

Vincent O'Donnell  
of Lavery's

*Vincent O'Donnell*

## *Lifetime Achievement Award of the Anglophone section of the Bar of Montreal*

**Ian M. Solloway reelected  
as president of the  
English-speaking section of  
the Bar of Montreal**

**Me Johanne Brodeur,  
new Bâtonnier of Quebec**

**Me Bernard Synnott of  
Fasken Martineau,  
elected vice-president**



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# The Lifetime Achievement Award to Lavery's «iconic» figure Vincent O'Donnell



Vincent O'Donnell

By André Gagnon

**T**he largest room of Montréal palais de justice, on the fifth floor was filled to capacity with guests and members of the English-speaking section of the Montreal Bar to attend this first ever ceremony. Even Justice Richard Wagner of the Supreme Court of Canada, was present to see his friend and former Lavery partner, Vincent O'Donnell, receive this historic award.

In this packed room, the largest gathering of Anglophone lawyers of Montréal ever to attend the annual meeting remarked president Ian M. Solloway, joined prestigious guests to celebrate Vincent O'Donnell, whose career as a lawyer, litigator and mentor, has touched so many law students, «stagiaires», associates and partners as well as the leadership of Quebec and Montreal Bar over the years, this low-profile professional everybody had «in awe» as Don McCarty mentioned, who after aticling under Vincent O'Donnell, has become the partner in charge at Lavery's.

Bâtonniers, judges, justices were on hand to be part of this grandiose ceremony organized jointly by the English-speaking section and the Bâtonnière Catherine Pilon of Dentons and director general Doris Larrivée along with the uncontested president of the section, Me Ian M. Solloway.

Here's how Ian Solloway introduced with great pride Vincent O'Donnell :

This past year the English-Speaking Section of the Bar of Montreal decided to create the first ever award to be presented by our section in its over 160 year history – "The Lifetime Achievement Award ".

The Award is worded as follows:

The "Lifetime Achievement Award" is to be given from time to time by the English-Speaking Section of the Bar of Montreal to a worthy recipient who meets the following criteria:

"is a current or former member in good standing



*Ian M. Solloway*

of the Bar of Montreal; who, throughout his/her career has demonstrated excellence in the profession, outstanding leadership in the profession, outstanding service to the profession and has contributed to the enhancement of the image of the profession."

After due deliberation, the English-Speaking Section has decided to present its inaugural "Lifetime Achievement Award" to one its most distinguished members, Me J. Vincent O'Donnell, Q.C., Ad.E.

When I first advised Vince O'Donnell that he would be receiving the "Lifetime Achievement Award" of the English-Speaking Section of the Bar of Montreal, he said that he had only one request of me, and that was, and I quote; "to keep it short". When someone (usually a judge), gives me such an instruction in the context of a legal argument, I am immediately reminded of course of the well-known admonition given to trial lawyers by the late great Canadian litigator, J.J. Robinette, or perhaps it was Alan B. Gold, I never know which one - the admonition known as the "rule of the 3 B's":

"Be brief, Be direct & Be gone."

So, although it may be difficult, I will try to accommodate Me O'Donnell and respect the rule.

Vincent O'Donnell received his Bachelor of Arts from Loyola College in 1952 and his Bachelor of Civil Law from McGill in 1955. Called to the Quebec Bar in 1956, he began his practice with the law firm of Lavery, de Billy in 1957, where he rapidly developed a reputation as a specialist in professional liability, civil and commercial litigation, securities and oppression litigation, and insurance law.

Me O'Donnell's involvement in the legal profession is unparalleled and legendary. A senior partner at Lavery, de Billy, Me O'Donnell was appointed a Queen's Counsel in 1972. He was a member of the Executive Committee of the Bar of Montreal from 1983-1985

and Bâtonnier of the Bar of Montreal from 1984-1985. He served as a member of the Conseil de la Magistrature from 1985-1992 and a member of its Executive Committee and Committee on Ethics from 1988-1992.

Me O'Donnell was a member of the Canadian Bar Association's Supreme Court Liaison Committee from 1990-1998 and Chair of the Committee from 1996-1998. He was a member of the CBA Task Force on Constitutional Amendment Processes from 1990-1992.

Vince is a Member or Fellow of a multitude of national and international professional organizations - the American College of Trial Lawyers; the International Academy of Trial Lawyers; the International Association of Defence Counsel, where he also served on the Executive Committee from 1983-1986; the Federation of Insurance and Corporate Counsel; the Defense Research Institute; the Canadian and American Bar Associations and the Canada Institute of the Administration of Justice.

Vincent O'Donnell is a Member of the Board of Directors of the Canadian Council of Christians and Jews and served on its Executive Committee from 1989-1993. He was also President of "le Club Saint-Denis" from 1981-1982.

Me O'Donnell is listed in Lexpert, American Lawyer Guide to the leading 500 lawyers in Canada in the areas of commercial insurance litigation, corporate commercial litigation and product liability; the Canada Legal Lexpert Directory in the fields of commercial insurance litigation, director and officer liability insurance litigation, insurance law, and product and professional liability litigation.

In 1999, Vincent O'Donnell was awarded the "Medaille du Barreau":

« Un prix qui fut créé pour mettre en lumière, l'apport exceptionnel de ceux et celles qui ont contribué au développement de la société québécoise dans la domaine de droit ».

In presenting the "Medaille du Barreau", the then Bâtonnier du Quebec, Me Jacques Fournier described Vince O'Donnell as:

"Un juriste au parcours remarquable ... un homme que l'on peut qualifier de "pipeline de la profession".

From 2001-2004, Me O'Donnell presided the committee which reviewed the remuneration of Judges of the Court of Quebec and of the Municipal Courts in Quebec.

Not only is Vincent O'Donnell's career a testimony to his "engagement professionnel et communautaire", and his devotion to the practice of law, it is also a testimony to "engagement académique".

Sa contribution dans divers domaines du droit est reconnue, tant au plan pratique, en particulier, en droit des assurances, domaine pour lequel Vince s'est engagé à fonds et auquel il a laissé une marque indélébile.

He has taught, published, lectured, and given numerous conferences - the Meredith Memorial Lectures at McGill on "The New Quebec Insurance Act" in 1978; "Construction Bonds in Canada" in 1985; "L'avenir de l'indemnisation du préjudice corporel" at the University of Ottawa (1986); "L'assurance responsabilité et les professionnels" for the Chambre du Commerce du Québec in 1986; "Le Reform du Code Civil - Les assurances" for le Barreau du Québec (1993); "The Future of Tort Law" for the Canadian Bar Association in 1998, just to name a few.

In 2007, Vincent O'Donnell was named "Advocat Émérite", Ad.E. by the Quebec Bar. In 2008, he received the Canadian Bar Association's "President's Award", for his exceptional contribution to the legal profession and to the CBA.

In 2011, Vincent O'Donnell was named "Montreal Director and Officer Liability Lawyer of the Year" by Best Lawyers, the oldest and most respected peer publication in the legal profession.

"Sans cesse préoccupée à faire avancer le droit, Me Vincent O'Donnell a toujours fait profiter tout le monde de son sens de l'équilibre et de la justice".

Ladies and Gentlemen, there are few people in our profession who merit the word "iconic" ascribed to them. Vince O'Donnell is one of those few.

He has been and remains an advocate / avocat in the finest sense of the word.

His career has been a model for us all - He is a man, who, through his example, has made us all proud to call ourselves lawyers.

"Vince, nous, vos collègues, les anciens et les nouveaux, sommes fiers et privilégiés de vous rendre hommage ce soir."

And so, ladies and gentlemen, without further adieu, on behalf of the English Speaking Section of the Bar of Montreal, it is my honour, great pleasure and distinct privilege to present "The Lifetime Achievement Award" to one of the truly exceptional members of our profession, a man who has distinguished himself throughout his career by his excellence as a jurist, mentor, educator, leader in our profession and in our community - a true gentleman et "un homme de Coeur" - Me J. Vincent O'Donnell, Q.C., Ad.E.

## Me Johanne Brodeur new Bâtonnière of Québec



Me Johanne Brodeur, formerly bâtonnière of Longueuil was nominated as Bâtonnière of Québec as Me Bernard Synnott of Fasken Martineau's Montreal office, former Montreal Bar bâtonnier, was elected vice-president of the Quebec Bar with a comfortable majority over his opponent, the former bâtonnière of Montréal, Me Julie Latour, a prominent legal affairs lawyer with Loto Québec in Montreal.

Both lawyers will begin their one-year mandate June first 2013 during the Quebec Bar annual meeting in Montreal.



# Lifetime Achievement Award of the Anglophone section of the Bar of Montreal



Vincent O'Donnell

By Don McCarty, Lavery's managing partner

**T**hank you very much Ian and the English Speaking Section of the Bar of Montreal for the opportunity to speak on behalf of my firm, Lavery, on the occasion of the presentation of this Lifetime Achievement Award by the Section to our partner and friend Vince O'Donnell.

Let me say first that like many of you here, I was actually unaware of the existence of the English Speaking Section of the Bar of Montreal which I think some people may refer to as le "BLOC BLOKE"! ;-)

Thank you also to all of you, whether you are from the judiciary, and I see here representatives of virtually every court in the land, to members of the profession, to members of the Association of American Trial Lawyers, and also, particularly, to the friends and family of Vince.

It is not an easy thing in the very few minutes that I have been given to render proper justice to a man whom so many people in this room refer to as their mentor.

Vince, you may not know this, or even have realized it, but there are so many of you here, myself included, who view you as exactly that, a mentor. Someone to whom you could always go to, no matter how difficult or delicate the situation you or your client might have been in, and to receive the right advice.

Sometimes the advice would simply take the form of a question, or even a raised eyebrow, or, God forbid, a frown. All it would take would be a raised eyebrow and a certain look from Vince, accompanied perhaps by a question such as "Well, do you really think that that is the right course of action?" and

you immediately knew that, of course, it was exactly the wrong thing to do.

Vincent s'est joint à Lavery, alors nommé Tansey, de Grandpré et de Grandpré en 1957 et est rapidement devenu un des meilleurs avocats de Litige du Canada. Durant sa carrière, Vince a plaidé devant tous les niveaux de tribunaux du Canada, incluant au moins 12 fois devant la Cour suprême, particulièrement dans les domaines de la Loi des assurances, de la responsabilité professionnelle et des recours collectifs. Plusieurs de ces causes feront jurisprudence pour plusieurs années à venir. Je note la présence de l'Honorable Juge Wagner ici ce soir. Vincent, tu auras une occasion de te présenter devant le Cour suprême bientôt!

Peu d'entre nous de la profession ici peuvent dire qu'ils ont plaidé au moins 12 fois devant la Cour suprême.

Chez Lavery cette année, on célèbre notre 100e anniversaire. Plus de la moitié de ces cent ans on vu la présence à notre cabinet de cet avocat distingué, récipiendaire de nombreux hommages et prix, incluant la Médaille du Barreau, pour souligner une carrière couverte de gloire, de distinctions, d'accomplissements et surtout, de réussite.

Vince, I have known you for more than 30 years, as a young stagiaire terrified by your presence and your memoranda, as a young lawyer in need of guidance and advice, as a partner, as a client, and also and most importantly, as a friend.

We at Lavery are extremely proud of you, are forever grateful for everything you have done for the firm and for all of us here.

You have earned this Lifetime Achieve-



Don McCarty

ment Award, or as our children would say today in incorrect English "You have so much earned this inaugural

Lifetime Achievement Award".

As Clarence says to George Bailey in

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FOR AN  
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OF MORE THAN 50 YEARS**

**CONGRATULATIONS  
TO VINCENT O'DONNELL**

**VINCENT O'DONNELL, Q.C., AD. E.**  
Winner of the inaugural  
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of the English-Speaking Section  
of the Bar of Montreal

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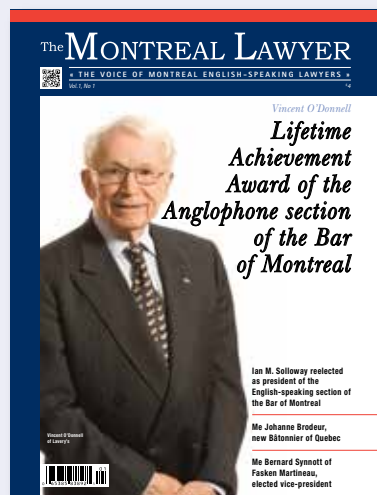
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*Jacques de Billy (left), a major figure in the history of the firm who practised at Lavery's Quebec City office, and Vincent O'Donnell. Each of them appeared before the Supreme Court of Canada more than 12 times.*



*From left to right, Don McCarty, Managing Partner of Lavery, Vincent O'Donnell, and the Honourable Mr. Justice Richard Wagner of the Supreme Court of Canada and formerly a partner at Lavery.*



*Ian M. Solloway (left), Chair of the English-Speaking Section of the Bar of Montreal, handing out the Section's inaugural Lifetime Achievement Award to Vincent O'Donnell, Q.C., Ad. E., a renowned lawyer at Lavery for more than 50 years.*

Frank Capra's classic movie: "Each man's life touches so many other lives", Vince has touched so many lives in so many different ways.

Vince, we hope you enjoy the festivities this evening, as you get to relive a few happy moments in the presence of colleagues, family and friends.

**Louis P. Bélanger, of Stikeman Elliott, named Barrister (Litigator) of the Year 2013 by a French legal magazine, Le Monde Juridique, sister publication of The Montreal Lawyer.**



*«Davies Ward Phillips & Vineberg's William Brock named «Barrister of Hope» at a recent gathering of Montreal's Best Litigators at the University Club*



*Stikeman Elliott's Louis P. Bélanger, Best Litigator of the Year 2013*

Louis P. Bélanger has received the honour of being named *Plaideur de l'Année 2013* (Litigator of the Year for 2013), by *Le Monde Juridique* magazine. The title of litigator of the year is awarded to a litigation lawyer recognized in the Quebec legal milieu for a career characterized by excellence.

# The Challenges and Rewards of Practicing Law in Montreal

Ian M. Solloway

Dear Colleagues and Friends,

It gives me great pleasure to have been invited by M. Andre Gagnon to write a few words for this inaugural edition of "The Montreal Lawyer", the first legal magazine to be published in English in Quebec.

I would venture to say that almost every anglophone lawyer in Montreal has, at one time or another, been asked how / why he or she chose to practice law in a French environment. To answer that question, I think it is important to understand what it is to be a Montrealer and an "anglophone lawyer" practicing in this city.

Notwithstanding the present Charbonneau Commission hearings and our seemingly omni-present infrastructure problems, we, Montrealers, have been and remain justifiably proud of our city and its history. Indeed, Montreal has long been recognized as one of the world's great cities- a bilingual, world- class, international metropolis, with a richness and diversity of cultures, languages and vitality that makes it unique, not only in Canada and in North America, but throughout the world.



Ian M. Solloway

This uniqueness also extends to the practice of law in our city, particularly by members of the anglophone legal community.

Firstly, the English-speaking members of the Montreal Bar are not only highly bilingual - the highest of any Bar anywhere - but arguably the most "polyvalents" juridically. Indeed, for almost a generation now, a significant number of Montreal's anglophone lawyers and an ever increasing number of francophone lawyers have had the benefit of being trained trans-systemically in an integrated fashion, both in the two great legal traditions of the civil and common law.

A large proportion of our Bar's lawyers are thus able to draw upon their bijural background and serve their clients in French and/or in English, in areas of private and public law that transcend boundaries. Our lawyers are to-day able to seamlessly offer clients a bilingual, comprehensive and multidisciplinary expertise in such matters as mergers and acquisitions, securities law, tax matters, class actions, civil/corporate and commercial litigation, labour, employment and human rights, infrastructure, intellectual property, aerospace, environmental issues, technologies,



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bio-medical law, and the pharmaceutical industry, both on a local, provincial, national and international level. This represents a distinct advantage to our clients, be they native Quebecers or clients from another province or country. The active presence of bilingual, bijural lawyers in Montreal (anglophone and francophone) will continue to allow us to attract to our city, clients who might otherwise choose to litigate or do business in an "anglophone jurisdiction", knowing that their Montreal lawyer can handle any of their legal concerns.

#### **The foregoing having been said, there are challenges that do remain.**

One such challenge involves judgments of the Quebec Court of Appeal, which unfortunately are not officially translated into English. Without an official English translation, significant judgments of our province's highest Court on Charter and constitutional issues, litigation involving federal statutes and other matters having national implications are not accessible and are rarely referred to in other Canadian jurisdictions.

En effet, fournir une traduction officielle en anglais des jugements importants de notre Cour d'appel permettra de mieux servir l'administration de la justice au Québec et partout au Canada. Non seulement ceci renforcera le prestige et la crédibilité du plus haut tribunal de notre province aux yeux de tous les Québécois, mais ceci permettra également aux autres juridictions de bénéficier de l'excellence de notre jurisprudence québécoise.

Improving access to justice is another ongoing challenge in Montreal, as it is in virtually every major metropolitan jurisdiction. Innovative solutions have been and will be introduced here. We will have more to say about this and other matters in future issues of this magazine.

We have a "first-class" legal community in Montreal. It is my hope that "The Montreal Lawyer" magazine will be able to capture and communicate to its readership, the uniqueness, vibrancy and excellence which is the Montreal legal community, and the sense of both challenge and justifiable pride for the anglophone members of the Montreal Bar to be able to practice their craft in one of the world's great cities.

On behalf of the English-Speaking Section of the Bar of Montreal, I extend to "The Montreal lawyer" our sincerest "félicitations" on your new endeavor and our very best wishes for your success.

## **Leading international firms in Australia band together to provide best practice advice and solutions for clients**

**S**everal leading law firms, competitors in the fiercely competitive legal sector, have worked together in the interest of their clients to develop a best practice industry approach to drafting security documents following the commencement of the Personal Property Securities Act 2009 (Cth) (PPSA). This is a welcome example of how leading firms can drive the direction and development of the industry to the benefit of clients and market efficiency.

The recently implemented PPSA established new rules for the creation, priority and enforcement of security interests in most assets other than land.

Since before the operational commencement of the PPSA on 30 January 2012, Australian businesses and their lawyers have been grappling with the legal and practical considerations of how the far reaching legislation will affect their business.

Law firms rewrote their standard security documents in response to the extensive and radical changes introduced by the PPSA. In doing so, firms took different approaches to some essential elements of General Security Agreements (GSA), resulting in extensive negotiations, confusion for clients and unnecessary expense.

In recognition that it is not in clients' interests for firms to be negotiating their differing views on points of PPSA law during live transactions, five leading international law firms have come together to prepare a suggested standard for the core provisions of a GSA. The PPSA model clauses are consensus positions which represent a distillation of the firms' thinking on a range of important issues. The firms involved are:

- Allens
- Ashurst
- Herbert Smith Freehills
- King & Wood Mallesons
- Norton Rose.

In an environment where businesses are wrestling with constantly evolving legislative frameworks, this group of firms is pioneering a new approach to reducing uncertainty and improving efficiency for clients and the broader market. With a consensus approach, negotiations where there is no substantive advantage to be gained can be avoided and the focus can be firmly on delivering commercial solutions.

Source: Norton Rose website

# The Bar of Montreal is Proud of its Bilingual Tradition since 1922

— Past Bâtonnière Catherine Pilon



*Past Bâtonnière, Me Catherine Pilon*

**T**he Bar of Montreal is proud of its bilingual tradition and the contribution of its English speaking members over the years. In an effort to preserve this tradition of bilingualism, whenever I preside a ceremony to swear in new lawyers, I ask them to recite the oath in both French and English. This is a habit I have been taught by the bâtonniers who have preceded me.

Upon reflecting on this tradition, I was interested to find out more about the creation of the English Speaking Section of the Bar of Montreal, so I consulted the book written by Edouard Rinfret: "Histoire du Barreau de Montréal".

I learned that the English Speaking Section was created in 1922, following an agreement between Anglophone and Francophone lawyers. An unwritten tradition resulted from this agreement to ensure that the Bâtonnier would be French speaking two years in a row and then English speaking for one year. Thus, every three years, the Bâtonnier of Montreal is English speaking. This tradition has never been broken.

A few years after the rule of rotation at the position of Bâtonnier, a second agreement guaranteed that Anglophones would have a minimal representation within the Council of the Bar of Montreal. As a result of this second agreement, the General By-Law of the Bar of Montreal provides that any given year, there must be at least four Anglophone members on the Council. The English Speaking Section usually makes the recommendations and ensures that the positions reserved for English speaking lawyers are filled, and in particular the position leading to Anglophone Bâtonnier.

In addition to these more political aspects, it is important to note that the English Speaking Section is extremely dynamic. The trial practice do's and don't's training which it organizes every year is a good example of the implication of the Section in the legal community of Montreal.

I salute at this point its President, Mtre Ian Solloway, for all his hard work and dedication to the Section. Ian, in my role as Bâtonnière this year, I have had the chance to work with you more extensively and to get to know you better, and I must say that it has been a pleasure.

I take the opportunity of my presence tonight to describe some of the current activities and projects of the Montreal Bar.

On the international front, we signed a collaboration agreement with the Toulouse Bar last October. We hope that this agreement will help Montreal and Toulouse lawyers to connect and exchange on business opportunities, in particular in the field of aeronautics. A conference to be held next June in Toulouse is in the course of being organized for this purpose.

In preparation for the upcoming new Code of Civil Procedure, we have elaborated a protocol to provide lawyers



with a guide for proper notification by email and to make sure that Montreal lawyers were ready once notification by email becomes more common. As part of a projet pilote on notification by email, we are looking for volunteers to use this protocol and provide their observations and comments with respect to their experience. You can find all the details on the website of the Montreal Bar and I encourage you to participate in our project.

For those of you who attended the ceremony of the Rentée last September, you may recall that it took place under the theme of the role that lawyers play in our society. In promotion of this theme we revived the Figure de Maître column in the Infolettre. This column had been started by Lynne Kassie while she was Bâtonnière. The purpose is to draw attention to lawyers who participate in their community by generously giving their time and their talent, therefore contributing to bettering the image of our profession. Two columns have already been published, a third one is on the way. If there are members of the English Speaking Section whom you think could be a Figure de maître, please do not hesitate to communicate with me and submit their names.

We are also very busy preparing the sixteenth edition of the Salon Visez Droit which will begin on April 8 at Complexe Desjardins. In addition to its usual presentations and activities, more than 1,000 free legal consultations will be given to the public. I thank our General Director, Me Doris Larrivée, and her team, including our Communications Director, Gislaine Dufault, for all their hard work in preparing this event and making it a success. If you have never visited Salon Visez Droit, take the time to drop by, I promise you that you will be impressed by this activity.

On the Quebec Bar front, I thought I should mention today two projects on which we have been working.

First, as a result of the initiative of Mtre. Nicolas Plourde, Bâtonnier du Québec, members of Convocation of the Law Society of Upper Canada have recently unanimously agreed to full mobility among lawyers in Canada. The Conseil Général of the Quebec Bar will vote on this same question next week in Quebec City, and I am confident that there will be a unanimous vote approving mobility. The other Canadian provinces will soon follow suit and should also approve unrestricted mobility. Given the tradition of biculturalism and bilingualism in Quebec, and in the context of globalisation of markets, this is great news for our lawyers in Montreal. I congratulate the Bâtonnier du Québec for this initiative.

Second, as mentioned by Mtre. Solloway, I am very happy that we have been successful in convincing the Quebec Bar to modify the editorial policy of the Journal du Barreau so that it is no longer exclusively in French, and that articles in English will now be accepted.

Before I conclude, I must offer my warmest congratulations to Mtre. Vincent O'Donnell on becoming the first recipient of the Lifetime Achievement Award of the English Speaking Section. The Bar of Montreal is proud to be associated with the creation of this award, even more so because it is awarded to one of its great bâtonniers and members. Mtre. O'Donnell, I couldn't see anybody more fitting for this honor. You are a first class lawyer and gentleman, thank you for being such an ambassador of our profession.

Sur ce, je vous souhaite à tous une belle soirée, merci.

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After nearly two decades of effort

# The quality of the English text of the Quebec Civil Code comparable to the French

By Casper Bloom and Edmund Coates

**T**he English text of the Civil Code will soon be extensively revised, thanks to nearly two decades of effort on the part of a joint committee of the Barreau du Québec and the Chambre des notaires du Québec.

Many English-speaking jurists sounded an alarm, even before the coming into force of the new Civil Code of Québec (in 1994). The Code was intended to set out clearly and coherently a set of legal principles and institutions. Part of its success would rely on consistent and carefully chosen terminology.

The old Civil Code, enacted in 1866, had been drafted by jurists competent in both English and French. The English and French texts were drafted together, teasing out problems and ambiguities which would otherwise have had to be resolved through litigation.

Apparently, no civilian jurist who was expert in English participated in the drafting of the 1994 Code at the ministère de la Justice. While both French and English texts have equal authority in legal terms, in practical terms the English text of the Code was a mere translation (done by translators whose training was mostly in literature). The significance of this fundamental constitutional distinction was reaffirmed by the late Justice Charles Gonthier, writing for the Supreme Court of Canada in *Dore v. Verdun (City)* [1997] 2 S.C.R. 812.

In the new Civil Code, the English terminology varied between different parts of the Code, while seeming to refer to the same thing, or even varied within one and the same part (e.g., the use of the terms damage, prejudice and injury). The English text was in many places stylistically and grammatically awkward. Elsewhere, the text was needlessly ambiguous.

Substantive legal discrepancies between the English and French texts were also scattered here and there throughout the Code. Thus, only three years after the Code came into force, the Supreme Court had to decide between "toute disposition contraire" and "any stipulation to the contrary" (in article 2930 C.C.Q.).

The Barreau du Québec and the Chambre des notaires du Québec undertook the massive task of bringing the quality of the English text of the Code up to the quality of the French (thanks to a mandate which they negotiated with the ministère de la Justice). The Barreau and the Chambre formed a joint committee, chaired by Casper M. Bloom, Q.C., Ad. E. This joint committee called in turn on sub-committees, expert in the different areas of private law. All these jurists acted *pro bono*.

The reports of the subcommittees were checked, harmonised, and supplemented by Edmund Coates, legislative counsel to the joint committee. Prof. Nicholas Kasirer (as he then was) and John B. Claxton, Q.C., supervised this work, on behalf of the joint committee. They also contributed many valuable suggestions.

The reports were then submitted to a committee of the ministère de la Justice, proposing more than five thousand modifications to the text of the Code. The ministère committee had the task of reviewing the reports, with the aid and advice of the joint committee's legislative counsel. The ministère committee will now be recommending to the Minister a set of amendments to the Civil Code.

Once the recommendations of the ministère committee are accepted, the bulk of the changes will be integrated into the Code by administrative means, under the authority of the Act respecting the Com-

pilation of Québec Laws and Regulations. But corrections of substantive legal discrepancies between the English and French texts must be enacted by the National Assembly.

A recent meeting between Casper Bloom Q.C., Ad.E and Nathalie Drouin Ad.E, the Deputy Minister of Jus-

## Committee of the Quebec Civil Code

Robert Alain,  
Susan Altschul,  
A. Edward Aust,  
Max Bernard,  
Suzanne M. Birks,  
Casper M. Bloom,  
Martin Boodman,  
Gregory Bordan,  
John E.C. Brierley,  
David L. Cameron,  
Robert Carswell,  
Janet Casey,  
Richard Clare,  
John B. Claxton,  
J. Brian Cornish,  
Andrea Daniels,  
Peter W. Davidson,  
Majorie Delagrave,  
Antonio Discepolo,  
Stephen L. Drymer,  
Jeffrey Edwards,  
L. B. (Les) Erdle,  
David Franklin,  
Frances Freedman,  
Michael L. Garonce,  
Serge Gaudet,  
Franklin Gertler,  
Patrick Glenn,  
Robert Godin,  
Alan Z. Golden,  
Gerald Goldstein,  
Raymond Grenier,  
Stephen Hamilton,  
Jonathan G. Herman,  
Allan R. Hilton,

Daniel Jutras,  
Nicholas P. Kasirer,  
Solomon Katz,  
David H. Kauffman,  
Karen Kear Jodoin,  
Earl Kimmel,  
Ray Lawson,  
Michael Levinson,  
Paul Mayer,  
Michael McAuley,  
Pamela McGovern,  
Donald McGowan,  
Janice Naymark,  
Vincent O'Donnell,  
Peter G. Pamel,  
John A. Penhale,  
Eva Petras,  
Daniel Phelan,  
Marilyn Piccini Roy,  
Stacey Pinchuk,  
Luc Plamondon,  
Alain Prujiner,  
Isabelle Reinhardt,  
Peter Richardson,  
Christopher Richter,  
Danielle M. St-Aubin,  
Geneviève Saumier,  
Stephen Schenke,  
Martha Shea,  
Sandor Steinberg,  
Gerald Stotland,  
Jeffrey A. Talpis,  
William Tetley,  
Elana Weissbach,  
James A. Woods

tice, has resulted in an understanding that the ministry intends to proceed immediately with the administrative changes. This will prepare the way for the amendments requiring a legislative sanction (which in all likelihood will only be submitted for enactment in the spring of 2014).

The twentieth century reform of Quebec private law culminated after nearly four decades in the Civil Code of Québec. Now the quality of the English text of the Civil Code will at last be brought up to the quality of the French text. Thus, Quebec jurists will have even greater reason to be proud of the Code which provides the heart of our civil law.

## Heenan Blaikie's Marcel Aubut re-elected President of the Canadian Olympic Committee (COC)



*Me Marcel Aubut*

**M**arcel Aubut was re-elected by acclamation for a second consecutive four-year mandate as President of the Canadian Olympic Committee (COC) in Gatineau during a meeting that brought together the COC Board of Directors, all of the Canadian national sports federations' directors and a number of athletes.

During this important meeting, Marcel also welcomed the President of the Pan American Sports Organization (PASO), Mario Vázquez Raña, who was in Canada to tour the Olympic installations and discuss preparations for the upcoming TORONTO 2015 Pan American Games. The Minister of State (Sport), the Honourable Bal Gosal, was also on hand for the meeting.

# Suffolk University Law School Presents Richard Susskind as it Inaugurates Institute on Law Practice Technology and Innovation

Author of *The End of Lawyers?* to Address How Online Services Change Legal Practice

**R**ichard Susskind, "legal futurist" and best-selling author of *The End of Lawyers?*, will speak at the inaugural program of Suffolk University Law School's Institute on Law Practice Technology and Innovation, which studies how technology is revolution-

izing the practice of law even while it creates both opportunities and challenges for lawyers in every practice setting.

The institute, as part of an educational effort that includes public lectures, courses and programs, has invited Susskind to explore his argument that the legal marketplace is unlikely to tolerate expensive lawyers for tasks that can be better discharged with the support of modern systems and techniques. This projected market pull towards online, low-cost legal services may well erode or displace lawyers' jobs, according to Susskind. He foresees a new and highly rewarding type of practice emerging for entrepreneurial lawyers.

Susskind will appear as the guest of the Institute on Law Practice Technology and Innovation at 4 p.m. Thursday, April 18, in Sargent Hall, 120 Tremont St., Boston.

A panel of experts will join Susskind for Tomorrow's Lawyers, offering their own insights and perspectives on the ways in which lawyers can and should respond to the rapid pace of technological change.

The panelists are:

- Regina Pisa, partner and chair of Goodwin Procter LLP
- Krish Gupta, senior vice president and deputy general counsel at EMC Corporation
- Jordan Furlong, partner at Edge International and publisher of Law21.

Suffolk Law Professor Andrew Perlman, director of the Institute on Law Practice Technology and Innovation, will

Ejan Mackaay

## Law and Economics for Civil Law Systems



### Lancement de livre / Book Launch

19 mars 2013 / March 19<sup>th</sup>, 2013

16h30 / 4:30 Pm

Salon François Chevette,  
Faculté de droit / Faculty of Law  
Université de Montréal

A-3464 Pavillon Maximilien-Caron



moderate the program. He also serves as the chief reporter for the ABA Commission on Ethics 20/20, which is reviewing rules of professional conduct in light of technological advances and globalization of legal practice.

"Many law schools, including Suffolk, are looking at technology and intellectual property, but very few are looking at the intersection of technology and innovation in law practice," said Perlman. "This institute will be a leading source of information about the many ways that technology is transforming the legal marketplace and the legal profession."

Suffolk Law students already are engaged in this new kind of legal practice, and student Kimberly McGinn developed a user-friendly app that was adopted by Nebraska Legal Aid.

Her inspiration came through Marc Lauritsen's Lawyering in the Age of Smart Machines course, which is hands-on and skill-focused. When each student was required to write a computer application, McGinn developed a program that leads parents step-by-step in the pro se creation of a legal parenting plan document.

McGinn believes that the skills and insights from the class will give her a competitive edge when she graduates. She already has employed her newfound knowledge in her paralegal job at State Street Bank, where she built a time-

and paper-saving program for a Commodity Future Trading Commission filing.

The Institute on Law Practice Technology and Innovation aims to develop additional courses spurring students to learn how to use technology to deliver legal services more efficiently and effectively.

"The new Institute on Law Practice Technology and Innovation has been formed as Suffolk University Law School rededicates itself to its student-centered mission of preparing ethical and practice-ready lawyers with a strong commitment to the legal profession, public service and the community," said Law School Dean Camille Nelson. "The Institute is but one aspect of how Suffolk Law embraces innovation and change while maintaining its reputation as 'The Lawyers' Law School!'"

As part of this renewed focus on practical employment skills, Suffolk Law also is introducing an academic concentration in Labor and Employment law, which is an area of renewed importance in law practice and placement, according to Nelson. And it is expanding its entrepreneurial and skills-based courses. A Transactional Skills program, for example, will better prepare students who are interested in business law. Students also gain experience through nationally recognized clinical programs and domestic and international internships.

## Marc-Étienne Vien-Desbiens, recipient of the Lavery cup at the 2013 edition of the Pierre-Basile-Mignault moot court competition



*From left to right: Ms. Anne-Marie Laflamme, chairperson of the competition and assistant dean of the Faculty of Law at Université Laval; Ms. Valérie Belle-Isle, associate at Lavery's Quebec City office; and Marc-Étienne Vien-Desbiens, recipient of the Lavery Cup*

Lavery is pleased to mention that Marc-Étienne Vien-Desbiens, a law student at Université Laval, was awarded the Lavery Cup for "Third Best Litigator" during the 35th edition of the Pierre-Basile-Mignault Moot Court Competition, which was held at Université Laval in 2013. This annual moot court competition involves the six Canadian Law faculties with a civil law section: Université Laval, Université de Montréal, Université de Sherbrooke, UQÀM, McGill University and University of Ottawa.

# How to avoid a disaster before travelling abroad with minor children

By Jean-Philippe Brunet,  
CHRP, lawyer and partner at the law firm Norton Rose



Jean-Philippe Brunet

**S**ummer is soon going to be at our doorstep and many of us are thinking about going on holidays with our families.

As a manager, you know that your employees see summer and the summer holidays as the ultimate reward for a year of hard work. You also know that your employees have performed to your expectations since their last vacation and, with their batteries in need of recharging, they are looking forward to some time off.

Below are some instructions and recommendations to help you and your employees avoid any nasty holiday surprises. If you or your employees plan on travelling abroad, proper planning will prevent misunderstandings with the immigration services in Canada and in the destination country. In today's world, many families do not resemble the traditional family unit and it is not uncommon to see blended families. It is also not uncommon to see grandparents inviting their grandchildren to join them for a well-earned vacation abroad.

Whenever children are invited to travel abroad with adults other than their two biological parents a written authorization must be provided. If the child is traveling with one of the two biological parents the other biological parent will have to prepare an authorization authorizing the one travelling abroad with the child.

If both biological parents are not accompanying the child both either together or separated will have to prepare an authorization or authorizations authorizing the adult travel with their child to do so.

To avoid any misunderstandings, the biological parent or parents should provide a statement – ideally a sworn statement under oath – containing as much information as possible about the biological parents, the child who will be travelling without them and the trip. Ideally, the statement will give the following information:

- the last name, first name and dates of birth of the child's parents;
- the last name, first name and date of birth of the child participating in the trip abroad;
- the last names, first names and dates of birth of the adults travelling with the child;
- the travel period and destination.

Without these precautions, the adults travelling with the child may be turned back at the point of entry or the airport because they lack the necessary documents. If this happens to you, you may end up having to call your boss on Monday morning with the bad news. If it happens to one of your employees, then you may be on the receiving end of such a call. The employee's vacation will be ruined and his morale will be undermined. The effects will be seen when he comes back to work: instead of having rested, he will have spent his vacation looking for solutions so as not to waste the precious summer period.

By following our recommendations and suggestions, people can avoid inconveniencing a group travelling abroad. The result will be a rewarding vacation and there will be nothing left but to wish you ideal weather for a dream family vacation.

For more information on this topic, you should consult the website of the embassy or consulate of the destination country to find out about local requirements for the admission of children in special situations such as the one described above. You can also visit the Government of Canada website for Canadians travelling abroad at [www.travel.gc.ca](http://www.travel.gc.ca).



# New York state to sue Wells Fargo & Bank of America for violating national mortgage settlement

-A.G. Schneiderman said

## Attorney General Has Documented Hundreds Of Cases Of Homeowners Put At Risk By Banks' Violations Of Settlement Terms

Schneiderman: The Terms Of The Settlement Are Clear And They Will Be Enforced In New York State

**A**ttorney General Eric T. Schneiderman today announced his intention to sue Bank of America and Wells Fargo for repeatedly violating the terms of the National Mortgage Settlement. Signed in 2012, the Settlement required the five largest mortgage servicing banks in the United States to improve their customer service practices by complying with new mortgage servicing rules, known as the Servicing Standards. Among these are four standards dictating the timeline for banks to process mortgage modification applications. Attorney General Schneiderman's office has documented 339 violations of those standards by Wells Fargo and Bank of America since October 2012.

In response to complaints from New York homeowners put at risk by these banks' violations of the standards, Attorney General Schneiderman sent a letter to the parties that oversee the National Mortgage Settlement informing them that he intends to sue Wells Fargo and Bank of America. This would be the first time an Attorney General will have brought a legal enforcement claim under the auspices of the National Mortgage Settlement.

"The five mortgage servicers that signed the National Mortgage Settlement are legally required to take specific, rigorous, and enforceable steps to protect homeowners," Attorney General Schneiderman said. "Wells Fargo and Bank of America have flagrantly violated those obligations, putting hundreds of homeowners across New York at greater risk of

foreclosure. I intend to use every tool available to my office to hold these companies accountable under the terms of the National Mortgage Settlement."

Last year, Attorney General Schneiderman joined 48 states, the Department of Justice and the five largest mortgage servicers in negotiating the settlement. The Agreement includes \$25 billion for 49 states and mandated forms of consumer relief, such as mortgage modifications for at-risk homeowners, which could include lower-interest rates, forbearance agreements, and principal reductions.

The Settlement also includes 304 "Servicing Standards" which participating servicers are required to adhere to, and which are intended to make it easier for homeowners to seek loan modifications. The Servicing Standards were incorporated into the National Mortgage Settlement in order to address long standing complaints from consumers and advocates that servicers subject to the Settlement—Ally Financial/GMAC, JP Morgan Chase, Citibank, Bank of America and Wells Fargo—persistently failed to provide fair and timely services to their customers.

The Servicing Standards include: a prohibition against dual tracking (the practice of negotiating a loan modification with a borrower while simultaneously pursuing foreclosure); a requirement that every customer requesting assistance be assigned a single point of contact; and four requirements that dictate the timeline in which the servicers

must respond to customers who are actively seeking loan modifications.

The Settlement Agreement also provides that any party to the Settlement may bring an enforcement action in U.S. District Court for the District of Columbia following a 21-day notice to the Monitoring Committee set up to enforce the agreement. During the 21-day notification period, the Committee may choose to pursue the litigation on behalf of the party using the Committee's own authority under the Settlement, or they may defer action. If the Committee defers then the complaining party may pursue the legal claim on their own after waiting an additional 21 days.

On Friday, Attorney General Schneiderman sent a letter to the Monitor, Joseph Smith, and to each member of the Monitoring Committee notifying them of his intention to bring a legal claim if the Committee does not act. The letter includes written complaints against Bank of America and Wells Fargo, and a significant amount of back up documentation demonstrating the severity of the violations. Schneiderman intends to ask the court to impose injunctive relief and to require strict compliance under the Settlement.

"We appreciate Attorney General Schneiderman's efforts to hold the big banks accountable to communities," said Josh Zinner, co-director of the Neighborhood Economic Development Advocacy Project. "The banks are systematically violating the terms of the National Mortgage Settlement, and we hope this action by the AG will push other state and federal regulators to draw a line in the sand against abusive mortgage servicing practices."

Attorney General Schneiderman announced the legal action at his office. In addition to Mr. Zinner, the Attorney General was joined by New York Communities for Change, Center for New York City Neighborhoods, Empire Justice Center, Faith NY, South Brooklyn Legal Services, and representatives of housing counseling agencies and legal services organizations that assisted his office in documenting violations by the banks. Many of the organizations that attended are grantees of the Attorney General's Homeowner Protection Program, or HOPP, a three year, \$60 million commitment to fund housing counselors and legal services providers in order to help homeowners avoid foreclosure. He was also joined by homeowners who have suffered delays in the mortgage modification process in violation of the Servicing Standards.

Violations of the timeline standards increase the likelihood

that distressed homeowners will lose their homes because the longer mortgage modification are delayed, the deeper homeowners fall in to arrears. Additional fees, penalties and interest accrue during periods of delay, making a modification more difficult and pushing homeowners closer to the brink of foreclosure.

"It is beyond frustrating," said Megan Faux, Acting Director of Legal Services NYC Brooklyn. "We have many clients who are at risk of losing their homes to foreclosure simply because Wells Fargo failed to properly review complete loan modification packages sitting in their office for months. Accountability to the servicing standards is essential to ensuring homeowners have a fair opportunity to negotiate an affordable mortgage and ending the housing crisis. I am so grateful to AG Schneiderman for his leadership on this issue and for taking full advantage of this powerful enforcement tool."

The problem is all too real for Joyce and Alton Harden who have lived in their home in the Rockaways for 35 years, and who have been trying to negotiate with Wells Fargo for a loan modification for the past three years. After suffering a series of setbacks, starting with an on-the-job injury that kept Mr. Harden out of work for several months, and culminating with suffering massive damage to their home when Hurricane Sandy hit, the Hardens ended up in foreclosure. The Hardens reached out to MFY Legal Services who helped them prepare a full loan modification package that was submitted to Wells Fargo in early March.

Under the Settlement, Wells Fargo is required to respond to the loan modification request within 30 days. Despite that requirement, the Hardens did not hear a word back until late last week when Wells Fargo wrote to ask them to start the process over again and to resubmit a new application. Meanwhile the Hardens remain in foreclosure, uncertain about their future and desperate to move past this process.

"My husband and I are heading into our 70's and we want to move past this and enjoy this part of our lives without this constant threat hanging over our heads," said homeowner Joyce Harden. "We hope Attorney General Schneiderman's actions will finally help us settle this case and save our home."

The 339 violations received by the Office of the Attorney General allege that Wells Fargo and Bank of America violated four Servicing Standards relating to the timeline for processing mortgage modifications. Specifically:

1) Borrower must receive written acknowledgement of receipt of a loan modification application within 3 business days or receipt.

2) Servicer must notify borrower of all missing documents or deficiencies in the application within 5 business days of receipt of the borrower's initial loan modification application.

3) Servicer must give borrower 30 days to submit missing documentation or correct a deficiency.

4) Servicer must make a decision on a complete loan modification application within 30 days.

By mid-November of last year, the Attorney General's Office received numerous complaints from HOPP housing counselors and legal services attorneys from across New York State alleging that Bank of America and Wells Fargo repeatedly failed to respond to homeowners seeking loan modification within the timeline dictated by the Servicing Standards. In response, the Attorney General created a special complaint form to monitor compliance with the four timeline related Servicing Standards. By the end of April, Attorney General Schneiderman's office had collected complaints citing 210 violations by Wells Fargo, and 129 violations by Bank of America.

Attorney General Schneiderman's letter to the Monitoring Committee notifying them of his intent to sue Bank of America and Wells Fargo may be found here:

[www.ag.ny.gov/pdfs/Letter%20to%20Monitoring%20Committee%20NYS%20AG%205%206%2013.pdf](http://www.ag.ny.gov/pdfs/Letter%20to%20Monitoring%20Committee%20NYS%20AG%205%206%2013.pdf).

Joined by advocates and homeowners, Attorney General Eric T. Schneiderman will announce his office's legal actions against financial institutions that are in violation of terms of the National Mortgage Settlement TODAY, May 6, at 1:30PM.

Attorney General Schneiderman intends to sue Bank of America and Wells Fargo for repeatedly violating the terms of the National Mortgage Settlement. Since October 2012, the Attorney General's Office has documented 339 violations of standards agreed to by Wells Fargo and Bank of America in last year's Settlement. Victims of the institutions' violations will speak first-hand about their experiences at today's press conference.

## Shared office space of former large firms, new trend

**W**ith the dissolve of large law firms being seen nationally over the last five years, the newest trend being seen is their economic move to shared office space, such as Real Office Centers' (ROC) six locations throughout Southern California.

Lawyers have begun to establish their own law firms and join forces with other attorneys as an alternative to the traditional sublease from larger firms. Taking on the identity of a law firm and being forced to pay long-term leases that include the prices of unused resources, is a way of the old.

Shared office workspaces are the ideal, modern environment for lawyers looking to establish themselves, create an identity, and expand at their own rate. They can work in an open environment, with a more relaxed atmosphere, provided with the resources and office space at a reasonable price and for a shorter lease.

Shared office workspace environments also offer lawyers that change of pace, working alongside other business owners and individuals with unique business experience. Lawyers have the chance to offer their assistance to other companies besides the usual attorneys and accountants, due to the collaborative work environment.

For more information, please visit [RealOfficeCenters.com](http://RealOfficeCenters.com).

# Fully revised second edition of foundational book helps attorneys speak confidently and with fluent expertise.

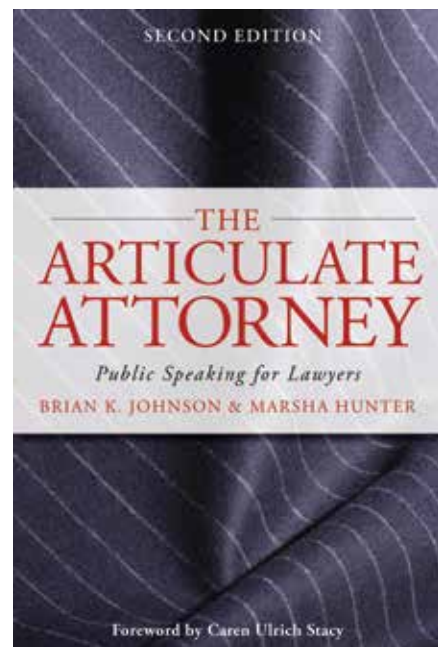
**A**t first glance it may sound odd, but being an attorney does not guarantee good public speaking skills. In the past, say eminent communication consultants Brian K. Johnson and Marsha Hunter, such a deficit might have been offset by brilliant writing, but that's no longer sufficient in today's client-centered world.

In the fully updated second edition of their groundbreaking book *The Articulate Attorney: Public Speaking for Lawyers*, Johnson and Hunter teach attorneys how to polish their presentation styles so they can effectively explain complicated issues to any audience imaginable, from clients to colleagues to boards of directors.

Among the questions *The Articulate Attorney* answers are these:

How do I channel nervous energy into dynamic delivery?  
What is a reliable way to remember what I want to say?  
How do I stop saying "um" and think in silence instead?  
Why is gesturing so important? What do I do with my hands?  
How can I make PowerPoint interactive?

Hunter comments, "Speaking well is a teachable skill, using scientific principles from a range of studies. We constantly monitor cognitive, gestural, and linguistic research, sports psychology, and human factors studies. From the body to the brain to the voice, it often requires extensive nurturing to reveal a lawyer's supposedly 'natural' speaking abilities. This new edition of *The Articulate Attorney* conveys the very best of what it takes to do exactly this."



Johnson and Hunter also collaborated on *The Articulate Advocate: New Techniques of Persuasion for Trial Lawyers*, published by Crown King Books in 2009. For more information or to request review copies or media commentary, email [afessler@crowningkingbooks.com](mailto:afessler@crowningkingbooks.com) or visit [www.crowningkingbooks.com](http://www.crowningkingbooks.com).

"Practical, entertaining advice for every lawyer on how to use your body, mind, and voice to be an effective and confident speaker. Easy step-by-step exercises to help you understand and apply these techniques for skillful communication. When I noticed myself swaying during an important presentation, their mantra 'Plant your feet and stand still' came to mind and I immediately felt more relaxed and confident." -Teri Taylor, Arizona Women Lawyers Association.

# Bill 28 establishing the new Code of Civil Procedure - highlights and preliminary comments

*By Louis-Martin O'Neill, Marc-André Boutin, Léon H. Moubayed  
from web site of Davies Ward Phillips & Vineberg, Montréal*

**T**he Québec Minister of Justice introduced Bill 28 (the "Bill") establishing the new Code of Civil Procedure. This Bill, if passed, will result in substantial modifications that could have a major impact on Québec's legal landscape.

The most significant changes proposed by the Bill include:

- The obligation to consider private modes of dispute prevention and resolution before referring them to the courts;
- An enhanced obligation for parties to cooperate and keep each other informed;
- The institution of a "case protocol" and monetary sanctions in case of failure to comply with this protocol;
- Greater involvement of the courts in the case management process;
- The simplification of motions made during the course of proceedings;
- A complete reform of pre-trial examinations, including:
  - an end to the distinction between examinations before and after the defence has been filed;
  - the ability to conduct examinations in writing;
  - examinations are limited to five hours, with the possibility of extending them to seven hours (two hours in family matters or in cases where the value in dispute is less than \$100,000, with the possibility of extending to three hours). Any other extension will require the authorization of the court;
  - a witness will be bound to answer even if an objection is raised, save for certain limited cases (such as solicitor-client privilege); and
  - objections are to be primarily adjudicated at trial;
- A reform of expert evidence, including:
  - promoting the use of a single, common expert by both parties;
  - limiting the parties to filing one expert opinion per matter, unless otherwise authorized by the court; and
  - the court may order experts with differing views to meet to reconcile their opinions; and
  - the possibility for a party to examine its own expert at trial will be limited;
- The admissibility of written testimony at trial;
- An enlargement of the scope of the exception to dismissal in order to allow a defendant to seek the dismissal of only part of a claim if it is unfounded in law;
- The possibility for parties to jointly submit an issue of law to the court;
- The harmonization of the rules applicable to judicial review before the Superior Court;
- The repeal of the Tariff of judicial fees of advocates and the regime for awarding costs, with each party having to assume their own professional fees except for serious breaches or abuses of procedure committed during the proceeding. "Legal costs", including expert fees as well as the remuneration of interpreters and stenographers, will be assumed by the losing party, except in cases of an abuse of procedure or undue delays.

A similar version of the Bill was presented in draft form, by the previous government, in September 2011 and was subject to consultations and public hearings. The Government has not announced any timetable for the adoption of the new Bill.

If you have any questions regarding the foregoing, you may also contact William Brock (514.841.6438), Guy Du Pont (514.841.6406), Denis Ferland (514.841.6423), George J. Pollack (514.841.6420), Stéphane Eljarrat



(514.841.6439), Alain Gaul (514.841.6577), Nicolas X. Cloutier (514.841.6535), Nick Rodrigo (514.841.6548), David Stolor (514.841.6567), Cara Cameron (514.841.6521), Jean-Philippe Groleau (514.841.6583) or Christian Lachance (514.841.6576) in our Montréal office.

Davies Ward Phillips & Vineberg LLP is an integrated firm of more than 240 lawyers with offices in Toronto, Montréal and New York. The firm is focused on business law and is

consistently at the heart of the largest and most complex commercial and financial matters on behalf of its clients, regardless of borders.

The information and comments herein are for the general information of the reader and are not intended as advice or opinions to be relied upon in relation to any particular circumstance. For particular applications of the law to specific situations, the reader should seek professional advice.

# Adwords Account Management for Law Firms

**I**n the ultra-competitive field of legal marketing, Google Adwords has become an integral part of the online presence of many law firms. Unlike traditional marketing mediums such as print, radio and television, AdWords allows a firm to target a specific type of prospective client based on search queries. In short, you know that the person seeing the ad is actively looking for a service that you provide. AdWords also allows for precise tracking of the Return on Investment (ROI) of your advertising dollar. Additionally, the flexibility to adjust campaigns in real time ensures that your firm will be able to keep up in a rapidly-changing marketplace.

The most compelling reason to outsource AdWords management to a professional legal marketing firm is the constant changes that Google makes to AdWords. Between the Display Network, Search Network, mobile search, reporting, Analytics, and a host of other topics - AdWords is a constantly moving target. A legal marketing firm is able to allocate the time and resources to master this broad range of specialties within the AdWords spectrum.

In addition to the increased complexity of AdWords itself, the competition among campaigns has drastically increased in most markets. The word is out that AdWords is one of the most effective ways to reach customers, and Google has begun to favor larger corporate advertisers with

more money to spend. This is not to say that AdWords is a lost cause for smaller outfits who cannot keep up with high Cost-per-click (CPC) payments. For example, ads with a higher Quality Score will be shown more frequently and for a lower CPC on the Search Network. Why spend \$20 per click on an ineffective ad with a low conversion rate when you could spend far less and generate more leads. An AdWords-qualified marketing team can find keywords and niches to target that will provide a positive ROI without breaking the bank.

Another important aspect to consider is the fickle and ever-changing nature of Google's algorithm, adherence to which drives success across all of the companies offerings. Even if every rule is followed to the letter, an ad could wind up suspended by Google if even the slightest change is made to that all-powerful algorithm. A Google-qualified AdWords agency can stay on top of these kinds of changes on your behalf. Should your account be suspended for any other unforeseen reason, the agency will also be able to have your issue heard by Google, and have the problem taken care of.

AdWords can be a tremendous resource to gain clients, but only when utilized in the proper way. A Google-certified team at a legal marketing firm can remove much of the guesswork and legwork involved in setting up and maintaining an effective AdWords relationship.

# New two-year law program

**L**ast night the Board of Trustees of Brooklyn Law School ("BLS") approved an accelerated 2-year J.D. program beginning in summer 2014. With the creation of the program, BLS will be able to offer a range of flexible 2-, 2.5-, 3-, 3.5- or 4-year options"called "Brooklyn 2-3-4" "to adapt to prospective students' needs. Brooklyn Law School is the first in the New York metropolitan area to enable students to earn a J.D. in 2 years.

The new 2-year offering is designed for select students seeking a rigorous legal education in an abbreviated timeframe. Candidates interested in this type of program might be, for example: 1) mid-life or mid-career professionals, including CPAs, MBA graduates, or those from academia desiring legal credentials and a new start; 2) foreign-trained lawyers with strong English-language proficiency; 3) individuals with established career plans following law school; or, 4) adults who seek to reenter the workforce. Highly qualified students with a demonstrated ability to handle a challenging work load will also be encouraged to apply for this opportunity. The accelerated J.D. involves the same amount of work as the current part-time or full-time program, but in 24 months.

"We have listened to and carefully considered the concerns about the legal education system," said Dean Nick Allard, who assumed leadership at Brooklyn Law School this past July. "The Brooklyn 2-3-4 program is one of several sound and deliberate new measures underway at BLS to make certain that law school education is meaningful and serves our students well. We worked hard to ensure that the 2-year program is fully compliant with the American Bar Association rules and other applicable requirements. I am grateful for the willingness and enthusiasm of our faculty to find a bold alternative that opens new doors for students who might otherwise not consider law school."

"Our institution has always been an agent of change," said Stuart Subotnick, Chair of the Brooklyn Law School Board of Trustees. "We were among the first in the nation to welcome women and minorities, our clinical education program began long before other law schools saw the value in experiential learning, and our Edward V. Sparer Public Interest Law Fellowship Program initiated public interest opportunities more

than 25 years ago, before it was fashionable to do so. Innovation is in our law school's lifeblood and the DNA of Brooklyn's exciting, rising community. Brooklyn 2-3-4 is the 21st century academic extension of this pioneering tradition. We have always created genuine advancements, not educational fads. The accelerated J.D. will give ambitious, talented, and hardworking students an edge in entering the marketplace sooner."

The decision follows a careful, year-long planning and review process about how best to address the changing legal education landscape. In Dean Allard's first meeting with the BLS Board, he was charged with finding ways to provide a first-rate education that better met the needs of students, including determining whether a 2-year alternative was feasible, desirable, and advisable.

A task force of faculty and deans was immediately established, including Dean of Admissions & Financial Aid Henry W. Haverstick III, a leader at BLS for 40 years. Following the plan's consideration and approval by the Faculty Curriculum Committee, the full faculty voted unanimously in April to approve an accelerated J.D. program. The Board's subsequent and unanimous approval allows the 2-year program to begin in summer 2014, and students who enroll in the existing full-time or part-time programs in the fall of 2013 will be able to take advantage of the Law School's flexible options after completing their first year.

"Creating and designing our new accelerated program was not an easy process," said Dean Allard, whose career in private practice and government spanned 30 years. "It has benefited every step of the way by the input of faculty and other constituencies. The accelerated J.D. follows many recent innovations at BLS: our Washington, D.C. semester immersion program, Business Boot Camp over intersession break, and the upcoming 2-year fellowship in practice program for third-year students. Because the accelerated J.D. is among the first of its kind and the very first in New York, we expect to draw a new cross-section of students that complements the traditional demographics of our full- and part-time student body." Dean Allard noted that the program will be extremely demanding and not for every student, but for certain applicants, it presents an extraordinary new option.

Lavery is pleased to announce the appointment of Josianne Beaudry(Montreal), Loïc Berdnikoff (Montreal), Jean-Simon Deschênes(Quebec City) and Nicolas Joubert (Montreal) as partners of the firm.



Admitted to the Quebec Bar in 2000, Ms. Josianne Beaudry practises at our Montreal office in the area of business law with a focus on securities law. She advises financial sector participants on the application of regulations relating to securities and corporate governance. She assists clients carrying out public and private financings, corporate reorganizations, reverse takeovers and mergers and acquisitions. Ms. Beaudry also advises investment fund managers, dealers and portfolio managers for matters related to their registration and activities.



Mr. Loïc Berdnikoff is a member of the firm's administrative law team at our Montreal office. His practice includes access to information, protection of personal information, privacy matters, defamation, the application of the Canadian and Quebec charters of human rights and freedoms, and constitutional law. He regularly advises and represents many public bodies and private businesses in connection with recourses before the Commission d'accès à l'information du Québec involving the confidential nature of documents, the application of professional privilege, and other privacy issues.



A member of the firm's Business Law Group practising in our Quebec City office, Mr. Jean-Simon Deschênes represents businesses, entrepreneurs and institutions with respect to mandates in a variety of areas of legal practice, including commercial transactions, technology law, entertainment and intellectual property as well as financing and financial services. He holds a Certificate on the Introduction to Chinese Law from the University of Political Science and Law in Beijing.



Mr. Nicolas Joubert is a member of the Labour and Employment Law Group at our Montreal office. He advises large, medium and small businesses on labour law, particularly employment law, employment contracts, labour relations, occupational health and safety, discrimination and harassment. He regularly represents clients before the civil courts and administrative tribunals. Mr. Joubert also practises in the area of economic immigration and labour mobility, representing and advising various companies on the process of recruiting foreign workers and transferring key employees to Canada through intra-company transfers.

### A first term for Léa Maalouf on the board of directors of the young bar association of montreal



During its Annual General Meeting, held on May 10, the Young Bar Association of Montreal (YBAM) announced the election results for various positions. Ms. Léa Maalouf, a Litigation lawyer at Lavery, was elected for a first term as administrator on the YBAM Board of Directors for 2013-2014. Founded in 1898, the YBAM represents lawyers with 10 years or less of practice, registered in the Montreal area. The mission of the YBAM is to defend and promote its members interests. It also offers various segments of the population consulting and legal information on a volunteer basis, besides organizing charitable activities. Overall, the YBAM seeks to improve access to justice and contribute to the well-being of the community.

### De Grandpré Chait welcomes Yannick Forget to its Construction law practice

De Grandpré Chait is pleased to announce that Yannick Forget has joined our team of construction lawyers. His practice has been focused mostly on acting for general and specialised contractors. Mr. Forget also has experience as an instructor with the APCHQ regarding its programme on how to obtain a Régie du Bâtiment (RBQ) construction license. "We wish Yannick Forget a warm welcome", states Eric Lalanne, President of De Grandpré Chait's Board of Directors. "His addition to the team reflects the firm's commitment to respond to the growing demand for specialised legal services that cater specifically to the needs of the various participants in the construction industry."

## Marie-Josée Hogue Receives Award from Benchmark Litigation



Me Marie-Josée Hogue

**C**ongratulations to our colleague, Marie-Josée Hogue, Ad. E., who was selected as Québec Female Litigator of the Year by Benchmark Litigation — Canada. The announcement was made on February 5th, in Toronto, during the first ever ceremony hosted by Benchmark to honour several firms, lawyers and in-house counsel.

Benchmark Litigation is "the definitive guide to America's leading litigation firms and attorneys". First focused on the United States, the directory recently began covering the Canadian market.

# St. Thomas University's Focus on Leadership Development Propels Student Co-Authors

**J**oseph Taylor, a December 2012 graduate of the St. Thomas University School of Business Master of Science in Management program, has co-authored a scholarly paper that has just been accepted for publication in the *Journal of Management Development*. The paper, entitled "Beneficence as a Source of Competitive Advantage," examines the relationship between leadership actions and long-term wealth creation for organizations. "This paper addresses the importance of the leader as a trustworthy individual whose actions demonstrate a commitment to the welfare, growth, and wholeness of employees," Taylor noted. "Beneficence is acknowledged to be an ethical obligation in the medical field to serve others and to do them no harm but our paper applies beneficence to organization management and identifies the importance of treating employees as owners and partners. "This paper also helps to clarify the nature of trust and trustworthiness and explains that a leader's actions are the foundations of trust creation. Both trustworthiness and trust are ultimately dependent upon a person's actions and beneficent leader behavior helps to create trust, high commitment, and stimulates creativity and innovation," Taylor added.

Taylor currently works as a Graduate Assistant

in the STU Writing Center and is also pursuing a doctorate at St. Thomas University ([www.stu.edu](http://www.stu.edu)). "This paper is my first publication, and it has encouraged me to continue to do research to contribute to the field of effective organizational leadership." Taylor worked on this paper about beneficence and competitive advantage as a Graduate Teaching and Research Assistant for the School of Business in the fall semester of 2012.

Thanks to a small student to faculty ratio and a seasoned economist and business leader who leads the School of Business " Dean Jose Antonio (Tony) Villamil " graduate students evolve as global sphere leaders and sports industry top executives, like STU alumni who have joined management ranks in the Miami Heat. The School's Sports Administration program is recognized as one of the nation's best. On the other hand, STU's Management programs help working professionals who want to advance in their careers by building on the leadership skills they have acquired and becoming immersed in a curriculum based on more advanced management principles. As they learn about other important business management areas, one message remains clear throughout the years and that is the School of Business credo " "Ethics and leadership are the keys to success".

# American Academy of Estate Planning Attorneys Hosts Free Attorney Webinar Outlining 11 Core Systems of Estate Planning Success

Webinar viewers also to learn about upcoming Estate Planning Boot Camp and Summit

**T**he American Academy of Estate Planning Attorneys (<http://www.aaepa.com/>), a professional organization devoted to furthering the practice of estate planning, has announced a free webinar for attorneys interested in enhancing their business prospects. The webinar is scheduled for Wednesday, February 13th at 5 pm EST. The program will include a discussion of the 11 Core Systems for Success in Estate Planning Law Firms. Attorneys Robert Armstrong and Sanford M. Fisch, founders of the American Academy of Estate Planning Attorneys, will be presenting valuable advice on how to maximize efficiency within a law practice and generate reliable income streams. Membership in the Academy is not required to attend the webinar. More information regarding this event can be found here: <http://www.aaepa.com/2013blueprint/>

Armstrong and Fisch, along with New York Times best-selling author Michael Gerber, are co-authors of "The E-Myth Attorney," a guidebook for revitalizing struggling law practices. Armstrong and Fisch founded the Academy as a means to share their innovative, results-oriented practices with a wider audience. Today, the Academy boasts over 125 Member firms in 45 states. Members gain access to the full suite of management techniques pioneered by the Academy's founders.

The upcoming webinar will also provide information on the Academy's annual Spring Estate Planning Boot Camp and Summit, to be held this year in Philadelphia from April 24 to 28. A 20-year tradition, the Boot Camp and Summit represents an opportunity to network and share winning strategies through a weeklong series of workshops and presentations. Attendance at the Boot Camp and Summit

is subject to certain qualifications, including bar standing and professional references.

Former attendees of the Boot Camp and Summit have nothing but praise for the Academy's efforts. Attorney Cheryl David transitioned to estate planning law eleven years ago. She joined the Academy from the outset and followed its proven systems and strategies. She has not looked back: "I've grown my business from a one-woman, one-paralegal firm into a thriving firm with nine employees now. I've even brought in another attorney. We have a Certified Financial Planner on staff. Our office only works four days a week and we're doing better than we've ever done before. So thank you to the American Academy of Estate Planning Attorneys."

The webinar will provide a sneak peek of the material to be covered in detail at the Boot Camp and Summit. Attendees will participate in an interactive "attorney audit" to assess their current business situation and identify possible roadblocks. Armstrong and Fisch will also discuss the ever-present challenges and opportunities of estate planning law. Lastly, the webinar will include information on how to attend the April Boot Camp and Summit with no risk and no obligation.

Webinar attendees will receive several bonus items, including a free copy of "The E-Myth Attorney," by Michael Gerber, the Attorney Audit tool for business planning purposes, and a video recording of the session.

Organizers hope that providing this free webinar will result in continued membership gains for the AAEPA. As such, non-members are encouraged to register for the event.



In memoriam

# Death of Me Jean Bélanger

**A**ll of Lavery's partners, associates and personnel would like to pay homage to Jean Bélanger, who passed away on April 15, 2013. Before his death, Mr. Bélanger was working at the firm Casavant Mercier, practising with Jean-Pierre Casavant, a former Lavery partner.

A great legal mind, Jean Bélanger spent many years at Lavery. Each of us who had the privilege of working with Mr. Bélanger over the years was struck by his legal brilliance, his insatiable intellectual curiosity and his thorough knowledge of case law and the cases handled by the firm.

He acted as a mentor and strategic advisor to many lawyers at Lavery, several of whom were later appointed to the bench. His patience, his generosity and his ability to help develop the personal strengths of his colleagues enabled them to achieve professional excellence.

His proficiency as a teacher was recognized by the McGill University Faculty of Law where Mr. Bélanger taught insurance law for 10 years as well as by the Canadian Bar Association where he had been presenting for 26 years an annual review of important civil law cases.

Throughout the years, many clients of the firm sought Jean Bélanger's expert advice. Fond of culture, music lover, foodie at heart and a refined individual, Jean Bélanger was truly a man for all seasons.

A great man has passed away but he will be remembered for his love for life and his loyalty to his family, colleagues, friends and a profession he has always cherished.

## Nomination of Me Alain Prujiner



Alain Prujiner, is one of the founders of the School of Hautes Études Internationales (HEI) and was the first director of the school (1994-1997); a position he also occupied from 2005-2006. The title of professor emeritus crowns a remarkable career, for his many accomplishments in both research and as a professor.

A collection was recently published in his honour in 2011: *Mélanges en l'honneur du professeur Alain Prujiner*, from the editor Yvon Blais, in which twenty of Professor Prujiner's colleagues or past students published essays on his favourite topics: civil procedure, international private law, international commercial law, arbitration and comparative law.

The international renown of professor Prujiner has greatly contributed to the international reputation of HEI, of the Faculty of Law of Laval University and the University in general. All of our congratulations to Professor Prujiner and our most sincere thanks!

## Fasken Martineau partner wins Governor General's Award

**F**asken Martineau, a leading international business law and litigation firm, announced today that Jean Pierre Desrosiers won the 2013 Ramon John Hnatyshyn Award for volunteerism in the performing arts, one of the Governor General's Performing Arts Awards.

"This prestigious distinction underscores the exceptional philanthropic contribution our colleague Jean Pierre has made to the performing arts in Canada. He is recognized for his generosity and staunch support to countless organizations, such as La La La Human Steps, Cirque Éloize, Théâtre La Chapelle, Compagnie Marie Chouinard, Angèle Dubeau and La Pietà, and chairs the Montreal Arts Council," said David Corbett, managing partner at Fasken Martineau.

# Gowlings lawyer inducted to the American College of Trial Lawyers

**R**ichard Dearden, a senior litigation lawyer at Gowlings, has been inducted as a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America.

Fellowship in the College is extended by invitation only to experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Membership in the College is limited to one percent of the total lawyer population of any state or province, and lawyers must have at least 15 years of trial experience before they can be considered.

Dearden, a partner in the Ottawa office, practises primarily in the areas of international trade, investor-state arbitration, media and defamation law, freedom of information, and administrative law. He has acted before the Supreme Court of Canada, the Federal Courts of Canada and all levels of court in Ontario. He has also acted as counsel in leading defamation trials and appeals, Canadian Charter of Rights freedom of the press cases, and freedom of information cases.

As a Fellow of the College, Dearden joins Gowlings colleagues Brian Crane, a partner in the Ottawa office, and Julie-Martine Loranger, a partner in the Montréal office, who were previously inducted to the College.

# Happy Birthday De Grandpré Chait

**D**e Grandpré Chait, as we know it today, results from the 1999 merger of two law firms: De Grandpré Godin and Chait Amyot. At the time, it became one of the 15 most important players on the Québec legal scene.

It was in 1928, on the eve of the Great Depression, that Samuel Chait started as a sole legal practitioner. Over the years, his real estate practice grew with the addition of young lawyers who also developed a range of complementary expertise. At the time of the merger, Chait Amyot numbered 25 lawyers working in the fields of real estate law, construction law, litigation, insolvency, and business law.

In 1966, as the result of the consolidation of five Montréal-based firms, De Grandpré Godin becomes the largest French-speaking law firm in Canada. At the time of the merger, the firm was 40 lawyers strong, specialising in many legal disciplines, including litigation, insurance, real estate law and commercial law.

## De Grandpré Chait today

With the merger in 1999, our firm has succeeded in combining the strengths of two cultures, one francophone and the other anglophone. Our story continues with the arrival, year after year, of new lawyers and partners who have expanded our practice areas and enhanced our expertise to better serve the business community. While our lawyers continue to distinguish themselves, and we consistently rank among Québec's top 10 regional firms, this 85th anniversary provides us with another opportunity to thank all our clients for choosing De Grandpre Chait!



# Blood Cancers Can Be Beaten



The Fund for Education and Research Into Blood Cancers, through its important research, hopes to allow many more people to say: *"I have beaten leukemia, I am alive, I am strong and I am forever grateful."*

William Brock, leukemia survivor, Fund Founder and partner of Davies Ward Phillips & Vineberg LLP

**Please give generously.**

To make a tax deductible donation contact William Brock at 514-841-6438 or on-line at [will@portraitsofhope.ca](mailto:will@portraitsofhope.ca)  
Donors of \$100 or more will receive a copy of *Portraits of Hope*, an inspiring 208 page portfolio of blood cancer survivors.



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