preserving electronic data for litigation is as important as planning for the case itself

By Ann Halkett, of Alexander Holburn Beaudin & Lang LLP, Chair of the new Litigation Support Subsection of the BCLMA

The litigation process requires that the parties disclose evidence to prosecute or defend their cases. Evidence will be in one of three formats: paper, physical or electronically stored information (ESI).

Electronic discovery (eDiscovery) is a process that involves identification, preserving, collecting, processing, reviewing, and producing ESI associated with a legal proceeding.

WHAT IS ESI?

ESI includes all types of electronically created evidence such as Microsoft *Word* documents and *Excel* spreadsheets, digital photos and art, web pages, voicemail messages, email messages and associated file attachments (email chains), plain-text files, presentations, data stored in proprietary databases, instant messages... and any other data. That data is created or stored on a computer, computer network or other electronic storage media. ESI can be found on laptops, office PCs, network servers, USB thumb drives, CD-ROMs, DVD-ROMs, MP3 players, smartphones, backup tapes... and more.

ESI differs from paper in that it is virtual in nature; it cannot easily be destroyed without leaving a trace; and, it can be easily manipulated and altered. It is rarely tied to a single user. It is more voluminous, can easily be replicated, and can be more easily distributed than paper.

However, the greatest difference between ESI and paper is the ability of an electronic document to remain on a computer hard drive even after the user has deleted the file.

When data is ostensibly deleted, it is not completely gone. The operating system simply releases the space the data occupies for reuse, and treats the space as empty. Information can be erased by:

- ✘ Overwriting the places where the data is stored on disk or tape with new

information;

- ✘ Encrypting the data and losing the encryption key; or
- ✘ Physically destroying the storage media.

HOW TO IDENTIFY ESI

Cost-effective discovery is far easier when you know what your case is about and what you need to prove it.

When requesting paper documents from clients, we provide them with guidance as to the types of documents we require to assist with prosecuting or defending their cases. For example, accounting records for a specific time period, such as April 2010 to March 2011 and pertaining to a particular transaction.

Requesting ESI from clients takes more time and thought. It is not enough to ask that a client produce “all electronic documents” relating to the case. If you do not know how the client keeps their electronic files, how can you expect that the client will know exactly where to look for relevant ESI?

You cannot gather what you do not know exists. The difficulty is that ESI can be stored in multiple locations. It is not as easily accessible, nor as easy to locate as paper documents.

Therefore, the first step in the identification of relevant ESI is to develop a plan. The plan should:

- ✔ Identify key contacts at your client’s site or sites;
- ✔ List the types of data that are relevant;
- ✔ List all custodians (i.e. owners of the data) and the location of their data; and
- ✔ Identify the sources of data (paper, active, archival or forensic).

Data exists in one of two states – active or static. Active data can be found on a PC or server and continues to change. Static data does not change and is found on backup tapes or CDs,

It is important to have someone co-ordinating the efforts to identify the ESI, such as a litigation support co-ordinator or paralegal with electronic-discovery training, to keep costs in check. You do not want to end up with more ESI than you



Ann Halkett

need. The person co-ordinating the effort needs to liaise with the client, the client’s IT department, as well as the lawyers on the file, as they are part of the litigation team.

FOLLOWING THE CHAIN OF CUSTODY

Documenting who deals with the ESI, and what they do with it, is important to authenticate the evidence. ESI can be easily modified. For example, just by opening a Microsoft *Word* document, you modify its properties to change the last access date. (You can see the change by accessing File→Properties.)

If that *Word* document was created with an auto-date, the date switches to the date it is opened. There is no undo feature when dealing with electronic documents. It is still possible to accidentally delete or change the document while it is open and to save over the original. For this reason, never work with original media containing ESI. Instead, always work with a copy.

Preserving the chain of custody for ESI is important as it proves the integrity of the evidence has been maintained. Preserving the ESI should begin at collection and continue until the evidence is produced at trial. The integrity of the evidence may be called into question many years later so it is important to begin documenting how it got dealt with very early in the process.

ENSURE PRESERVATION AND COLLECTION

It is important that ESI be preserved as soon as litigation is anticipated to avoid any arguments about spoliation, that is, the destruction of ESI. To preserve data, issue a preservation letter, also known as a litigation hold, to your client.

As appropriate, it calls for an end to the following:

[Data & Litigation Support to Page 16](#)

Cost recovery evolves → from Page 1

send a fax, as well as any long-distance charges. Fax tracking was born.

Fast-forward a few years, and copy volumes started to decline as photocopiers acquired the ability to print, as well as the explosive move away from dedicated word processors and typewriters to PC's and printers. "How can we charge for printed copies?" Administrators then wondered.

Remember when a courier package would arrive and usually the first thing that would happen is someone would make five copies of those enclosed documents and charge for them? Today, the same document arrives, but via email, and unless you're in a truly paperless office, someone still makes five copies of those documents via PC and printer.

What is the difference between a print job and a copy job? When you choose to print five copies from your PC to a printer, is the first set a print job and the additional four a copy job? The answer: print tracking.

Within a few short years, most firms tracked copy, fax and print jobs. Recovery revenues were huge. These revenues helped firms pay for additional technology and services to the legal staff, for instance.

Successful cost-recovery programs in firms used the "reprographic services" concept, where copy jobs and print jobs were tabulated as one and the same. Today, while fax volumes and traditional copy volumes decline, print volumes increase. Paper volumes in today's firms have not gone away.

The next evolution of cost recovery: Scans. "How can we charge for scans? Aren't they free?" Here we go again. Are scans really free? Maybe there is no "ink on paper" or click charges from your copier vendors, but I can assure you, scans are not free. Do you own multiple servers which store scans? Have you had

to increase disk space on your email server to do the same? Do you use document-management programs to help manage

and Charges. BC Tel charged a fee of \$2.50 to do this. Users would tell the operator the client file number, then when the bill came, it would indicate the client, with matter numbers included.

In fact, I remember when BC Tel would send a daily fax of the transactions to each firm. Today, you enter a file number into your telephone and most firms track these calls with other technology. Back then, calls were based on mileage.

Today, it's a flat rate. A one-minute call to Toronto cost your firm \$.50 per minute plus the \$2.50 for time and charges. Today, that same call is about \$.05 per minute - almost free. Firms that want to maintain the traditional revenues will charge the "old"

rate and other firms will pass through at cost. We still see larger firms charge for these, while we see smaller firms drop these charges.

In today's world, cost recovery is not exclusive to only recoveries. Cost recovery includes all the traditional tracking parts and pieces, but now includes many new work flows to handle scanning. Work flows to integrate document management, litigation support and other offerings such as OCR, searchable PDFs, banner pages and Bates stamping. Scanning has taken the world by storm.

We have started to see growth in desktop, low-cost scanners and - yes - these can be tracked. But today, cost recovery also includes work flows for mobile devices such as the *Blackberry*, *iPhone*, *iPad*, and other 'smart' devices.

Rest assured: Cost recovery is alive and well. 

Barry Riback is an owner of Systems Auditing Inc. (SAI). A specialist in cost recovery since 1983, SAI has a demonstrated record of industry leadership and the highest client retention rate in the industry.



these scans? OCR software? Software to handle scanned PDFs? The list goes on and on.

Now ask yourself these questions:

- How many servers did we have five years ago compared to today?
- What was our IT budget five years ago compared to today?
- How many IT support staff did we have five years ago compared to today?

By now you can probably agree: scans are not free. There is a huge cost to provide scanning technology. With the cost recovery decreasing in some areas and increasing in others, maintaining the revenue levels your firm has become accustomed to means you need to constantly look at your technology and match your cost-recovery programs to your needs. Sitting back and not tracking and managing these expenses are just allowing your firm's recoveries to drop over time.

What happened to our long distance costs? This is a great topic. Some firms have maintained a strong cost recovery and others have let this slip. We see both sides of the spectrum. Back in the good old days, firms did something called Time

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ALTERNATIVES TO PAYING FOR EMPLOYEE PARKING SPACES

A look at whether car-sharing should be considered by Vancouver-area firms as a cost-saving feature for workers

By **Phil Baudin**,
Executive Director, **Modo**

Parking in the downtown Vancouver business district has always been expensive. It became even more costly in 2010 with addition of the HST and a Translink 21% parking-lot surcharge.



Phil Baudin

For many firms, paying \$250 to \$300 per month per spot for associate and employee parking can add up to more than \$100,000 per year. And as it's a taxable benefit, employees are paying as well. Granted, associates may need a car for the occasional client visit, but does that warrant the cost to the firm?

What if your firm joined a car-sharing organization?

Car-sharing is a sophisticated business and, unlike traditional car rental, it's self-serve. Set-up is easy. The firm joins as a business member and employees qualify based on their driving records. The user books the vehicle online or via a smart-phone. The vehicles are already placed in designated parkades and neighbourhoods. The keys are in the vehicle and it's ready to go when you fob in. The car keeps track of the amount of time for which you've booked it and how far it's driven. Your firm is invoiced monthly for all the drivers who used it – and that's it! No more administration.

Vancouver has embraced car-sharing, with three major organizations operating here: Modo, the local car co-op; Zipcar a US-based organization; and Car2Go, owned by Mercedes Benz.

For Modo and Zipcar, you book the vehicle, use it and return it to its original parking spot. For Car2Go, you pick up a Smartcar on the street and leave it somewhere else, it's a one-way service designed to replace taxi trips. The number of vehicles available varies depending on the service provider, with hundreds of cars available in total. Pricing varies, from \$6 per

hour to \$13 per hour, with gas and insurance included.

What about implementation? Many firms have a green committee – the group in the office looking for sustainability solutions beyond saving paper. This committee could consider the idea and start evaluating the options. Firm administration can

get involved at the appropriate time, and consider the savings and impact on accounting. For the Human Resources department, the challenge will be taking something of value away from associates and employees, so providing proper notice and options is important. For example, the

Car-sharing for a firm → to Page 17



DIFFICULT RECRUIT?

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OUR NEW SCENARIO...

TELL US WHAT YOU'D DO IN THE CASE OF THE GOSSIPING SPY

Judy has worked as Scott's paralegal for 15 years. They have a great working relationship, and are also friends outside of work.

One day while Judy is out at lunch, Scott goes to look on her computer for a document that he does not have access to. He notices that her home email web access is open. He looks at it, and sees that there are a number of emails from Ryan, a lawyer whom Scott frequently faces in court. Scott is puzzled as to why Judy is exchanging emails with Ryan, particularly since all of them have been sent or received late at night or early in the morning, not during her work day.

That's when Scott spots a subject line on one of the emails that says: "Missing you so badly," and he can't resist reading it. It quickly becomes clear that Judy and Ryan are having an affair.

Over the next few months, Scott checks Judy's emails whenever she is away from her desk and her home email web access is open. He can't believe the emails between them!

Soon, he starts telling a few other people about what he is reading. After a few more months, Judy is told by a co-worker that people know that she is having an affair with Ryan, as well as knowing some of the details of their relationship.

Judy is mortified. She quickly figures out that it must be Scott who is accessing her email.

Can Judy do anything about this?



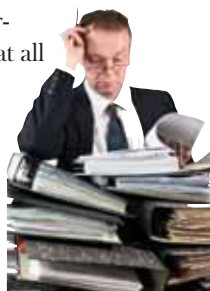
JO ANN SNOVER

PAULA BUTLER'S ADVICE ON LAST ISSUE'S SCENARIO: THE PREGNANT PARALEGALS

You are the Human Resources Manager at Smith, Johnson, Simmons LLP.

Three paralegals go on pregnancy leave, all about the same time. You are now desperate for paralegals, yet you don't want to hire anyone on a permanent basis since you strongly believe that all three original staff members will return to work after their year's maternity leave is up.

You decide to advertise for temporary paralegal positions as independent contractors so that you do not have extra employees on staff who will have to be laid off



YOU BE THE JUDGE

JUDGE! Read our new scenario, then tell us how you'd address it. Your response will be reviewed by labour lawyer Paula Butler. Contributions by you and Paula will help you and your colleagues in the BCLMA solve difficult issues they might encounter in their firms.



By Paula Butler, LL.B

ANONYMOUS! Your response is 100% anonymous, even to the Editors – unless you sign your name in the Response form. And why would you sign your name?

WIN! If you sign your name, you'll become eligible to win a \$25 gift certificate to London Drugs. And you still remain anonymous to our readers! We never publish winners' names.

HOW TO BE OUR JUDGE

When you've read the new scenario, click on this link to let us all know what you would do:

www.bclma.org/resources/newsletters/topics/response.cfm

Only your response, not your name, is revealed to our editors.

Next edition, we'll print a selection of responses, combined with Paula's commentary and perspective.

We'll also provide you with a brand-new scenario to intrigue and challenge you.

when the paralegals return – and so you do not have to pay benefits, vacation pay, etc.

You successfully hire the three replacements – on contract – for one year. When the maternity leaves end, only one paralegal mom returns to your firm; two of the contractors stay on at the firm. Busy, you forget about the contracts so they are never renewed, and the firm continues to pay the two paralegals as contractors.

Both of them continue to use the firm's computers and printers as usual, and continue to work Monday to Friday, only at your firm.

Three years later, you receive a call out of the blue from an accountant from the Canada Revenue Agency: One of the contractors is being audited. Will you be able to successfully report that the two paralegals are independent contractors and not employees? Please explain your answer.

You be the Judge → to Page 9



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You be the judge → from Page 7

READER RESPONSE

I think Smith, Johnson, Simmons is in trouble. They look a lot more like employees than independent contractors.

Hi this is Paula.

You are right. Smith, Johnson, Simmons may be in trouble.

The CRA will look at a number of factors to determine whether a worker is an employee or is self-employed.

To begin with, they will look at what the intent was when the worker and the payer entered into the relationship. In this case, it is clear from the contracts signed at the beginning of the relationship with the paralegals that the intent was not to create an employee-employer relationship. However, in this case, the contracts have expired and they were not renewed.

As well as the parties' intent, CRA will also look at a number of factors to determine the nature of the relationship.

These factors include, but are not limited to, the level of control the payer has over the worker's activities; whether the worker provides the tools and equipment to do the job; and, the degree of financial risk taken by the worker.

In this case, Smith, Johnson and Simmons likely has a lot of control over the paralegals' activities - assigning them files and identifying the people to whom they provide work, letting them know what days and hours they should work, etc. In addition, the law firm provides them with the firm's computers and printers.

In this case, there is little financial risk taken by the paralegals. They are working full-time, and there is no indication that there is any fluctuation in their pay over time. The relationship the firm has with these two women does not look any different from the relationship with other people doing the same job as employees.

If CRA determines that the paralegals are really employees, the law firm therefore becomes their employer. Employers are responsible for making Canada Pension Plan and Employment Insurance deductions from employees, as well as income-tax deductions.

Since the law firm has not done this, it will have to make those payments retroactively, and may be subject to penalties and

interest. As a result, when you hire someone whom you do not wish to become an employee, it is important to set up the relationship by a contract that reflects this, as well as remember to review and renew the contract on a regular basis.

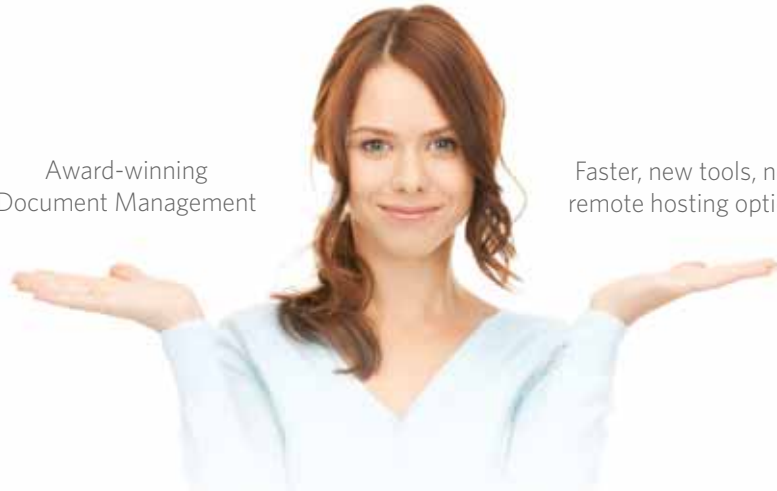
As the temporary Human Resources Manager, you could implement one or

both of these policies to ensure that this type of situation does not happen again in the future.

Don't forget to respond to Paula's latest HR challenge, because we'd like to know what you would do in her new scenario, The Case of the Gossiping Spy, on page 7!

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OPPORTUNITIES ABOUND IN THE BCLMA

Goals, planning and communication important for Board this year

By **Cindy Hildebrandt, President, BCLMA, 2012–2013**

I feel grateful, as the new President of the BCLMA, for the opportunity to give back to an organization that has done so much for me over the years as it helped me develop as a manager. I also feel fortunate to work with this particular Board of Directors. This year's Board is a stellar group of administrators, and financial, corporate and human-resource managers, who bring their talents and strengths to the Board, and who are responsive and committed to another successful BCLMA year.



Cindy Hildebrandt

In early June, we hosted our annual Summer Social at The Brix Restaurant and Wine Bar in Yaletown (see page 21). This year, we tried a cocktail-reception format, and we had the highest-ever turnout – a success story that we hope to build on going forward. We encourage everyone to attend these socials and all events, to network with your counterparts and colleagues, and to make connections with our vendors who continue to generously support BCLMA.

Our newsletter *Topics* continues to be a valuable resource to all, proven by its reported high readership. We trust that you will continue to find this a useful tool, with interesting and meaningful articles and other content, and that we remain relevant to you. Please feel free to contact us if you have any feedback or have a topic of interest for consideration.

Subsection groups continue to thrive, with a new subsection called Litigation Support. Generally, the subsection leaders rotate yearly, which provides opportunities for individuals to develop leadership skills, learn from their seasoned counterparts and give back to our legal community. We thank all of our Chairs and Co-Chairs for their time and dedication, and encourage anyone interested to

get involved.

This year is a conference year. We will return to the River Rock Casino in Richmond in October. Our Conference Com-

mittee has worked hard in securing speakers, interesting vendors and planning sessions that will be of interest and benefit to

Board goals → to Page 11

MAKING THE MOVES...

WELCOME, NEW & RETURNING AFFILIATES!

Litigation Support: **Sherry Spong**, Shapiro Hankinson Knutson Law Corporation... **Nora Pareja** and **Lucy Wedge** of Whitelaw Twining Law Corporation... **Katherine Mitchell**, Richards Buell Sutton LLP... **Carlos Tyler**, Bull Houser & Tupper LLP... and **Sherri Fostvelt**, **Zora Udovicic** and **Shannon Baker**, all of Clark Wilson LLP. *Human Resources:* **Linda Prevett**, McCarthy Tetrault LLP... and **Mary Ryan**, Bull Houser & Tupper LLP. *Finance:* **David Poon**, Alexander Holburn Beaudin Lang LLP... and **Neda Nikolova**, Hamilton Duncan Armstrong & Stewart. *Trainers:* **Rohan Hare** of Harper Grey LLP.



Lori-Ann Birdsall

PEOPLE ON THE MOVE

BCLMA Director **Lori-Ann Birdsall** has joined Gowling Lafleur Henderson LLP as Manager, Corporate Services.

WELCOME NEW FIRMS & THEIR REPRESENTATIVES

Marjorie White, Peter Grant & Associates of Vancouver... **Joanne Barron**, Bilkey Law LLP, Office Manager, of Kamloops... and **Dure Botha**, Overholt Law Corporation of Vancouver.

WELCOME NEW REPRESENTATIVES, BCLMA FIRMS

Alison Bissicks, Young Anderson... **Elaine Langston**, Lunny Macinnes Law Corporation... **Julie Zieth** has joined Oyen Wiggs Green & Mutala LLP as Administrator, replacing **Lisa Dawson**, now of Kornfeld LLP. All these firms are in Vancouver.

UPDATE, NEW ALUMNI

Last issue, we welcomed **John Coyle** as a BCLMA Alumnus, and briefly outlined his work history. A little too briefly, as he's been busier than we first told you: He was with Owen Bird from 1972 to 1979, Boughton from 1980 to 1994, with Baker Newby from 1995 to 1997, Kane Shannon Weiler from 1997 to 2000, Klein Lyons from 2002 to 2006 and he's also been involved in various consulting assignments to date.

*In accordance with our bylaws, firms are the BCLMA's **Members**. Members authorize **Representatives** to vote and speak on their behalf. **Affiliates** are people from Member firms who take part in one or more of our Subsections. 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*

Board goals → from Page 10

our Members. It promises to be a fabulous conference again this year at an exciting and popular venue. We hope to see many of you there. Register early, and don't miss out.

We are also looking at revamping our website, which will be a daunting but ultimately rewarding endeavour. Along with some basic updating, we want to invest in a search mechanism and create a more interactive platform and resource tool where you can search and share information on law-firm management. We want the BCLMA website to be top of mind whenever you need a resource pertaining to law-firm management and education.

Ultimately, we hope to ramp up and support more educational opportunities within BCLMA this year. One such initiative is webinars, which we have been testing over the past year, with the hope of spreading information to those further out. We also hope to bring in more

Board goals → to Page 13

SAVE THIS DATE

**BCLMA'S ANNUAL
MANAGING PARTNERS
SPEAKER DINNER
EVENT**

Thursday, October 25, 2012
Terminal City Club
837 West Hastings St., Vancouver

DYE & DURHAM - Premier Sponsor
CORPORATE COURIERS - Premier Sponsor



**BCLMA'S ANNUAL
WINTER SOCIAL**

Thursday, November 29, 2012
Terminal City Club
837 West Hastings St., Vancouver

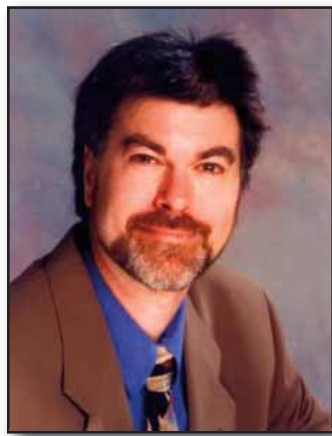
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**Canadian consultant, futurist to speak at
2012 BCLMA conference in Vancouver**

Change is rapid. In fact, it's often bewildering. But with the right skills, one can survive it and learn to embrace, integrate and manage it. Change is the topic of this year's BCLMA conference.

The Conference Committee continues to work hard on developing a program geared to all our members. As noted in the conference program, the committee found a specialist - a dynamic, professional speaker who clearly understood our theme, focus and audience.

Jim Bottomley is a management consultant, entrepreneur and futurist. His



Jim Bottomley

methods are known to support innovative approaches that better recognize and serve changing needs when facilitating strategic plans, developing branding and marketing strategy or leading initiatives in work design and organizational change. He has worked across a broad range of sectors - from Fortune 500 to non-profit. The bonus? He is Canadian!

Bottomley has already talked with several BCLMA Representatives and Affiliates to gain insight into the Association and the BC legal market to enable him to customize his program outline to all delegates. They all agree that Bottomley is a perfect fit for our audience.

Review the conference program posted on the BCLMA website today using the link at the end of this article.

WE COULDN'T DO IT WITHOUT OUR SPONSORS

BCLMA is appreciative of all our conference vendor-sponsors. We are extremely pleased to report that our tiered levels are all sold.

Along with our tiered sponsors, we welcome some new sponsors and trade-show participants:



ALF Software Inc., White Paper Company, BMC Networks, Sudden Communications, Oak Systems International, Quickscribe Services, TOR The Office Resource and Power Concepts. For a complete list, see the Conference Sponsor advertisement on the next page.

INCREDIBLE VALUE

Need a reason to attend the BCLMA Conference? How about all of the incredible opportunities to:

- ✓ Learn from industry leaders
- ✓ Network with people in the legal industry, in specific areas of interest to you. When you meet and interact with people at these events, they become valuable sources for information and support
- ✓ Meet the vendors and service providers who support and provide valuable services to our member firms in a relaxed setting
- ✓ For Greater Vancouver firms, attend a local venue - only 17 minutes from downtown Vancouver and five minutes from the airport on the Canada Line
- ✓ Take advantage of the most reasonable conference cost you'll ever find
- ✓ Socialize and have fun
- ✓ Win fabulous prizes!

DON'T MISS OUT

Due to venue restrictions, attendance is limited, so register early. Remember, the conference sold out last year. Registration forms are available on the BCLMA website's home page.

The BCLMA Board of Directors and the Conference Committee looks forward to seeing you at the conference!

Conference program link:
<http://tinyurl.com/879gto4>



BCLMA is pleased to welcome our latest
2012 Conference Sponsors and Trade Show Participants



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Members firms expertly navigate awards at HELM night in Vancouver

On June 14th, many of our Member Firms gathered at the Rosewood Hotel Georgia to celebrate and *Honour Excellence in Legal Marketing* at the Legal Marketing Association's 2012 HELM Awards.

HELM profiles the remarkable talent and expertise in the local legal marketing industry. The five judges this year mostly hail from Vancouver's sales, marketing and communications community:

- ★ Cheryl Carter, Vice President, *Business In Vancouver*;
- ★ Cam Good, President, The Key;
- ★ Steve H. Kim, President, Boiling-point Group;
- ★ Rachel Shelton, *Puget Sound Business Journal* of Seattle; and
- ★ Susan Van Dyke, President, Van Dyke Marketing & Communications

There were five submission categories:

- 1 *Practice Development* - This category recognizes business development programs and initiatives which advance individual or group practices. This can include, lawyer coaching, cross-selling initiatives, market research analysis and studies, and competitive intelligence projects.
- 2 *Integrated Marketing Campaign, Firm Identity, Promotional & Collateral Materials* - This category features projects or initiatives that a firm, office or practice group undertakes to leverage themselves in the marketplace. This may include: an integrated marketing campaign, which may incorporate a new logo/ specialized branding program, a new or refreshed website, innovative advertising, PR, digital media, sponsorship, brochures, announcements (office move, new partners, awards, etc.), newsletters or alerts, holiday cards or a launch event.
- 3 *Community Relations* - This category recognizes charitable and community ser-

vice programs and pro bono projects which align with the firm's strategic marketing initiatives.

- 4 *Events* - This category recognizes innovative special events, including seminars, open houses, networking events, client events, brand promotion events, staff development events, etc. Evaluation is not limited to attendance or budget.
- 5 *Small Law-Firm Marketing Award* - This category is for firms ranging up to 30 lawyers, and can have one dedicated marketing professional who works with each on any project or initiative related to the other categories.

Benefits of participating in the awards:

- ✓ Recognition of the creativity you and your firm have exhibited;
- ✓ Acknowledgment of your team's contribution within your firm;
- ✓ An opportunity to raise your firm's profile;
- ✓ Respect from your industry peers for your innovation and success; and
- ✓ Increased profile of the legal marketing profession as a whole.

The BCLMA congratulates our Member Firms for their recent honours.

Visit www.LegalMarketing.org in the coming weeks to learn more about the judges and the reasons why each firm won in their respective categories.

Then, plan your own submission for HELM 2014!

Board goals → from Page 11

speakers on topics that pertain to you and your roles in your firm. Please feel free to send an email to Membership at the address at the bottom of this page to share your ideas and thoughts on what you would like to learn more about.

Significant changes in law firm management are inevitable with continued uncertain economic times, changes in how law firms work, ever-changing technology, clients demanding more cost-effective practices, lawyers wanting work/life balances and changes in staff roles. These are challenging yet exciting times, but we'll be there to provide resources, tools and information to the BCLMA membership. Change is difficult for people, but our goal is to help provide you with tools to embrace, integrate and manage change.

TAKING LAW FIRMS TO THE NEXT LEVEL



2012 HELM AWARDS

Honouring Excellence in Legal Marketing

Congratulations to the Winners of the 2012 HELM Awards

Practice Development
Fraser Milner Casgrain LLP

Integrated Marketing Campaign, Firm Identity, Promotional and Collateral Materials
Fasken Martineau DuMoulin LLP

Community Relations
Fraser Milner Casgrain LLP

Events
Fasken Martineau DuMoulin LLP

Small Law Firm Marketing
Slater Vecchio LLP



LEGAL MARKETING ASSOCIATION
LMA
VANCOUVER CHAPTER
THE AUTHORITY FOR LEGAL MARKETING

Computer forensics → from Page 2

HOW IT WORKS

In most instances, here are the steps taken by a computer-forensic examiner:

- 1 Initial contact is made by the interested party or parties.
- 2 The electronic media that may contain the electronic file or files of interest is shown to the examiner.
- 3 A machine known as a write blocker is attached to the electronic media to prevent the forensic examiner from manipulating or changing the electronic information on the media.
- 4 A forensic image of the data is made using forensic software, which can capture all of the information on the media, even deleted or overwritten files.
- 5 A backup copy of the forensic image is made and set aside by the examiner for disaster-recovery purposes.
- 6 The steps taken to make the forensic image are documented, capturing information such as the current date and time, the make and model of the original

electronic media, the make and model of the storage media and the storage capacity (usually indicated in gigabytes).

7 Interrogation of the electronic media commences with the computer-forensic examiner focusing on the files or information on which they've been asked to comment.

8 A report is written, detailing the work and the findings. The report may be submitted as an expert's report, and may require the forensic examiner to testify in court or at arbitration.

TYPES OF INFORMATION

The variety of information that can be retrieved from electronic files and utilized in litigation or arbitration is only limited by the knowledge of the staff involved and the devices involved. Take as an example, an investigation of an individual alleged to be improperly removing corporate intellectual property that is also finding its way to a competitor. If the individual is suspected of facilitating the removal of the property via their work computer, and if access is granted to make a forensic image

of their computer's hard drive, the investigation may focus on any number of different avenues, some of which could be:

- 1 *Recovery of deleted files.* This step would not only recover any files that the individual accessed, but also could recover deleted email messages, Internet web pages, operating system logs, and other files associated with computer use.
- 2 *Email.* A study of the corporate email account would need to be undertaken to determine whether any email messages were sent containing attachments, and if those attachments contained sensitive information. Also of interest would be the recipient of the email messages. Was the individual sending the information home? To a competitor? Or to a third party?
- 3 *Webmail.* Webmail is email which can be accessed with a web browser and does not tie into a specific corporate domain. Examples of webmail include Hotmail, Gmail, and Yahoo! Mail. In some instances individuals will make use of

Computer forensics → to Page 15

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Computer forensics → from Page 14

webmail to perpetrate malicious acts, not realizing that the webmail leaves traces on their computer, facilitating the tracking of their movements.

4 *Internet browser history.* Each website that an individual user visits is captured by the computer's Internet history. This history becomes important if the individual is visiting websites such as Dropbox which allows users to share photos, documents, and videos without having to email them.

5 *Cookies.* Cookies are small pieces of information that are often left behind when an individual visits a website. Combined with the browser's history, they can be used to paint a portrait of an individual's surfing patterns.

These five are important aspects of any computer-forensic investigation. However, one area that deserves special attention is metadata. Simply put, metadata is data about data. It's commonly associated with document templates and electronic photos, although it can also be found on items such as photocopies, faxes and email.

The digital world creates, uses and stores metadata a lot because it saves time and explanations for both users and various computer devices that are using or handling digital files and main information they contain.

It's commonly associated with document templates and electronic photos, although it can also be found on items such as photocopies or faxes and in email.

So, what kind of data are we talking about here? In the case of electronic photos, metadata can contain fields such as the make and model of the camera, the aperture, the f/stop, the ISO, the size of the picture, the number of pixels, the format the picture was saved in, and GIS coordinates.

The latter can be especially relevant for individuals who have privacy concerns – if they upload their pictures of file/photo-sharing websites, and the website does not scrub the uploads of personal information, users could inadvertently be sharing their home location/details.

Another example involves the use of sport watches with GPS that athletes use to track their movements, heart rates, courses and the like.

Much of this bio-information is uploaded to the watch maker's corporate website, thus allowing the athlete to com-

pare training sessions and maintain a training log. However, most athletes start

Computer forensics → to Page 17



What kind of metadata is stored in a modern digital photo? First, consider that information is neutral. It can be used for good or... other stuff. For starters, this iPhone 4 photo of Topics editor Stephanie Marsh contains information that pinpoints where it was taken (the yellow dot on the Bing map) and exactly when to the second; even how high above sea-level she was standing (139.7 metres). It also tells us what direction she was facing (71° or east-northeast). Thus, it gives her a good alibi for whatever might have happened in the building behind her, or it could place her at the scene of an event, facing what happened on the street in front of her. For the rest of the data captured with her photo, see box below.

---- GPS ----	File Modification Date/Time: 2012:07:10	Exposure Program: Program AE
GPS Latitude Ref: North	10:46:55-07:00	ISO: 80
GPS Latitude: 49 deg 17' 0.60"	File Permissions: rw-r--r--	Exif Version: 0221
GPS Longitude Ref: West	---- File ----	Date/Time Original:
GPS Longitude: 123 deg 6' 58.20"	2012:07:10 10:31:24	
GPS Altitude Ref: Above Sea Level	File Type: JPEG	Create Date: 2012:07:10 10:31:24
GPS Altitude: 139.7425743 m	MIME Type: image/jpeg	Components Configuration: Y, Cb, Cr, -
GPS Time Stamp: 17:31:24.15	Exif Byte Order: Big-endian (Motorola, mm)	Shutter Speed Value: 1/628
GPS Img Direction Ref: True North	Image Width: 2592	Aperture Value: 2.8
GPS Img Direction: 288.7579618	Image Height: 1936	Brightness Value: 8.312215132
---- Composite ----	Encoding Process: Baseline DCT, Huffman coding	Metering Mode: Spot
Aperture: 2.8	Bits Per Sample: 8	Flash: Off, Did not fire
GPS Altitude: 139.7 m Above Sea Level	Color Components: 3	Focal Length: 3.9 mm
GPS Latitude: 49 deg 17' 0.60" N	Y Cb Cr Sub Sampling: YCbCr4:2:0 (2 2) [Colour data benchmarks]	Subject Area: 1372 760 484 484
GPS Longitude: 123 deg 6' 58.20" W	---- IFDO ----	Flashpix Version: 0100
GPS Position: 49 deg 17' 0.60" N, 123 deg 6' 58.20" W	Make: Apple	Color Space: sRGB
Image Size: 2592x1936	Camera Model Name: iPhone 4	Exif Image Width: 2592
Shutter Speed: 1/628	Orientation: Rotate 90 CW	Exif Image Height: 1936
Thumbnail Image: (Binary 13034 bytes)	X Resolution: 72	Sensing Method: One-chip colour area
Focal Length: 3.9 mm	Y Resolution: 72	Exposure Mode: Auto
Light Value: 12.6	Resolution Unit: inches	White Balance: Auto
---- ExifTool ----	Software: 5.1.1	Scene Capture Type: Standard
ExifTool Version Number: 8.93	Modify Date: 2012:07:10 10:31:24	Sharpness: Hard
---- System ----	Y Cb Cr Positioning: Centered	---- IFD1 ----
File Name: Steph for Iverson article.JPG	---- ExifIFD ----	Compression: JPEG (old-style)
Directory: /Users/	Exposure Time: 1/628	X Resolution: 72
File Size: 2.1 MB	F Number: 2.8	Y Resolution: 72
		Resolution Unit: inches
		Thumbnail Offset: 902 [bytes]
		Thumbnail Length: 13034 [bytes]

Data & Litigation Support → from Page 3

- ✓ Server backup tape rotation
- ✓ Electronic data shredding
- ✓ Scheduled destruction of back-up media
- ✓ Re-imaging of drives
- ✓ Drive hardware exchanges
- ✓ The sale, gift or destruction of computer systems, and when computer forensics may come into play
- ✓ Disk defragmentation
- ✓ Maintenance routines.

The purpose of the preservation letter is to educate your client and, often, your opponent, about the relevant electronic evidence, and the importance of taking prompt affirmative steps to see that evidence remains accessible.

After ensuring that the data is preserved, the next step is to develop a data-collection strategy. The strategy should:

- ✓ List relevant time frame(s)
- ✓ List what type of ESI you need to acquire
- ✓ List what material will be relevant (e.g. corporate email, personal email, instant messages, calendar items, task items, MS Word documents, etc.)
- ✓ List the possible sources of relevant material (e.g. central storage on file servers, archival storage on backup tapes, etc.), PC workstations, laptops, smart phones, remote storage
- ✓ List all people who hold the data, and provide a system to monitor the collection and chain of custody forms
- ✓ Consider whether the client or the client's IT personnel could, or should, collect the data.

A forensic consultant is typically employed to collect ESI where the data was "deleted", but may still exist on a hard drive, or where the collection of the data itself may be called into question by opposing counsel or the courts.

PROCESSING AND CULLING ESI

The purpose of processing ESI is to prepare it for review and production. It involves preparing a kind of inventory that lists the types of files collected, extracting metadata and doing other related func-

tions. During the processing stage, the data is made searchable by extracting searchable text.

Data culling involves removing non-relevant data prior to the review of the data. Non-relevant data may be data about time periods which are not in question, types of files that not required, etc. The culling process assists in reducing the number of documents for the legal team to review.

REVIEW AND ANALYSIS

The review of ESI is the most time-consuming and expensive part of the eDiscovery process. The review procedure is conducted by the legal team to determine what data is relevant, privileged and producible in the litigation. The voluminous



nature of ESI requires that litigation-support software be used, which allows the reviewers to use Boolean search terms, undertake concept searches and possibly conduct fuzzy-logic searches. Some litigation-support software programs will group ESI by the person who supplied it or other criteria. This assists with a more efficient and cost-effective review of the data.

The traditional method of reviewing documents is the linear review; that is, each document is reviewed one at a time. This approach is not always practical when dealing with tens of thousands or even millions of pages as costs associated with the review would be prohibitive. To keep costs down, paralegals should conduct initial reviews and categorize the documents into either

produce, not relevant, or privileged. Lawyers would then review the flagged documents and make a final determination.

THE PRODUCTION SEGMENT

The production stage involves creating a subset of relevant documents in a format that is accessible by opposing counsel. The documents are listed and columns of data are exchanged which identify the contents of documents (i.e. a *List of Documents*), and the electronic documents are converted to a format that opposing counsel may easily review using their own litigation-support programs.

The following is a list of some of the litigation-support software tools available that may assist with the processing/culling,


review, and/or production of voluminous ESI, and/or paper documents:

- ✓ *Summation Pro or Express*,
- ✓ *Concordance*,
- ✓ *CaseLogistix*,
- ✓ *Searchlight*,
- ✓ *Clearwell*,
- ✓ *Ringtail*,
- ✓ *Relativity*, and
- ✓ *iCONNECTnXT*.

Each tool has different strengths and weaknesses which should be investigated and assessed according to firm, and – in some instances – case needs, prior to committing to same. Regardless of the software tool used, it is imperative that users be properly trained in how to operate it, and that best practices be established surrounding its usage in order to avoid the inadvertent disclosure of privileged or confidential information.

CONCLUSION

eDiscovery is present in almost all areas of litigation, and is a complicated process. It can also be a costly process.

To control costs, law firms must develop strategies, expertise, and best practices for managing and reviewing ESI. 

Ann Halkett (BA, SSIS) is a Litigation Support Coordinator at Alexander Holburn Beaudin & Lang LLP and Chair of the newly created Litigation Support Subsection of the BCLMA. Contact Ann at ahalkett@ahbl.ca or 604.628.2705.

Computer Forensics → from Page 15

their workouts from their homes and on a regular schedule.

And knowing when the athlete will be away from their home, and for how long, can provide a malicious website visitor with enough information to perpetrate a property crime.

COMPUTER FORENSICS: NOW & FUTURE

Computer forensics is a field that continues to grow and receive media attention.

Ten years ago, it was uncommon for someone on a television show to say,

Data breaches... disclosure of personal information... email addresses, passwords, credit card information...



“Where’s the computer? We’ll have our tech look at it,” but programs like *Criminal Minds* and *CSI: Crime Scene Investigation* have made such phrases almost commonplace.

And as the price of technology continues to drop, the amount of storage space available continues to grow and data breaches involving the disclosure of personal information such as email addresses, passwords, and credit card information occur, the need analysis of data by computer-forensic examiners will remain an important part of the investigative process.



Dave Iverson is a senior manager with Grant Thornton LLP in Vancouver. His practice includes providing litigation support, with a specialization in security, cyber-crime investigations and computer forensics.

Car Sharing → from Page 6

City of Vancouver eliminated free parking at City Hall for city employees and provided car-sharing vehicles on-site. Modo, for instance, now has more than 500 city employees using its vehicles during business hours. It’s a triple bottom-line initiative. With car-sharing, the firm can save money, reduce administration, and enhance its brand by marketing their green attitudes with their stakeholders.

Car2Go: <http://www.car2go.com/vancouver/en/>

Modo: <http://www.modocoop>

Zipcar: <http://www.zipcar.com/business/>

Phil Baudin is a former legal administrator and now the Executive Director of Modo the Car Co-op. He can be reached at phil@modo.coop

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BCLMA'S VOLUNTEER HERO AWARDS

Counting 10 years of blessings as Sharon Kwong Wah retires

The BCLMA has the good fortune of attracting excellent volunteers who step up to dedicate their precious time, knowledge and energy to the success of the Association.

This edition, we honour Sharon

Kwong Wah, who delved into one of her favourite types of firms – the small ones – with enthusiasm, and to our genuine benefit.

Our Volunteer Heroes segment highlights the hard work and dedication of our

volunteers and also shares their future plans. If you've got the spirit, contact any Board Member or subsection leader (contact info on page 27) to learn more about volunteer opportunities.

We'd love to work with you!



THE HONOUR ROLL OF THE VOLUNTEER HEROES OF THE BRITISH COLUMBIA LEGAL MANAGEMENT ASSOCIATION

	 <p>Sharon Kwong Wah, Administrator, Young Anderson LLP, Vancouver</p>
<p>BCLMA OR VALA MEMBERSHIP...</p>	<p>I started working in law firms as an accounting clerk in 1984 and then became accounting manager and kept moving up in my career. I have worked for small firms and large firms, and decided I really like the small firms. I started working with Young, Anderson in 2000 in the accounting department and became the Administrator in 2001. I found out about VALA in 2001 and I have been a member ever since!</p>
<p>CONTRIBUTIONS INCLUDE...</p>	<p>I helped chair the Small Firms subsection from 2008 to 2010. Colleen Chapman had been doing the role for a long time. BCLMA was asking for volunteers and I thought I wouldn't mind doing that. I started by offering to help Ann Main with this role. I thought I could shadow Ann and help and learn. Ann thought I could take it on myself, so I did!</p>
<p>WHY DO YOU CONTRIBUTE? HOW CAN WE MAKE THE MOST OF OUR MEMBERSHIP?</p>	<p>I wanted to keep it going. I had a great experience and I wanted to share what I enjoyed. It's so great when you have someone you can fall back on whenever you need help. I felt that I had to keep this going.</p> <p>There are so many people with such great experience. Get out there, meet the other Members and start asking questions.</p>
<p>OVER THE YEARS, I HAVE ENJOYED CONTRIBUTING BECAUSE...</p>	<p>Mentoring is so important! I really enjoy seeing someone grow. For example, I met Cindy Hildebrandt in 1995. She was an office clerk and was helping in accounting. Her career has just blasted off since then.</p>
<p>WHAT DO YOU ENJOY MOST ABOUT THE BCLMA?</p>	<p>Everybody in the BCLMA... the friendships I've made... It's reassuring to know that others face the same issues and challenges. You always know there is someone there to help. It's so easy to email people and pick their brains. You can go to conferences and talk to vendors. I have made some really good connections over the years. The BCLMA is a safe environment to bring up ideas without fear of judgment, or the fear of feeling foolish.</p>
<p>LOOKING AHEAD...</p>	<p>We are moving to Osoyoos. I am going to enjoy spending time with my husband. And of course, I will be looking to keep myself young and keep myself occupied. I like the thought of helping others and finding something that will be a little bit of a challenge for myself. I am not sure what that will be yet but I am looking forward to finding it!</p>

EMAIL, TEXT MESSAGES, SOCIAL MEDIA, EVEN U.S. COMPANIES MARKETING TO CANADIANS – ALL COVERED

The new Canada Anti-Spam act: what you need to know

By Sze-Mei Yeung, Scott Lamb, Gina Wu, Richards Buell Sutton

No one likes getting spam whether it is unwanted emails or computer viruses or misleading messages. However, the new *Canada Anti-Spam Act* imposes significant burdens on Canadian businesses in combatting spam, as well as significant penalties for failure to comply.

The *Act* is complex, and we only provide a general summary here.

PROHIBITIONS

There are three main prohibitions under the *Act*:

- 1 Sending commercial electronic messages (CEMs), such as emails, without express or implied consent of the recipient;
- 2 Alteration of transmission data in an electronic message to a destination other than that specified by the sender without express consent; and
- 3 Installation of a computer program on another person's computer without express consent of the recipient.

1. SENDING CEMs

To determine whether you have the right to send a CEM you need to answer the following questions:

a. Do you have express consent?

The sender of a CEM must first obtain written or oral consent from the recipient in informing the recipient of the purpose for which CEMs are to be sent, the name and contact information for the sender of the CEM, a statement that the consent can be withdrawn and the unsubscribe mechanism.

b. Do you have implied consent?

Implied consent can be inferred in the following circumstances:

1. The Two-Year Business Relationship Exception

The sender has an existing business relationship with the recipient for the previous two years in the context of:

- The purchase or lease of a product, service or land, or
- You are the recipient of a business opportunity;
- Bartering; and
- A valid contract between sender and recipient.

2. The Two-Year Non-Business Relationship Exception

The sender has an existing non-business relationship with the recipient. That is generally defined as a registered charity, political party, qualifying clubs or voluntary organizations. It is where the recipient was a donor or volunteer, or where they attended a meeting or had a membership within the previous two years.

3. The Web-site Exception

If the recipient conspicuously published their electronic address, such as on a website, without including a state-



Sze-Mei Yeung



Scott Lamb



Gina Wu

ment that it does not wish to receive unsolicited messages, and the CEM is relevant to the recipient's business.

4. The Business Card Exception

If the recipient provides the sender their electronic address, such as on a business card, without indicating they do not wish to receive unsolicited messages, and the CEM is relevant to the recipient's business.

There are various other exemptions in sending CEMs, including in the context of:

1. Personal or family relationships;
2. An inquiry or application in a commercial activity;
3. A quote or estimate for supply of a product, service or land if requested; and
4. Providing a warranty, product recall or safety information concerning a product or service the recipient has used or purchased.

d. Is the CEM in the prescribed form?

The CEM must identify the person who sent it.

e. Is there an unsubscribe or opt-out mechanism?

The unsubscribe mechanism must be present as well as the sender's name, and allow the recipient, at no cost, to indicate to the sender that they no longer wish to receive CEMs from the sender by way of the same electronic means as the original message sent to the recipient.

Where this is not practical, the sender must post such information on the web that is readily accessible at no cost to the recipient by means of a link that is clearly and prominently set-out.

2. ALTERATION OF TRANSMISSION DATA

The *Act* prohibits, in the course of a **Knowing the Anti-Spam Act → to Page 20**



The Canada Anti-Spam Act draws a distinct line between on-line marketing activities that are good...

IT'S ABOUT MORE THAN PUBLICATIONS

How to become a thought leader in a niche market

By Lauren Culley,
Boughton Law Corporation

Thought leader. It's a buzz word in the professional services sector.

Forbes magazine defines thought leadership as an "individual or firm that prospect, clients, referral sources, intermediaries – and even competitors – recognize as one of the foremost authorities in selected areas of specialization, resulting in it being the go-to individual or organization for said expertise."

Forbes also states that it is a truism that thought leaders tend to be the most successful individuals or firms in their respective fields.

For a law firm, thought leadership is definitely a competitive advantage. It opens doors for individual lawyers to build themselves a reputation as an expert in the marketplace (and, therefore, build their fees). It presents opportunities for your firm to become known as a go-to shop for leading-edge ideas, forecasting, and general temperature checks within sectors and industries, across the market. It's win-win!

So what are the first steps to becoming a thought leader? The following checklist will help you to determine whether you or your firm have what it takes to become a thought leader.

✓ **Focus on a niche area where you have the right to win.** Don't try to market full-service (though you may offer it). Instead, use your marketing dollars to develop a niche area or two. When identifying such areas, review your sales and profit growth by practice area. Measure sales with a market-sector and service-line matrix, and focus on the areas in which you excel and where business is growing. Don't be afraid to choose a narrow niche. In fact, the thinner the slice, the better. With less competition, your firm's lawyers will have a better chance at building a credible reputation as experts in that field.

Encourage lawyers to think about their personal interests and where they want their careers to grow. Some



Lauren Culley

lawyers find themselves working on matters outside of their main field of interest and get stuck there. Helping them pursue their passion in their careers will help them and your firm achieve the specialized thought-leadership positioning your firm desires.

- ✓ **Create a Unique Value Proposition or Unique Selling Proposition.** Identify a niche area that has "Wow!" factor and fills your prospects with confidence that the value they will

Gather your intellectual capital assets. Use them.

receive will far exceed what they pay in legal fees. Make sure your unique proposition clearly explains why your prospective client should buy the services of your firm or that of its lawyers over your competitors. Demonstrate unique benefits and value-added differentiators. Your unique proposition will act as your north star to help guide your strategic marketing, and drive your key messages home.

- ✓ **Write and speak on topics that keep your clients awake at night.** Get your lawyers thinking about the problems your clients face, how they affect your clients and what legal services and solutions your professionals can offer to address them. Don't just write and speak about changes in the law, such as reporting on legal updates. Go beyond reporting and move directly to thought leading. Transpose complex issues into simple concepts, be clear, and aim to connect the audience with the real problems they face.

Thought leadership includes identifying industry trends and anticipates is-

ues that could have an impact on your clients' business. The advice you provide is your unique wisdom about how to prepare for what's ahead. Try a tips-and-tricks format. Identify common misconceptions or mistakes, and then educate your clients about how to avoid them. Use case studies and corporate storytelling. People can relate to the challenges and mistakes of others, and learn from workable solutions.

- ✓ **Leverage your firm's intellectual capital.** Gather your firm's published white papers, measurement tools, technology, techniques, case studies and training materials. Use them to help generate engaging and insightful thought-leadership contributions. Maximize what you already have, and manage those materials like they're tangible assets. Also, utilize your students and junior staff to draft thought-leadership pieces, which senior staff can then polish and finalize.
- ✓ **Market the heck out of your thought-leadership publications.** Use your website as your thought-leadership repository. Use them as social-media postings. Get lawyers to present these publications at industry conferences and seminars. Publish them in trade journals. Thought leadership is powerful equipment in your marketing tool-box.

Thought leadership allows for greater passion and overall job satisfaction. It will allow your lawyers to have a bigger say in their career destiny, and become known for what they want to be known for and to a specific audience. And remember, when it comes to building reputation, it is always good to heed the axiom that it's better to be a big fish in a small pond than eaten up in the big pond.

Lauren is the Business Development Manager at Boughton Law Corporation. She advises the firm and its lawyers on business development and marketing initiatives, including practice development & management, strategy development, situation assessment, contact relationship management, pitching and brand management. lculley@boughton.ca or 604.647.5528

Cheery summer function as we hit the Brix swells attendance – again

Photos by Dennison Lee, Harper Grey LLP

The BCLMA held its fun annual Summer Social on June 7 at Brix Restaurant & Wine Bar in Yaletown.

There were 140 Representatives, Affiliates and Alumni members registered for the event, overcoming last

More Summer Social notes on Page 23



Merv Cousins, Corporate Couriers Logistics and a BCLMA Premier Sponsor is with Ann Halkett of Alexander Holburn. Ann is Chair of the BCLMA's Litigation Support Sub-Section; They're with Cindy Hildebrandt, BCLMA President and Summer Social MC, of Richards Buell



Sharon Cheng and Claire Tysoe, both of Boughton Law



Lily Ling, Xavier Williams, Sara Berner and Rita Koivunen, all of Stikeman Elliott



Margaret Cividino and Lisa Ezaki, both of Miller Thomson



More Summer Social pix on page 23

Shawn Farion of Kranq Courier, which is a Summer Social Contributing Sponsor, Tim Wurtz of Baker Newby and Todd Mulherin of Ricoh Canada, a Summer Event sponsor

Summer Social from Page 22

years' record attendance of 105. This event consistently grows year after year! (We are running short of restaurants large enough to accommodate us!)

The skies were clear, the temperature was perfect and the atmosphere in the covered brick patio was buzzing. Del La Terra provided the upbeat Latin music.

Our new reception-style format proved a hit among BCLMA members and our sponsors. Everyone had the chance to move around and mingle. The canapés were plentiful and delicious, and the service was top-notch.

More Summer Social notes on Page 24



Justin Mui, along with Marketa Rumlana and Sonia Kenward. Sonia (r) is Chair and Marketa is Co-Chair of the BCLMA's Human Resources Sub-Section. All three are from Fasken



Caitlin Spellicy of Alexander Holburn and Julie Wong of Bull Housser



Sarah Munro, Afshin Sho and Jenny Redford, all three are from Singleton Urquhart



Heather Walker of Slater Vecchio and Kerri Pearce of Alexander Holburn



More Summer Social pix on Page 24

Indira Pal of Gowlings and Gloria Bordon of Harper Grey. Gloria is the Co-Chair of the BCLMA's Trainer Sub-section. They are with Ruth Ann Spencer of Bull Housser

Summer Social from Page 23

Dye & Durham Corporation, represented by Cynthia Nerland and Clive Bellian, and Corporate Couriers Logistics, represented by Justin Thompson and Merv Cousins, attended as Premier Sponsors.

Also joining us this again this year as a summer-social event sponsor was Ricoh Canada. Todd Mulherin and Paddy Carroll represented the well-known company that specializes in document-management and image communications.

BCLMA was lucky to have two contributing sponsors for this year's summer event: Kranq Courier, represented by Shawn Farion; and i-worx Enterpris-

More Summer Social notes on Page 25



Priscilla Wyrzykowski of Alexander Holburn, with Lisa Rennie of Gowlings are on the left. Lisa is Co-Chair of the BCLMA's Litigation Support Sub-Section. They are with Dorothy Cheung of McCullough O'Connor and George Lo of Alexander Holburn. George is Chair of the BCLMA's Technology Sub-Section



Ann Johnston of Bull Houser and Neelam Dhat of Singleton Urquhart



Lisa Kowan (l) and Chanel Donovan, both of Macdonald Tuskey, are with Andrea Russell (r) of Borden Ladner



Sunita March of Camp Fiorante and Andree Coetzee of i-worx, Summer Social Contributor



More Summer Social pix on Page 25

Wayne Scott of Alexander Holburn (l) is with Cynthia Nerland of Dye & Durham Corp, which is a BCLMA Premier Sponsor. They're with BCLMA director Ernie Gauvreau of Gowlings

Summer Social from Page 24

es, represented by Andre Coetzee and Glenn Wilson.

Our generous sponsors donated draw prizes too. Congratulations to all our winners, who included:

- **Corporate Couriers Logistics** - A bottle of *Dom Perignon* won by **Ann Halkett** of Alexander Holburn LLP
- **Dye & Durham** - Art Club Theatre tickets and dinner won by **Dave Bilinsky** of The Law Society
- **Ricoh Canada** - Digital camera won by **Anne Nkomo** of Gowlings LLP
- **Kranq Couriers** - A trip to Las Vegas won by **Jenny Redford**, Sin-

More Summer Social notes on Page 26



Lisa Evanson (l), Rohan Hare and Leslie Morgan, a BCLMA director, all of Harper Gray



Alicia Bond of Bull Houser, and Chair of the BCLMA's Facilities Subsection, is with Sh'eli Mullin of Camp Fiorante



Nancy Read of Richards Buell and Christa Warner of Harper Grey



David Bilinsky, representing The Law Society of BC



Charmaine Hall, Sandra Evans and Catharine Rae, all of Borden Ladner

Summer Social → from Page 25

gleton Urquhart LLP

• *i-worx Enterprises* - Starbucks gift card won by **Dorothy Cheung**, McCullough O'Connor Irwin LLP

The BCLMA also awarded prizes:

• *Liquor Store Gift Card*: **Sam Mann**, Singleton Urquhart LLP, and **David Poon**, Alexander Holburn LLP

• *Winners Gift Card*: **Kerri Pearce**, Alexander Holburn LLP

• *The Bay Gift Card*: **Claire Tysoe**, Boughton Law Corporation

Thank you to everyone who attended our annual Summer Social, yet another successful event.

A special thank you to all our sponsors! We greatly appreciate your ongoing support of BCLMA events.

Visit the social events page at www.BCLMA.org to enjoy more photos of the evening, and mark your calendars now for the next annual Winter Social.

It is scheduled to take place on Thursday, November 29 at the Terminal City Club in Vancouver.



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D: 604.661.9267
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Thorsteinssons LLP
D: 604.602.4280
AParke@Thor.ca

Ernie Gauvreau, *Director*



Gowling Lafleur Henderson LLP
D: 604.443.7607
Ernie.Gauvreau@Gowlings.com

Lori-ann Birdsall, *Director*



Gowling Lafleur Henderson LLP
D: 604.891.2264
Lori-ann.Birdsall@Gowlings.com

Susan Spalding, *Director*



Owen Bird Law Corporation
D: 604.691.7546
SSpalding@OwenBird.com

Paula Kiess, *Director*



McCullough O'Connor Irwin LLP
D: 604.646.3308
PKiess@MOISolicitors.com

Leslie Morgan, *Director*



Harper Grey LLP
D: 604.895.2854
LMorgan@HarperGrey.com

Angela Zarowny, *Treasurer*



Angela M. Zarowny, BA, CGA,
Accounting Services
D: 604.351.0124
AZandDZ@Shaw.ca

ADMINISTRATION

Jane Kennedy,

BCLMA Administrator & Membership Services

PO Box 75562, RPO Edgemont Village
North Vancouver, V7R 4X1



P: 604.988.1221
F: 604.988-1221
Membership@BCLMA.org

EDUCATIONAL CONFERENCE – 2012

Susan Spalding, *Conference Co-Chair*



Owen Bird Law Corporation
D: 604.691.7546
SSpalding@OwenBird.com

Bonnie Kirk, *Conference Co-Chair*



Lawson Lundell LLP
D: 604.631.9270
BKirk@Lawson.com

SUBSECTION CHAIRS

Facilities & Service Management

Alicia Bond, *Chair*



Bull Housser & Tupper LLP
D: 604.641.4520
ALB@BHT.com

Marina Pellerin, *Co-Chair*



Camp Fiorante Matthews
Direct: 604.331.9533
MPellerin@CFMLawyers.ca

Finance

Pelar Davidson, *Chair*



Oyen Wiggs Green & Mutala LLP
D: 604.676.9071
PDavidson@Patentable.com

Aimee Kunzli, *Co-Chair*



Slater Vecchio LLP
D: 604.602.5493
AKunzli@SlaterVecchio.com

Human Resources

Sonia Kenward, *Chair*



Fasken Martineau DuMoulin LLP
D: 604.631.4959
SKenward@Fasken.com

Marketa Rumlena, *Co-Chair*



Fasken Martineau DuMoulin LLP
D: 604.631.3276
MRumlena@Fasken.com

Litigation Support

Ann Halkett, *Chair, & Member, Topics Editorial Committee*



Alexander Holburn Beaudin & Lang LLP
D: 604.628.2705
AHalkett@AHBL.ca

Lisa Rennie, *Litigation Support Co-Chair*



Gowling Lafleur Henderson LLP
D: 604.891.2795
Lisa.Rennie@Gowlings.com

Knowledge Management

Sarah Sutherland, *Chair*



McMillan LLP
D: 604.893.7648
Sarah.Sutherland@McMillan.ca

Kaitlyn Tribe, *Co-Chair*



Alexander Holburn Beaudin & Lang LLP
D: 604.628.2719
KTribe@AHBL.ca

Small Firms

Lisa Dawson, *Chair*



Kornfeld LLP
D: 604.331.8300
LDawson@KornfeldLLP.com

Natalie Foley, *Co-Chair*



Miller Titerle LLP
D: 604.681.4112
Natalie@MillerTiterle.com

Technology

George Lo, *Chair*



Alexander Holburn Beaudin Lang LLP
D: 604.643.2168
GLo@AHBL.ca

Trainers

Tara Cain, *Chair*



Davis LLP
D: 604.687.9444
TCain@Davis.ca

Gloria Bordon, *Co-Chair*



Harper Grey LLP
D: 604.895.2217
GBordon@HarperGrey.com

TOPICS EDITORIAL COMMITTEE

Bob Waterman, *Chair*



Richards Buell Sutton LLP
D: 604.661.9241
BWaterman@RBS.ca

Lorraine Burchynsky, *Topics Advertising*



Boughton Law Corporation
D: 604.647.4162
LBurchynsky@Boughton.com

Paula Butler, *Barrister & Solicitor*



D: 604.782.0373
PButler@PaulaButler.com

Sunita March



Camp Fiorante Matthews
D: 604.331.9535
SMarch@CFMLawyers.ca

Stephanie Marsh



D: 604.691.3367
ContactStefMarsh@GMail.com

Peter Morgan



Morgan:Newsletters
D: 604.683.3241
PMorgan@Morgan-News.com