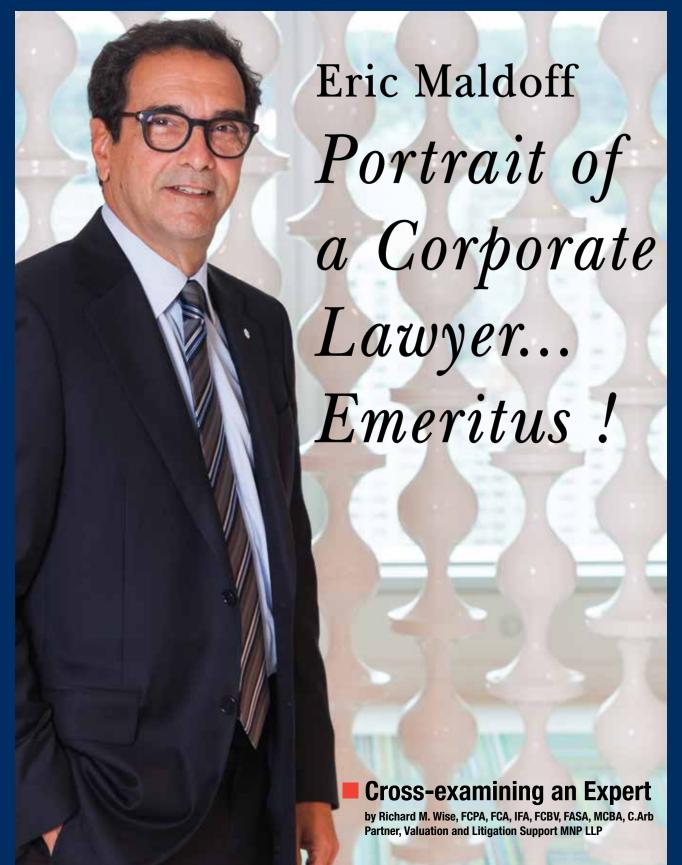
The MONTREAL LAWYER



« THE VOICE OF MONTREAL ENGLISH-SPEAKING LAWYERS :

Vol.1, No 2



IMPACT MATTERS

WITH FORENSIC ACCOUNTING EXPERTISE

Navigant has offices in over 40 cities across North America, Asia, Europe and the United Kingdom, and includes the largest number of Forensic

Accounting and Financial Investigations experts in Québec. Our competence, deep experience and independence set us apart.

Our services include:

- » Assessing financial harm as part of litigation or insurance claims
- » Investigating suspected and/or alleged irregularities and fraud
- » Loss of profits quantification and business valuation
- » Breach of contracts and contractual disputes
- » Assistance during a trial, expert testimony and reports

Our Managing Directors, Directors and Managers in Québec:

Richard Forand	Alain Lajoie
CPA, CA, CA•IFA, MBA	FCPA, FCA, CA•IFA, MBA
514.227.6159	514.227.6163
André Lepage	Paul Levine
FCPA, FCA, CA•IFA, CFE	FCPA, FCA, CA•IFA, CBV
514.227.6164	514.227.6162
Jonathan Allard	Michel Hébert
CPA, CA, CA•IFA, CBV, MBA	CPA, CA, CA•IFA
514.227.6158	514.227.6171
Luc Marcil	François Auclair
LL.L., CPA, CA, CA•IFA	CPA, CA, CFE
514.227.6184	514.227.6183
Suzanne Harting BAA 514 227 6180	





navigant.com

Montréal: 514.798.5874 | Québec: 418.780.5874

Eric Maldoff Portrait of a Corporate Lawyer... Emeritus!

hen the Barreau introduced the distinction of Lawyer Emeritus in 2007, it meant to create "an honorary distinction designed to promote the image of the legal profession by paying tribute to its most deserving members."

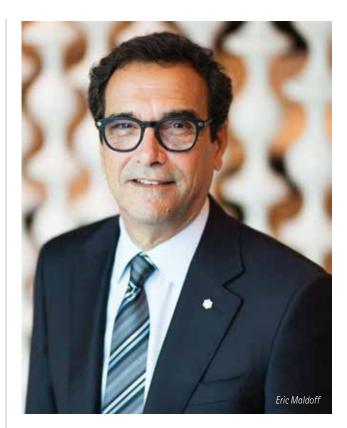
Many readers of The Montreal Lawyer will surely remember Eric Maldoff as the founder of Alliance Quebec and its passionate and outspoken president from 1982 to 1985. This is only one facet of an outstanding career that has combined professional achievements and social engagement—a career that exemplifies the values of a Lawyer Emeritus.

Looking at the career of Eric Maldoff, one of only a handful of recipients in 2013, it is evident that the Barreau truly abides by these criteria.

Practicing Law Off the Beaten Path

Throughout a career spanning over three decades, Eric Maldoff has practiced corporate and commercial law, first with Martineau Walker (now Fasken) and, since 1998, with Heenan Blaikie. Beyond the mergers, acquisitions, financings and commercial transactions, he has also ventured into very specific areas of law that are both complex and rapidly evolving — and, as Eric adds, "exciting, demanding and stimulating!"

Over the course of the last 20 years, Eric has led a number of sensitive aboriginal negotiations as a chief negotiator for governments – a practice that requires exceptional diplomatic skills, an appreciation of historical and political issues, creativity and a commitment to fairness. A good example involves the Mohawks of Kanesatake (Oka), where as Chief Federal Negotiator, Eric succeeded in negotiating the agreement that was given effect by the enactment of



the Kanesatake Interim Land Base Governance Act, in 2001. This recognized, for the first time, an interim land base for the Mohawks of Kanesatake, established governance arrangements and clarified federal, Quebec, and Kanesatake jurisdictions.

As Eric explains, "What I found most interesting in this practice was the legal challenge of interpreting and reconciling historical expectations linked to a profound sense of injustice, with contemporary and effective solutions. Keep in mind that social and political relations with First Nations have evolved tremendously over merely two or three decades. At the same time, First Nations have become aware



Robert Bonhomme, Heenan Blaikie's National Co-managing Partner, has witnessed almost three-quarters of the firm's history. "When I joined the firm in 1984, I knew that this was where I wanted to build my career. The lawyers were driven by the aspiration to anticipate the clients' needs and offer services of exceptional quality. The firm has always been in sync with the market. My job, as National Co-managing Partner, is to continue applying this formula to an ever-changing market."

of their rights, which has made them more assertive. All this adds up to a unique and fascinating picture. I consider it a privilege to have been involved in what was really the development of a new area of law."

Development is the key word to describe yet another endeavour where Eric's capacity to innovate was essential. In 2001, he became the Founding Chair of Canada Health Infoway, a not-for-profit corporation created by the Government of Canada to transform health care through a pan-Canadian health information technology endeavour. The corporate charter dictated that only Deputy Ministers of Health could be members. The immediate challenge was to secure the membership of every DM of Health in Canada, bring together a board of directors, prepare a business plan, have it approved by the DMs and table it at the next federal-provincial-territorial Health Ministers' meeting scheduled to take place in 11 months. It was a huge effort, but it all happened with a Canadian rarity, the business plan received unanimous approval on time. As Eric recalls, "although Infoway is barely a decade old, its origins seem

so distant nowadays, considering the speed at which technology has evolved since then. So much was yet to be developed. We had to reconcile standards of data exchange, address confidentiality issues, and lay down the basis of a system that could survive the developments that were to come, such as today's ubiquitous smart phones, which, of course, few people dreamed of in 2001."

Major Responsibilities with a Major Practice Group

Even in his more traditional role as a corporate and commercial lawyer, Eric continues to stand out. He is a member of Heenan Blaikies's National Management Committee, in addition to serving as Coordinator of the firm's Plan Nord initiative and Co-Chair of the Canada-Israel Business Practice. Furthermore, for the last three years, he has been head of the Business Law Section of Heenan Blaikie's Montreal office. The 65+ lawyers in this section, along with the more than 20 members of the Business Law groups in Heenan Blaikie's Québec City, Sherbrooke and Trois-Rivières offices, provide services to many of the province's leading companies and organizations. "Heading such a dynamic group of lawyers is really an incomparable experience," says Eric. "We all share the firm's entrepreneurial spirit, which our clients really appreciate. We look in the same direction as they do. We don't think of a merger, an acquisition or a financing as a legal mechanism: we see the commercial potential in these operations. We focus on the goals that our clients have in mind and help them achieve them."

The Business Law Group is a multi-faceted, full-service force. It provides businesses and organizations a complete array of services, with teams dedicated to Mergers and Acquisitions; Securities; Real Estate; Taxation; Infrastructure and P3s; Mining, Environmental and Public Law; Financial

A Matter of Passion

We asked Eric what was the driving force in his career: what prompted him to tackle so many challenges and break new ground?

"To me, it's all part of being a lawyer, of devoting oneself to the advancement of law as a tool for social progress and freedom. Law is a noble and powerful profession, rooted in the quest for knowledge and justice. It depends upon integrity. I cannot see myself becoming jaded with this profession, when every day brings such new and exciting challenges." Services; Entertainment and IT; and Marketing, Advertising and Intellectual Property.

As head of the Business Law Section, Eric has to ensure that all lawyers work as a unified, client-responsive force. With the transformative pressures facing law firms, his vision and consensus-building skills come in handy in bringing the team together around a strategy to adapt to new realities. As Eric explains, "Of course, my job is rarely easy, but we have a wonderful Business Law team of very talented lawyers and staff. I appreciate the value that each member brings as well as the challenges each of us is addressing. Today's economic context is demanding. We share our clients' concerns. My job is to help our team to deal with the demands of our practice and to perform at our best."

Social Commitment Above and Beyond the Call

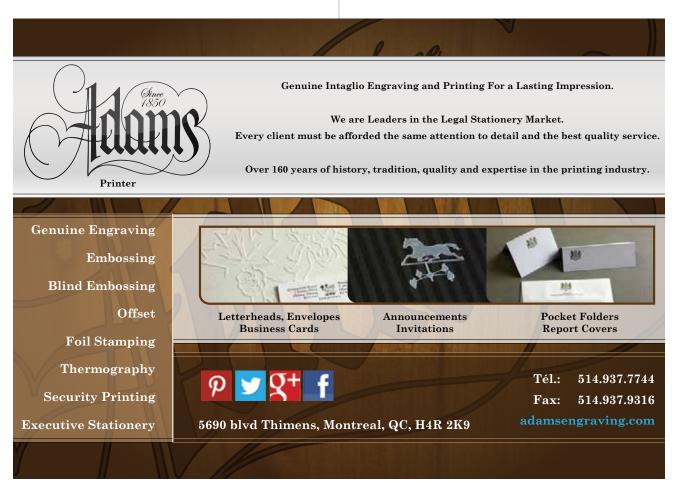
Many members of the Barreau are, like Eric Maldoff, excellent professionals. Only few, however, have combined their professional practice with an outstanding social commitment.

Eric's achievements in advancing the profession and a variety of social issues are nothing short of exemplary. His ré-

sumé speaks for itself. By contrast, Eric suddenly becomes discreet when this topic is raised. While he enthusiastically discusses all the aspects of his practice, he tends to shy away from self-promotion.

Yet, there is a lot to be said about this involvement, especially in the fields of health and education. For over 20 years, he has acted in various capacities for the McGill University Health Centre (MUHC), eventually as Chair of its Executive Committee. He also played a key role, as vicechair of the Interim Governing Council, in the creation of the Canadian Institutes of Health Research. He served as Chair of the Montreal Children's Hospital and negotiated the merger with the MUHC. Eric has played leading roles on the Health Canada Consultative Committee for the English-Speaking Minority Communities, the Government of Canada's National Forum on Health and the Quebec Committee on the Dispensing of Health and Social Services in the English Language, and he currently chairs the Mount Sinai Hospital Foundation and the Old Brewery Mission, Quebec's largest homeless shelter.

One recent example illustrates Eric's concrete contributions to health care. He was approached by people dealing with



organizations involved with autism. Waiting for a diagnosis before early treatment can begin is a trying experience for parents with children suffering from autism. Traditionally, diagnosing such cases was reserved for doctors. Given the importance of the early treatment of autism, the waiting time for a doctor's diagnosis was a cause for real concern. Eric took up the cause and spearheaded a successful initiative, which resulted in the government changing its rules and also recognizing psychologists' right to diagnose. To achieve this, scientific evidence was gathered and social support garnered. He then focused on presenting a proposal to the government, relying on his negotiating and strategic skills. As a result, the agonizing wait of parents may now be shortened and a major step toward expanding access to care has been taken.

Eric has also made a substantial contribution to education by applying his knowledge and experience working with corporations as well as institutional and community organizations. As a member of the Board of Governors of McGill University from 2001 to 2011, he sat on several committees, including the Executive Committee and the Nominating and Governance Committee, which, together with the Principal, Board Chair, and Chancellor, played a leading role in a major restructuring of the Board of Governors and revision of the University's governance. He is now a Governor Emeritus and serves on McGill's Finance Committee.

Of course, public policy remains close to Eric's heart. As mentioned earlier, he founded Alliance Quebec in the early 1980s to allow the province's English-speaking community to have a powerful voice and establish a productive dialogue with the Parti Quebecois government of the day. Those of us who witnessed this era vividly recall the heated debates that were echoed in the media. Alliance Quebec was powerful but also rational, moderate and effective. Although he was never afraid of controversy, Eric never sought it.

This capacity to avoid unnecessary confrontation and focus on solving problems, coupled with his broad range of experience, also explains why he has played leading roles in some of the most significant initiatives and debates that have shaped Canadian society in the last 30 years, be they the defence of minority language rights in Manitoba and Ontario, Meech Lake discussions at the highest level, negotiation of the Canada-Quebec Manpower Agreement in 1997, drafting of the Clarity Act, or leading negotiations on behalf of Canada with the Innu of Labrador. The latter led to a recent Agreement in Principle on a series of compre-

hensive land claims.

The one constant in Eric Maldoff's social involvement has always been the quest for principled consensus rooted in fairness: the desire to help all parties converge towards a common goal. First Nations, business clients, partners, fellow directors of organizations; Eric's strength is steering diverse parties to define shared objectives and focus their efforts on reaching them. In Eric's words: "Playing it straight, always listening carefully more than speaking, striving for fairness, daring to think outside the box, building trust; that's the trick."

Such are the qualities of a true Lawyer Emeritus.

Heenan Blaikie: 40 Years of Success

The year is 1973. Four young lawyers, including Donald J. Johnston, Roy L. Heenan and Peter Blaikie, open their own firm in Montreal. Their goal is simple, yet bold: they want to have the leeway to practice law... differently. To define new ways to deliver legal services. From day one, the firm experiences steady growth, always eschewing the easy avenue of merging with another established group. Over the years, new offices are opened in Toronto, Vancouver, Ottawa, Calgary and elsewhere. The recipe for every new office mirrors the origins of the firm: start with a few dynamic lawyers with an entrepreneurial spirit, and let them attract talented practitioners who share their vision.

Today, Heenan Blaikie is a full-service firm, with 525 lawyers and professionals present in nine Canadian cities as well as Paris. The firm's activity focuses on six core areas of practice: business law, labour and employment, litigation, tax, intellectual property and entertainment. The firm and its lawyers have gained international recognition in Chambers Global, Lexpert, Best Lawyers and other directories based on peer review. Heenan Blaikie caters to the needs of a clientele that includes dynamic start-ups, prominent institutions, as well as multinational public companies. The firm is known for its innovative and dynamic approach to the legal services industry.

Donald, Roy and Peter are still very active and they are probably still amazed at how their little firm has grown over the years.

Cross-examining an expert

by Richard M. Wise, FCPA, FCA, IFA, FCBV, FASA, MCBA, C.Arb Partner, Valuation and Litigation Support MNP LLP

ross-examination is such a critical part in the trial process that entire books have been devoted to the subject, providing important advice and quidance.

In preparing this article, I have culled material from selected writings of two prominent Canadian trial lawyers and two American litigators, particularly that with respect to expert witnesses.

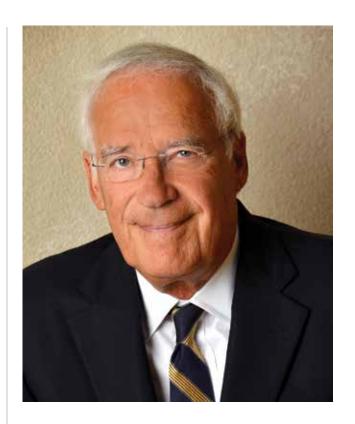
The Canadian authors are former Supreme Court Justice John Sopinka, in The Trial of An Action (1981), written when he was a practising litigator, and Ontario District Court Judge Roger Salhany, in Cross-Examination: The Art of the Advocate (1991).

The American authors are Francis Wellman, a 19th century trial lawyer whose celebrated 475-page classic is The Art of Cross-Examination (1903), and Peter Brown, who wrote The Art of Questioning: Thirty Maxims of Cross-Examination (1988).

The books provide informative and colourful insight into these cross-examiners' strategies and thought processes.

Sopinka states that a witness' evidence can be contradicted or impeached by (a) previous inconsistent statements, (b) other evidence, (c) contradiction in the witness' own evidence or inherent improbabilities therein, or (d) attacking his or her memory, power of observation and credibility. However, in cross-examining an expert witness (as opposed to a fact witness), Sopinka suggests the following:

• Be schooled by an equally competent expert.



- Flaw the opposing expert so that your expert is preferred.
- Discredit the expert's opinion by refuting a basic assumed or found fact.
- If a basic assumption or fact cannot be refuted, attack the expert's theory [relying upon your own expert].

Salhany emphasizes that the cross-examiner must fully understand the nature and effect of the expert testimony so that it can effectively be attacked. "Some cross-examiners will plunge into a cross-examination of the expert,

$^{ ext{ ine}}M$ ontreal Lawyer

Volume 1, number 2

THE MONTREAL LAWYER

642, rue Pierre-Tétrault Montréal, (Québec) H1L 4Y5 (514) 353-3549

 ${\it Email:mtllawyer@videotron.ca}$ We b site: the montreal lawyer.com

Publisher & Editor

André Gagnon, B. A., LL. L.

Publication Manager

Jeanne d'Arc Tissot **Advertising Director**

Benjamin Gagnon

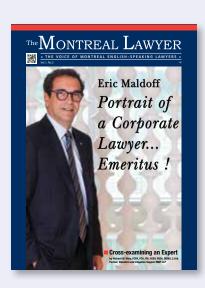
Advertising

642, Pierre-Tétrault Montréal, (Québec) H1L 4Y5 Phone: (514) 353-3549

Graphic design

Image-innée

COPYRIGHT 2013 - COPYRIGHT THE MONTREAL LAWYER AND LE MONDE JURIDIQUE



Eric Maldoff Portrait of a Corporate Lawyer Emeritus!	
, , , , , , , , , , , , , , , , , , , ,	3
Cross-examining an expert By Richard M. Wise	7
Lavery 100 years and still going strong	
	12
CIGI begins search for permanent director and research fellows for International Law program	14
A.G. Schneiderman, NYC public advocate bill de Blasio team up to protect New Yorkers from wave of smartphone theft	10
IBA mourns and celebrates Nelson Mandela, Founding Honorary President of its Human Rights Institute	
Fasken Martineau and KPMG-SECOR hosted	10
second meeting of mining industry leaders' summit	19
Big tobacco ordered to pay full \$800 million to New York state under landmark 1998 agreement	20
Saudi Government to "Use Force"	
Against Women Protesting Driving Ban	22
Fred Headon of Montreal takes over CBA presidency	23
American Bar Association Calls for End	
to "Gay and Trans Panic" Defense	24
WOMANCON Celebrates Women's Entrepreneurship	25
Legal Marketing Expert recently addressed	
ATLAS Attorneys in Florida	26
No-Cost Lawsuit Case Reviews Offered by LawsuitLegal.com for Injury and Accident Sufferers	27
Curatorial Expertise and Magna Carta-Related Documents Available at Library	2 /
	27
RD Legal Funding Urges Qualified First Responders to Apply	28
Brother Enforces P-Touch® Tape Cassette Patents Against EZ Replacement Labels	
LZ replacement caucis	29
The World Customs Organization expands its	30

without assessing whether the witness has hurt his case or not." He quotes John Henry Wigmore, author of the leading American text, Wigmore on Evidence (1904): "Crossexamination is the greatest legal engine ever invented for the discovery of truth". However, Wigmore qualifies this by saying: "You can do anything with a bayonet except sit on it. A lawyer can do anything with cross-examination if he is skilful enough not to impale his own cause upon it." Salhany continues, "If [the expert's] evidence has hurt you then zero in on the specific issue that you wish to challenge. Don't start off by attacking his credentials and expertise unless it is necessary".

Sopinka states that while there are many styles and techniques of cross-examination, it must serve at least to:

- obtain helpful admissions or evidence.
- contradict or impeach the witness.
- create an impression or atmosphere for the judge or jury.

However, counsel must first decide whether to even crossexamine, and, if so, what it would accomplish ... and whether, by not cross-examining, it will imply to the court that the expert's evidence is accepted.

Wellman suggests that nothing could be more absurd or a greater waste of time than cross-examining a witness who has testified to no material fact against the lawyer's case. He observes that many trial lawyers seem to feel it is their duty to cross-examine every witness who is sworn; they appear to be afraid that if they do not cross-examine, their client will suspect them of ignorance or inability to conduct a trial.

Brown gives the following advice:



"... the early masters understood better than today's professors the importance of foregoing cross-examination and the stupidity of having an adverse witness repeat and thus reinforce all that was said so damagingly on direct

"More cross-examinations are suicidal than homicidal. When in doubt don't ask a question. When in doubt don't cross-examine. Do only what's necessary, and then get the hell out".

He refers to the comments of another celebrated early 20th century American trial lawyer, Max Steuer, who had 40 years of experience as a cross-examiner:

"... cross-examination should be pointed to two objectives: either to destroy the story told by the witness or to destroy the witness himself. If neither of these objectives is attainable (and if you have properly prepared your case, you should know the prospect) a pointless and scoreless cross-examination does your case more harm than good. And when you have scored your point on cross-examination, for heaven's sake, quit."





I am offering you my services as an arbitrator to resolve any dispute that may arise involving your clients or company affairs. I would be pleased to discuss your particular case upon receipt of your communication.

Please do not hesitate to contact me for any inquiries relating to Alternate Dispute Resolution.

Michael Worsoff

Advocate Member of the Bar of the Province of Quebec

1980 rue Sherbrooke West, suite 800 Montreal, (Quebec) H3H 1E8 Tet: +1 (514) 940-4609 Fax: +1 (514) 937-2580 Toll free: +1 (888) 947-9445 Email

Email: arbitrators@adrquebec.com • Website: www.adrquebec.com



Salhany says:

"... Properly conducted, cross examination is the best method for testing the value of human statements. Badly conducted, it can destroy one's own cause.

"Cross-examination should strive to achieve two goals. The first is to weaken the case for the other side by discrediting the testimony of the witness in chief. The second is to elicit evidence from the witness which will establish facts favourable to the cross-examiner's side. Those goals are not necessarily mutually exclusive. Often in seeking to achieve one, the cross-examiner may be successful in achieving the other."

Rules for The Cross-Examiner

The principal "rules" that the cross-examiner should follow are summarized in the remainder of this article.

1. Size-up your witness.

Salhany categorizes witnesses under various headings, including:

- The brilliant witness, and
- The garrulous witness.

Each of his witness categories requires a special approach by the cross-examiner in attempting to attack the testimony.

2. Begin the cross-examination dramatically.

Sopinka believes that the best technique is a dramatic beginning: This is when counsel has the attention of the judge and when the witness is most vulnerable. Counsel should not permit the witness to become acclimatized and gain confidence; rather, put to the witness an early series of questions that go to the heart of the matter.

3. Don't ask a question in a courtroom context without knowing the answer first.

Sopinka notes that while this is a general rule, there can be exceptions:

"The truth lies in between. In a strong case, not dependent on cross-examination, the cross-examiner should take no chances. He should restrict his questions to matters that are either not capable of doing damage or in respect of which the witness is constrained by previous statements. But in a case that depends on cross-examination this approach is too stultifying. The cross-examination must be built up on probabilities. The cross-examiner tries to foresee the different answers that may be given and formulates questions to meet them."

4. Don't ask why.

Brown believes that the only times when you can ask "why" in cross-examination is when the adverse witness is inextricably "impaled" or if counsel's pre-trial examination-for-discovery and other testimony has made him/her aware of facts that the opposing party simply cannot explain away. In this latter context the question "why" is rhetorical and the witness' silence tells the tale.

Once the witness/evidence has been discredited, don't ask more questions. If cross-examining counsel continues to ask more questions, the witness may be afforded an opportunity of explaining away prior admissions. Similarly, counsel should not over-stress, as this may provide the witness an opportunity of qualifying his or her answer or shrewdly placing the matter in another context. As Brown notes, "you will have plenty of opportunities to emphasize the damaging admission or testimony in summation to the"

5. Don't ask open-ended questions.

Brown suggests that counsel's questions should be short, definite, clear, pithy, without characterization and close-ended. Counsel should not ask general questions that the witness can answer with a speech. This would give the

hostile witness a chance to bring in testimony otherwise inadmissible and self-serving. Counsel must control the opposing witness on crossexamination or the witness will destroy the questioner and, in turn, the client's cause. For the hostile witness, leading questions (permitted in cross-examination but not in direct) or close-ended questions are those that call for a "yes" or "no" response such as "Isn't it correct ... ?". In fact, all questions in critical areas should be close-ended. By carefully limiting the answers, counsel can successfully preclude the expert from expounding on his/her theories and reasserting his/her opinions and explanations. Counsel may even succeed in planting seeds of doubt in the court's mind about the expertise of the witness.

6. Don't put the evidence of your own expert to the expert you are cross-examining.

Sopinka says any direct reference to counsel's own expert should be limited to only an admission (which will normally be forthcoming) by the opposing expert on the witness stand that counsel's own expert is well-qualified and highly regarded: "While much of the substance of your expert's theory will be put to the witness, a specific identification of your expert's evidence in the question may result in getting a rebuttal in advance".

In Part II, I summarize the authors' additional rules for cross-examining an expert.

End of Part 1, Part 11, in the following issue.



Professional Development CLE



Ce programme est entièrement accrédité par le Barreau du Québec

Drafting Clearer Contracts

A Comprehensive and Disciplined Approach to Drafting Agreements

Friday, January 17, 2014 Musée McCord, 690, rue Sherbrooke Ouest Montréal, Québec

This practical one-day workshop will cover:

- The benefits of clear drafting
- Efficient and less efficient contract usages
- Categories of contract language and how to use them
- Mastering how to lay out the body of the contract
- Using defined terms
- Different kinds of ambiguity and how to avoid them
- Problematic words and phrases ... and what to use instead

Plus! You'll receive a copy of Ken's groundbreaking text,

A Manual of Style for Contract Drafting (2013, 3rd edition)

Workshop Leader

Kenneth A. Adams, Lecturer, University of Pennsylvania Author, *A Manual of Style for Contract Drafting*

Registration Fee: \$845 plus GST and QST Inquire about group discounts, financial aid and CPD credits.

Note: Program delivery and materials are only available in English.



Barreau du Québec: Reconnue pour 5.5 heures en vertu du Règlement sur la formation continue obligatoire des avocats

To Register: www.osgoodepd.ca

Or Call: 416.597.9724 or 1.888.923.3394
Or E-mail: opd-registration@osgoode.yorku.ca

Osgoode Professional Development, 1 Dundas Street West, Suite 2600, Toronto



Priority Service Code: 13-27ML

Lavery 100 years and still going strong

ccording to Lavery's Managing Partner, Don Mc-Carty, the centennial of the firm is a very special event. Few institutions can claim a hundred years of existence. Over the years, Lavery has grown to become Quebec's leading independent law firm with a capacity to constantly reinvent itself and a strong presence in the legal services sector.

Quebec City: The cornerstone

The history of Lavery begins with Maurice Dupré and Onésime Gagnon who founded the firm of Dupré & Gagnon in Quebec City in 1913. Valmore de Billy, an experienced lawyer, joined the firm in 1931. He would go on to play a key role in the Desjardins Group, most notably in the creation of Société d'assurance des caisses populaires in 1944 and Desjardins Life Insurance in 1948. In 1945, Valmore de Billy convinced his son Jacques, who was serving in England as an officer in the Canadian Army, to return home and help out at the firm. Jacques de Billy generated lasting momentum for the practice, especially in the field of insurance.

Lavery sets foot in Montreal

In 1927, John L. O'Brien, joined the firm of Audette & Lorrain, founded in Montreal the previous year. Through his business connections, O'Brien built an impressive clientele of commercial concerns. In 1949, Harold Tansey, Louis-Philippe de Grandpré and A. Jean de Grandpré founded the firm of Tansey, de Grandpré & de Grandpré, which was historically Lavery's second predecessor firm in Montreal. The firm specialized in insurance, specifically auto insurance, but did not limit itself to this field.

In 1966, two renowned lawyers joined the firm: Elizabeth C. Monk, who was the first woman to practise law in Quebec, and Claude Lavery, who would establish the firm's reputation in the field of labour law. In the legal community,



Lavery is considered « a seedbed of judges » because several lawyers of the firm were appointed to the bench, including three to the Supreme Court of Canada: Joseph Honoré Gérald Fauteux, Louis-Philippe de Grandpré and more recently Richard Wagner.

Elizabeth C. Monk was the first woman to practise law in Quebec and Claude Lavery established the firm's reputation in the field of labour law

Thoughtful business decisions

In 1979, the two Montreal predecessor firms merged to create Lavery, O'Brien. The merger enabled the new firm to consolidate its practice areas, including business law, insurance law and labour law. The firm was also able to distinguish itself in emerging fields of practice, such as environmental law and access to information and the protection of personal information. In November 1991, Lavery, O'Brien merged with Gagnon, de Billy, Cantin, Beaudoin, Lesage & Associés of Quebec City, which enabled Lavery, de Billy to offer a wider range of services to its clients. In October 2007, 34 lawyers and more than 60 staff members from the Montreal office of the firm Desjardins Ducharme joined Lavery. This consolidation strengthened the firm's practice in the areas of commercial litigation and business law.

In October 2007, 34 lawyers and more than 60 staff members from the Montreal office of the firm Desjardins Ducharme joined Lavery.

"In their business decisions, our leaders have always promoted a philosophy of continuity that is expressed through the responsible management of the firm and the development of lasting relationships with our clients", says André Vautour, Chairman of Lavery's Board of Directors.

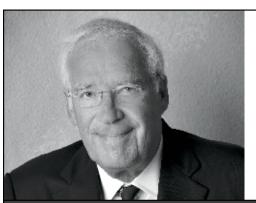
A few landmark cases

In 1966, at the express request of the Canadian Prime Minister, Lester B. Pearson, John O'Brien was appointed legal counsel for the Spence Commission, which was charged with investigating the scandalous Munsinger Affair, named after the alleged Soviet spy who is said to have had intimate relations with certain ministers in the Diefenbaker government. Vincent O'Donnell, a great litigator, was the firm's leading counsel in several major cases, including the Bre-X affair. That case dealt with the report of a major gold deposit in Indonesia. When the massive fraud involved was exposed in 1997, Lavery put together a team headed by O'Donnell, which successfully represented SNC-Lavalin in numerous class actions filed against the company in Canada, in the US and elsewhere in the world. During the 1980s, Robert Mason was a lead lawyer in the ureaformaldehyde foam insulation (UFFI) case, in which he represented the product's manufacturer. The case was highly publicized and, at the time, was the longest civil proceeding in Canadian history—a fact that made it into The Guinness Book of Records!

Lavery: Forever young

As the firm embarks on its second century, it is dedicated to reinforcing its community presence by supporting a range of charities and foundations, promoting art and culture, and increasing its pro bono work. It also intends to keep building young talent to stimulate its growth and ensure its continuity. "We are committed to developing the expertise of our young lawyers. Our philosophy in that regard is expressed through the support provided to our articling students, many of whom are hired by the firm after their program", says Don McCarty.

Loyal to the past and headed for the future. That is Lavery in a nutshell.



Make Your Case Stronger

In financial litigation and damages quantification, you want support from financial experts who can communicate the appropriate evidence that will withstand the rigour of the courts. Specializing in business valuation, forensic accounting and litigation support, Richard Wise brings more than 35 years of hands-on experience to help you present your case more strongly.

Contact Richard M. Wise, FCPA, FCA, CA•IFA, at 514.861.6523 or richard.wise@mnp.ca

ACCOUNTING > CONSULTING > TAX

MNP.ca



MNP SENCRL STI/LLP

CIGI begins search for permanent director and research fellows for International Law program

he Centre for International Governance Innovation (CIGI) is beginning a search for research fellows and a permanent director for its new International Law Research Program.

As announced this week by the Ontario government, the new program is a \$60 million, 10-year initiative that aims to develop Ontario's knowledge economy. It will build world-class intellectual strengths to understand and help shape the international laws and frameworks that are vital to Canada's prosperity.

"The urgent and complex global problems we face often present issues in law. Solutions to resolving trade disputes, averting financial shocks and achieving environmental treaties, for example, require a deep understanding of multilateral legal frameworks," said Dr. Rohinton Medhora, President of CIGI. "The International Law Research Program at CIGI will provide Ontario and Canada with significant intellectual capital to ensure we have an engaged and dynamic voice on the international stage in areas that affect our prosperity and security."

Based at the CIGI Campus in Waterloo, the International Law Research Program will actively seek collaboration with scholars based at Ontario universities and faculties of law. Established legal scholars and others from relevant areas of expertise will have the opportunity to become fellows, while graduate students will be encouraged to participate in the program via scholarships, allowing participation in policy-relevant research projects, mentoring and related professional activities.

The program is being initiated under the interim leadership of David Dewitt, vice president of programs at CIGI. As the search for the program's founding director begins, Dr. Dewitt and his colleagues are establishing an advisory committee to support the research program's development and search for the inaugural complement of fellows.

"The CIGI law program will be a vital resource for Ontario's and Canada's policy makers, government leaders, and others in the public and private sectors," said Dr. Dewitt. "As we search for outstanding personnel, both fellows and a director, who will contribute to the program's excellence in research, we'll also be looking to collaborate with academic institutions and professional organizations while providing unique opportunities for advanced scholarship and professional mentoring for graduate students in law and related disciplines."

CIGI and the Ontario government are fundamentally committed to the 10-year program, with funding of \$30 million from the province's Ministry of Training, Colleges and Universities and \$30 million from CIGI, enabled through a donation from CIGI Chair and founder Jim Balsillie.

The program will fund up to 19 fellowships at any one time, for legal experts to engage in research, educational and mentoring activities in partnership with government, universities, business and international organizations.

The program will also fund up to 20 scholarships a year. These awards will offer graduate students an opportunity to advance their law studies and join International Law

Research Program fellows in relevant, impactful research projects. While offering research opportunities for Ontario scholars, International Law Research Program also seek project collaborations with international institutions and the private sector.

An integrated, multi-disciplinary research and teaching program, the International Law Research Program will provide leading academics, graduate students and legal experts from Canada and abroad with the opportunity to contribute to advancements in three areas of international law:

- Intellectual property law
- International economic, financial and investment law, regulation and governance
- Environmental law and treaties

The program's focus areas have significant importance to global prosperity. As major producers of intellectual property, Ontarians and, more broadly, Canadians face immense challenges in protecting their innovative and internationally important knowledge. As national positions on intellectual property continue to be influenced by trade-related considerations, it will be essential for government and industry to be fully aware of the legal arrangements at play.

Foreign trade and investment will continue to drive and dramatically change all economies. For Ontario and Canada's future, it is vital that public and private sector leaders have a forward-looking analysis of the international, national and provincial laws and regulations that shape future economic arrangements.

Environmental issues, from climate change and infectious disease to food security and agricultural productivity, are important factors in global development. Where science intersects policy and regulatory matters, it is important for Ontarians and Canadians to have sound expertise and engage in the public debates that will shape critical solutions to long-term problems.

The International Law Research Program will be managed as part of CIGI's research programs, guided by a special advisory committee. Composed of experts with backgrounds in research, teaching, legal practice and government or policy, the advisory committee will make recommendations to the Director in the development of the program's strategic plan, research projects and activities.

Peter Burn and Marc Doucet join Dentons Ottawa

Dentons Canada LLP is pleased to announce that two new lawyers have joined their Ottawa office. Peter Burn is counsel in the Public Policy and Regulatory Affairs group, and Marc Doucet is a partner in the Construction group.

"Two highly respected lawyers with top tier skills are joining our team in Ottawa," says Tom Houston, Managing Partner of Dentons' Ottawa office. "Peter's government and international experience and Marc's broad construction law expertise are strong assets for Dentons' clients, and for our firm's global platform."

Peter Burn has developed expertise in a variety of fields involving technology and regulation, including environmental regulation, clean energy development and climate change strategies; international trade and investment, strategic technology development and industrial security; aerospace and space policy; and financial services regulation. He has represented a number of domestic and foreign companies and industry associations involved in international trade disputes. He provides strategic counsel and advice to a range of corporations, industry associations and governments.

Formerly, Peter acted as counsel to Canada's Minister of Finance during the development and eventual negotiation of the Canada-US Free Trade Agreement and was involved in the privatization of a number of Canadian crown corporations. He also served as an advisor to Environment Canada's GHG Reductions Directorate, and to former Canadian Environment Minister Jim Prentice.

Marc Doucet has practised construction law since 1987. He handles all matters from tendering issues, contract amendments, extras, delay and impact claims, and matters under The Occupational Health and Safety Act. He frequently assists clients in transition of their businesses whether it be a purchase and sale or succession plans with existing members of the enterprise. Marc practices in both official languages and is a member of the Canadian Bar Association, Carleton County of Law Association, L'Association des juristes d'expression française de l'Ontario and the Ottawa Construction Association.

A.G. Schneiderman, NYC public advocate bill de Blasio team up to protect New Yorkers from wave of smartphone theft

Public Advocate de Blasio To Join International "Secure Our Smartphones" Initiative,
Calls On Manufacturers To Better Protect New Yorkers

Schneiderman: Industry And Public Officials Must Work Together To End The Epidemic Of Violent, Often Deadly Smartphone Thefts Plaguing New York

ttorney General Eric T. Schneiderman today announced that New York City Public Advocate Bill de Blasio has joined the Secure Our Smartphones (S.O.S.) Initiative, a groundbreaking international coalition of prosecutors, police chiefs, attorneys general, public officials and consumer activists working to encourage the smartphone industry to implement meaningful solutions to stop the epidemic known as "Apple Picking" – the theft of popular mobile communications devices such as smartphones and tablets.

In joining the S.O.S Initiative, de Blasio is now the highest-ranking New York City official to join the coalition, which was created earlier this year by Attorney General Schneiderman and San Francisco District Attorney George Gascón. In addition to joining the S.O.S Initiative, de Blasio also announced that he is sending a letter to the four

leading smartphone manufacturers – Apple, Google/Motorola, Samsung and Microsoft – urging them to develop a technological solution that will protect New York City smartphone users by eliminating the incentive for theft.

"The epidemic of violent street crime involving the theft of mobile devices is a global problem that demands a global solution," Attorney General Schneiderman said. "I'm glad that Public Advocate de Blasio has joined the global effort to protect consumers by demanding that smartphone manufacturers find a way to make sure that stolen devices cannot be sold in the lucrative secondary markets around the world, thereby eliminating the perverse incentives that put so many members of our community at risk. By teaming up with law enforcement and policy leaders, we are sending a powerful message to the multi-national corporations that dominate the electronics industry: They must be

good corporate citizens and take steps to ensure the safety of their consumers and our citizens."

"These are dangerous crimes, often committed at the point of a knife or a gun. We can stop this trend in its tracks but we need manufacturers' help to do it. With better theft deterrence, we can prevent these crimes before they happen," said Public Advocate Bill de Blasio. "I applaud Attorney General Schneiderman for taking this problem head-on and working directly with manufacturers do it."

Launched earlier this year, the S.O.S Initiative is a groundbreaking coalition of prosecutors, police chiefs, attorneys general, state and city comptrollers and consumer activists working to encourage the smartphone industry to implement meaningful solutions to stop the epidemic known as "Apple Picking" – the theft of popular mobile communications devices such as smartphones and tablets. The frequency of such incidents is staggering.

Even as most types of property crime are falling, in communities across the United States and the United Kingdom, the theft of smartphones has spiked dramatically. In the United States, one in three thefts involves a mobile communications device. Consumer Reports estimates that 1.6 million Americans were victimized by smartphone thieves in 2012.

Last year, 50 percent of robberies in San Francisco targeted such a device. In New York City, the number was 20 percent, a 40 percent increase from the year before. Just last week, a half a dozen teenagers beat a 36-year-old New York City man for his iPhone. In London, although crime overall is falling, offenses such as pickpocketing and bag snatches have risen by more than 15 percent this year. This is mainly driven by the theft of phones, with some 10,000 handsets stolen in the city every month.

Street-level thieves feed a massive global marketplace for stolen phones that is too large or lucrative for any single community to stop. Mobile devices that are reported stolen in the United States and no longer able to access domestic cell networks can be reactivated to work in foreign countries. In Hong Kong, for example, iPhones are worth upward of \$2,000 apiece. The Secure Our Smartphone Initiative is working to encourage the industry to find technological solutions that will remove the economic value of stolen smartphones, thereby drying up secondary markets and ending the national epidemic of violent street crimes commonly known as "apple picking."

In June, Attorney General Schneiderman and District Attorney Gascón met with representatives from Apple, Google/Motorola, Samsung and Microsoft at a Smartphone Summit convened in New York. Following that meeting and a test of smartphone security features in July, earlier this month London Mayor Boris Johnson joined the S.O.S. initiative as co-chairman.

For more information on efforts by Attorney General Schneiderman, District Attorney Gascón and London Mayor Boris Johnson and your local officials to combat "Apple Picking," visit the San Francisco District Attorney's website, the New York State Attorney General's website or the London Mayor's website.



IBA mourns and celebrates Nelson Mandela, Founding Honorary President of its Human Rights Institute

The International Bar Association (IBA) joins the international community in expressing sadness at the announcement of the death of Mr Rolihlahla Dalibhunga 'Nelson' Mandela, Founding Honorary President of the International Bar Association's Human Rights Institute (IBAHRI) and international ambassador for democracy and freedom.

IBA President, Michael Reynolds, commented, 'Today, I express the deep sadness of all at the International Bar Association following news of the passing of Nelson Mandela. Our deepest condolences go to his family, friends and to the people of South Africa on losing their "Tata". Mr Reynolds added, 'Mr Mandela was a distinguished statesman, admired across the globe, and so it is at this sad moment that we also celebrate the life of a man who achieved so much.'

A qualified lawyer, Mr Mandela became the first Honorary President of the IBAHRI, established in 1995 to promote and protect human rights under a just rule of law and the right and ability of judges and lawyers to practise freely and without undue interference. After an IBA-arranged conference of African Bar leaders in South Africa where they met with President Mandela 'in splendid gardens, where the great man was in astounding form...greeting leaders from all over Africa', said Ross Harper, present at the meeting and President of the IBA at that time, Mr Mandela agreed to become Honorary President of the newly established entity.

Mark Ellis, IBA Executive Director, said, 'When the IBA's Human Rights Institute was founded, Mr Mandela was one year into his term as President of the Republic of South Africa and major progressive social reforms were taking place across the country. The IBA believed that Mr Mandela's unremitting fight for equality, freedom and democracy stood as a beacon for the values of the Human Rights Institute.' He added, 'We were honoured by his acceptance to be a part of the Institute, and we continue to promote and protect, around the world, the principles for which he fought.'

Mr Mandela opened the first Black South African law practice in 1952, with partner Oliver Tambo. Together they campaigned against apartheid and oppression of the Black majority in South Africa. He joined the African National Congress (ANC) and be-



South Africa's icon Nelson Mandela is greeted at the Ottawa airport in June 1990 on his official arrival on Canadian soil by then Prime Minister of Canada Brian Mulroney, his two sons, Ben and Mark, and a six-year-old Alexandra Lavoie, daugther of Luc Lavoie, then assistant chief of staff in the PMO's office. Alexandra has completed an MA in communication at the Sorbonne University of Paris (France).

(Permission graciously granted to use this photograph by Mr. Luc Lavoie.)

came the founding president of the ANC Youth League. In 1962 Mr Mandela was arrested, tried, and convicted of sabotage and other charges. He was sentenced to life imprisonment in 1964 and held in the notorious Robben Island prison. On his release in 1990 he proceeded to lead the ANC party in multi-party negotiations that led to the country's first multi-racial elections and to him becoming the first President of South Africa to be elected in a fully representative democratic election.

Zimbabwean lawyer and IBAHRI Co-Chair, Sternford Moyo, said, 'I am deeply saddened by the death of the great Nelson Mandela, who has done so much for freedom and democracy in Southern Africa. Mr Mandela's courage and determination to fight for justice and equality is an inspiration to us all. He was an incredible man, who demonstrated enormous courage and sacrifice for the cause and principles in which he believed. His achievements are both within and outside of the political arena, and span beyond the borders of South Africa. His legacy will remain.'

A Nobel Peace Prize laureate, Mr Mandela was born on the 18 July 1918 in Transkei, South Africa and died on Thursday, 5th December 2013, aged 95, in Johannesburg, South Africa.

Fasken Martineau and KPMG-SECOR hosted second meeting of mining industry leaders' summit

asken Martineau, a leading international business law and litigation firm, in collaboration with KPMG-SECOR, an audit, tax and advisory firm, has announced the date of the second meeting of Québec's mining industry leaders. This event was held on October 31 at Fasken Martineau's conference centre, located at the Stock Exchange Tower, 800 Place Victoria, 37th floor.

"This meeting is part of the summit held last March, at which plans were developed to take concrete action in response to the legislative and regulatory changes that the government is proposing to Québec's mining regime this fall," explained Jean M. Gagné, a partner who specializes in mining law at Fasken Martineau.

At this full-day plenary meeting, participants will examine the legal aspects of the anticipated amendments to the Québec Mining Act and discuss the following issues:

- Ore processing
- Access to resources
- Minister's discretionary powers under the Mining Act

"Given the economic importance of Québec's mining industry, it is our duty to speak up so that the next version of the Mining Act will be a springboard for social, environmental and economic development. This will be the ideal opportunity to consolidate the various comments that will be tabled before the parliamentary commission on Bill 43,"

added Renault Lortie, a mining sector consulting partner at KPMG-SECOR.

Renée Brosseau joins Dentons Canada LLP

entons Canada LLP is pleased to announce that Renée Brosseau, an insolvency lawyer with a results-driven litigation practice, has joined the firm as a partner in the Toronto office.

Fluent in both English and French, Renée advises on commercial reorganizations, distressed acquisitions, fraudulent transactions, forbearance arrangements and security enforcement. She has led complex restructurings and fraud investigations in a variety of industries including software, digital and print media, automotive, online gaming, real estate, retail, manufacturing and entertainment.

"Renée is a high calibre addition to our litigation team. Her client-centred practical advice will add great value for our clients here in Toronto as well as across Canada," says Mike Kaplan, Managing Partner at Dentons' Toronto office.

Big tobacco ordered to pay full \$800 million to New York state under landmark 1998 agreement

Schneiderman: Ruling Denying Big Tobacco's Efforts To Avoid Responsibility
For Cigarette-Related Illnesses Is A Huge Victory For New Yorkers

ttorney General Eric T. Schneiderman announced today that a panel of arbitrators threw out Big Tobacco's \$800 million claim against New York and instead ordered the companies to pay New York State more than \$92 million that they had wrongfully withheld from their 2003 annual payment due under the 1998 landmark tobacco Master Settlement Agreement. The Panel of three retired federal judges - Judges Fern Smith, William Bassler, and Abner Mikva - rejected Big Tobacco's demand for a dramatic reduction in its annual payment to New York, finding instead that the State had fully complied with its agreement obligations and was entitled to its entire payment. This precedent-setting decision is expected to protect the State from many billions of dollars in future claims.

"This ruling is a huge victory for all New Yorkers, and I applaud the panel for denying Big Tobacco's efforts to avoid responsibility for illnesses caused by cigarettes—and paid for by taxpayers," said Attorney General Schneiderman. "Big Tobacco companies contribute to the deaths of thousands of people every year, in large part by luring more and more young people onto cigarettes. Finally, these companies will be required to reimburse the State for money spent treating New Yorkers made ill by their deadly product."

Under New York's escrow statute, only sales of cigarettes on which New York state excise taxes have been paid trigger the escrow requirement. However, for well over 50 years, with the full knowledge of the participating manufacturers ("PMs") and specifically up to and including 2003, New York did not require state excise taxes to be paid on cigarette sales to or on Indian reservations. Consequently, the State did not seek to have non-participating manufacturers ("NPMs") make escrow deposits for their untaxed sales in the State. In rejecting the tobacco companies' claims, the Panel fully recognized New York's long-standing policy of not taxing cigarette sales on Indian reservations.

Background

The costs of treating smoking-related diseases in New York are borne substantially by the State, which administers Medicaid and other health and welfare programs. Beginning in the mid-1990s, New York, as well as many other states, sued the major U.S. tobacco manufacturers, alleging, among other things, a longstanding fraud and conspiracy to hide the health risks and the addictive nature of their products from the government and the public. The 1998 Master Settlement Agreement ("MSA") resolved the separate claims of 52 states and territories ("the Settling States") against the major participants in the United States tobacco industry.

The cigarette manufacturers that signed the MSA agreed to make substantial annual payments to the States in perpetuity. These payments are subject to several adjustments, including a potential downward "NPM Adjustment" in a given year if four criteria are established: (1) PMs experienced an MSA-defined "Market Share Loss" to tobacco manufacturers that do not participate in the MSA, MSA SIX(d)(1)(A); (2) an econometrics firm agreed to by the parties decides that the PMs' participation in the MSA was a "significant factor contributing to" that Market Share Loss, MSA § IX(d)(1)(C); (3) the PMs must have shipped in the aggregate fewer cigarettes in the U.S. during the year in question than they did in 1997, MSA § IX(d)(1)(D); and (4) a Settling State did not have in full force and effect a "Qualifying Statute" or did not diligently enforce its Qualifying Statute throughout a particular calendar year. MSA § IX(d) (2)(B). The first three of these requirements were met for an NPM Adjustment against New York for calendar year 2003. As to the fourth requirement, New York had a Qualifying Statute in effect but the PMs disputed whether or not New York had diligently enforced that statute in 2003.

The dispute hinged entirely on the construction of a New York statute: whether untaxed reservation sales of cigarettes to the public were subject to escrow collection under New York's escrow statute. The statute specifically requires that NPMs make escrow deposits for every "unit sold" in the state in that sales year and defines a "unit sold" as a cigarette on which state excise taxes were paid and excise tax stamps were affixed. (See NY Public Health Law §§ 1399-nn to 1399-pp.) New York had a nearly 100% escrow collection rate for all state excise taxed NPM cigarettes sold in the state.

Despite New York's success in this arbitration, Big Tobacco is nonetheless making the same baseless claims against New York for other years and continues to withhold hundreds of millions of dollars that New York is entitled to.

"This office will make every effort to force the tobacco companies to give New York the money they are unlawfully withholding from the State, including going to court if necessary," said Attorney General Schneiderman.

The case was handled by a team of lawyers from the Tobacco Compliance Bureau headed by Assistant Attorney General Louis Willenken, together with Assistant Attorney General Sarah Evans and Bureau Chief Dana Biberman, under the supervision of First Deputy Attorney General of Affirmative Litigation Janet Sabel.

Comment on Israel's Return to UN Human Rights Council

The Geneva-based non-governmental group UN Watch today issued the following statement in reaction to Israel's decision to return to the UN Human Rights Council, two days before a scheduled review of the Jewish state's record on Tuesday.

"All countries need to open themselves to scrutiny, and sunlight is always the best disinfectant when applied with impartiality, equality and universality," said Hillel Neuer, executive director of UN Watch, which monitors the UN by the yardstick of its charter.

"Now is the time for the Council to show good faith on its part by heeding the calls of UN Secretary-General Ban Ki-moon, and his predecessor Kofi Annan, to both remove the selective agenda item on Israel -- the only provision of its kind focusing on a specific country -- and to end the exclusion of Israel from any of the Council's five regional groups," Neuer added.

The Israel-only agenda was criticized by Mr. Ban on its adoption in June 2007 at the initiative of the Arab states. Mr. Ban "voiced disappointment at the Council decision to single out Israel as the only specific regional item on its agenda, given the range and scope of allegations of human rights violations throughout the world." Nevertheless, it still remains in place.

The council's permanent investigator on Israeli violations is mandated by the council to examine only Israel and not Hamas, Fatah, Islamic Jihad, or any other Arab state or group. It is the only country mandate that examines the actions of only one side and that in advance presumes them to be violations. The one who holds the post, Richard Falk, has endorsed Hamas, praised 9/11 conspiracy theorists, and was condemned this year by UN chief Ban Ki-moon, the U.S., the UK, and Canada, for implying that the Boston Marathon terrorist attacks were the fault of the U.S. and Israel.

Saudi Government to "Use Force" Against Women Protesting Driving Ban

UN Watch calls on UN, US, EU to oppose "absurd" Saudi bid for Human Rights Council seat

Geneva-based human rights group today called on world leaders to condemn the Saudi government's threat to "use force" against women who plan to get behind the wheel in the theocratic kingdom to protest its unique men-only driving law.

Human rights activists are alarmed that Saudi Arabia is poised to win a seat on the UN Human Rights Council in elections to be held on November 12th.

"That's absurd," said Hillel Neuer, executive director of UN Watch, a non-governmental human rights group that monitors the UN. "The kingdom's threat of force against women drivers is one more reminder why the UN's election of Saudi Arabia as a world judge on women's rights would be like naming a pyromaniac as the town fire chief," said Neuer.

The monitoring group called on UN secretary-general Ban Ki-moon and UN rights chief Navi Pillay to speak out against the Saudi bid, and for U.S. Ambassador Samantha Power and EU foreign affairs commissioner Catherine Ashton to rally states against Riyadh's candidacy.

Neuer said it was "outrageous, hypocritical and contrary to core EU principles" that at least 11 EU states voted last week in support of Saudi Arabia's Security Council candidacy.

In response to the "Women2Drive" protest campaign planned for this weekend, the Saudi Interior Ministry issued a statement saying that social media for "banned gatherings and marches" to encourage women to drive were illegal.

"The Interior Ministry confirms to all that the concerned authorities will enforce the law against all the violators with firmness and force," the ministry said in a statement carried by state news agency SPA.

It added that Saudi laws "prohibit activities disturbing the public peace" and "opening venues to sedition which only serve the senseless, the ill-intentioned, intruders, and opportunity hunters."

In advance of the Human Rights Council election, UN Watch plans to bring famous dissidents inside the UN to mobilize opposition to the Saudi and other "absurd candidacies."

"A country whose legal system routinely lashes women rape victims rather than punish the perpetrators is the last that should be given a seat on the UN's top human rights body," said Neuer.

"The Saudi regime also uses cruel, inhuman and degrading punishments, such as flogging, amputations and eye-gouging," said Neuer, who noted that these and other abuses were recently documented in written submissions to the UN.

"Regrettably, Saudi Arabia's human rights record was reviewed this week by the UN, yet no one asked the regime about the 53 Christians who were arrested this year by religious police for the crime of praying in a private home, or about homosexuality being a crime punishable by death, with gays publicly beheaded," said Neuer.

Fred Headon of Montreal takes over CBA presidency



Fred Headon

red Headon of Montreal takes over the helm as President of the Canadian Bar Association (CBA) on Aug. 20 when the chain of office is transferred from outgoing President Robert Brun, Q.C., of Vancouver at the closing luncheon of the CBA's Legal Conference.

The first in-house counsel to be elected to this position in the CBA's 117-year history, Fred Headon has identified access to justice, helping the legal profession prepare for the future and increasing CBA membership as his key priorities for his year-long term.

"Improving access to justice is at the core of our mandate at the CBA. We advocate for the rule of law and for equality. Those principles can only be brought to life if Canadians have access to a fair, predictable and good legal system," says Fred Headon.

"Our initiative on Envisioning Equal Justice is currently — and will continue — to bear fruit in the coming months and years. Our summary report with its 31 targets for providing Canadians with meaningful access exemplifies that commitment," adds Fred Headon.

During his tenure as President, Fred Headon will continue to head up the CBA's Legal Futures Initiative. Launched a year ago, the project is in its second phase, focused on consultation and collaboration.

"There has never been a time when the CBA was more

relevant – and indeed more instrumental – to the future of the legal profession in Canada," he says.

The CBA Legal Futures Initiative looks at the legal profession of the future. The Future of Legal Services in Canada: Trends and Issues was released in June and provides insight into the vectors of change for the legal profession, and how the profession can adapt.

Fred Headon also has his sights set on increasing membership and improving the member experience at the CBA. "Ours is the only organization that represents the interests of all legal professionals in Canada and protects their core values. Our strength is in our numbers, and I invite non-members to become involved and find their place within the CBA."

Mr. Headon currently leads Air Canada's in-house labour and employment law team at the company's headquarters in Montreal. From 1999 to 2006, he practised labour and employment law, human rights and privacy law, and administrative and constitutional law at McCarthy Tétrault in Montreal.

In 1998, he spent eight months at the Faculty of Law at the National University of Rwanda where he taught upper-year law courses and supervised the research by graduate students in human rights and constitutional law.

Called to the Bar in Quebec in 1997, Mr. Headon has been a member of the CBA since 1999. Within the CBA, he served as a board member of the Canadian Corporate Counsel Association, from 2007-2012 and he has served as a member of the CBA/Auditing and Assurance Standards Board committee on Joint Poli-

cy Statement on Audit Inquiries.

The 2013 CBA Legal Conference takes place in Saskatoon from August 17-20, and is open to accredited media. Please contact Hannah Bernstein for accreditation.

The Canadian Bar Association is dedicated to support for the rule of law, and improvement in the law and

the administration of justice. Some 37,000 lawyers, notaries, law teachers, and law students from across Canada are members.

American Bar Association Calls for End to "Gay and Trans Panic" Defense

House of Delegates Overwhelmingly Approves Resolution Presented by National LGBT Bar Association

he American Bar Association approved a resolution at its 2013 annual meeting today, calling on state legislatures to ban so-called "Gay Panic" and "Trans Panic" defenses in trials. The resolution, presented to the ABA's House of Delegates by National LGBT Bar Association executive director D'Arcy Kemnitz "urges every level of government to take legislative action to curtail the availability and effectiveness of the 'gay panic' and 'trans panic' defenses, which seek to partially or completely excuse crimes on the grounds that the victim's sexual orientation or gender identity is to blame for the defendant's violent reaction." The resolution was approved with a unanimous vote of ABA Members.

"The ABA's adoption of this measure sends a clear message to state legislatures that legal professionals find no validity in the sham defenses mounted by those who seek to perpetuate discrimination and stereotypes as an excuse for violence," Kemnitz said today. "The 'gay panic' and 'trans panic' defenses have been used to try and excuse some of the most heinous violence exacted against innocent victims. State legislatures should immediately move to enact the ABA's recommendation by passing laws banning 'panic' defenses."

The 'gay panic' defense is expected to be a centerpiece of arguments made by attorneys for Lawrence Reed, who is accused of murdering openly gay Mississippi mayoral candidate Marco McMillan. Reed has said he felt threatened by McMillan, who was strangled and then set on fire. The trial is scheduled to begin later this year.

Other cases where 'gay panic' defenses have been used include the murder case of Matthew Shepard, a gay Wyoming man who was killed in 1998, and the 1995 murder of Scott Amendure, who was killed by a friend after coming out as gay on daytime TV's Jenny Jones Show. "Trans panic" was also used in the trial of Michael Magidson and José Merel for the murder of Gwen Araujo.

"Too many people have hidden for far too long behind baseless 'panic' defenses," Kemnitz said. "Judges, lawmakers and juries must demand that these practices come to an end and juries must be provided with instructions advising juries to make their decisions free of improper bias and prejudice. Today's ABA resolution is an important first step towards realizing that goal."

WOMANCON

Celebrates Women's Entrepreneurship

September 25th Event Addresses New Ways Women Learn, Do Business & Build Relationships

OMANCON, a one-of-a-kind conference bringing together amazing women entrepreneurs, venture capitalists and the media – both on and off the stage is redefining entrepreneurial events for women on September 25, 2013 at CUNY Graduate Center from 8:30am-4:30pm by providing a results-driven experience.

With small business, women and entrepreneurship as the driving force, entrepreneur Laura Leites of L2 Event Production conceived WomanCon to give women the opportunity, at any stage of their venture's development - whether the idea for their business is ruminating in their minds, they've recently launched or if they are looking to grow - to learn, create and network. "WomanCon will inspire and support women's entrepreneurship," adds Laura Leites. "We want attendees to get a 'peek behind the curtain' of successful women founders so they are prepared to start and build successful businesses. WomanCon will showcase critical resources and bring together a network of like-minded women to help them get there," adds Leites.

Keynotes and panel discussions include: Walking the tight-rope with YOURBUSINESS and YOURLIFE with JJ Ramberg; Getting Funding for Growth with Kay Koplovitz, Peggy Wallace and Lori Hoberman;Â Turning Ideas into Companies with Yao Huang; 5 Strategies for a Stronger Brand with Julie Cottineau; How I did it! The Real Story of How I Built and Sold Vertical Response with Janine Popick, CEO and Founder; and How to Stay Human in a Hi Tech World with Pamela O'Hara, CEO of Batchbook. Attendees will have the opportunity to pitch the media live on stage and get expert PR feedback.

"WomanCon's philosophy of giving women entrepreneurs the freedom and tools to run their business is perfectly aligned with what we aim to do for our customers," said Gabrielle Boko, executive vice president, marketing, Sage. "We are ex-

cited to sponsor this inspiring day of fresh ideas, best practices and actionable advice for women business owners."

With sponsors that include Sage, PR Newswire, Batchbook, Regus and Goodsearch, and marketing partners such as Manhattan Chamber of Commerce, Greenwich Village - Chelsea Chamber of Commerce, Small Business Trends, Smallbiztechnology.com, Girl Rising, Page Bureau, and more, WomanCon will resonate with the entrepreneurial mindset. WomanCon will also host a screening of Girl Rising's film to raise funds for the 10x10 Fund for Girls Education http://10x10act.org/on October 7th.

DENTON

Edward B. (Ted) Claxton has joined Dentons Canada LLP's Montréal office as a partner in the Corporate and Commercial Law practice.

Ted has extensive cross-border experience through more than 25 years of practice focused on mergers and acquisitions of both private and public companies, securities (both public offerings and private placements), venture capital, private equity and derivative product structures and transactions.

Ted is a welcome addition to our team in Montréal, and we are very pleased to have someone with his impressive experience and knowledge and long history of excellent client service joining our team, says Claude Morency, Managing Partner of Dentons Montréal office.

Ted is a member of the Quebec Bar and the Law Society of Upper Canada. He is also an associate member of the New York State Bar Association and the American Bar Association. Ted comes to Dentons Canada from Stikeman Elliott LLP.

Legal Marketing Expert recently addressed ATLAS Attorneys in Florida

Stephen Fairley, a nationally recognized law firm marketing expert and CEO of The Rainmaker Institute, will be a featured speaker at the ATLAS Lawyers Become Limitless: Legal Marketing and Management Seminar on September 25-27, 2013 at the W Hotel in Fort Lauderdale, Florida.

Founded in 2008, ATLAS Lawyers brings practicing lawyers together to discuss not only how to get business but how to handle the work. ATLAS brings some of the most forward-thinking speakers to educate attorneys and law firm staff on how to best market a legal practice, more effectively manage employees, cutting-edge topics for small law firms, and other critical facets of the business of practicing law.

"We are very pleased to have Stephen Fairley speak at our legal marketing event. This is his third time and every time Stephen has brought great energy and fantastic content to the program. He is a nationally recognized expert in attorney marketing and a real crowd pleaser," stated Chris Munley, Managing Partner at Munley Law and Founder of ATLAS Lawyers.

Fairley will speak on 5 Ways to Leverage the Power of Blogging and Social Media to Get More Referrals and Generate More Leads, where he will share with seminar attendees:

The 3 biggest mistakes attorneys make when it comes to blogging and social media

- The secrets of blogging that make it work
- What it really takes to generate leads from your blog
- How to integrate social media into your content marketing efforts
- How to use the Rainmaker Social Media Blueprintâ..¢
- Best practices top attorneys are using
- Driving targeted traffic to your blog & website using social media

Fairley is the CEO of The Rainmaker Institute, the nation's largest law firm marketing company specializing in lead conversion for small to mid-sized law firms. Over 10,000 attorneys nationwide have benefited from learning and implementing the proven marketing and lead conversion strategies taught by The Rainmaker Institute. In addition, Fairley is a nationally recognized law firm marketing expert and international best-selling author.

China Steel Aluminium Corporation CSAC, is in urgent need of company,/firm or individual to serve as our online affilate in Canada,If you are interested in working with us please reply.

Email: st93828@yahoo.com.hk

Thank you very much.

No-Cost Lawsuit Case Reviews Offered by LawsuitLegal.com for Injury and Accident Sufferers

US residents can get quick answers to legal questions by sharing case details online

nline legal professionals at LawsuitLegal.com have announced they will now be offering free lawsuit case reviews to people who suffered an injury or were involved in a construction accident. U.S. residents or the loved ones of the individual hurt, while the offer lasts, can get answers to their legal questions by sharing the details of their case online.

"Our experienced construction site injury lawyers are standing by in support of people who have been hurt or injured in the construction industry," stated Chris M. Levin, company founder.

According to the site, the construction business can be exceptionally dangerous. OSHA attributes nearly 17.6% of worker fatalities reported in 2011 to accidents to being construction industry related, leading causes of death including falls, electrocution, being struck by an object and caught-in / between accidents.

According to the site, contributing factors that may lead to accidents can include:

- * Insufficient training
- * Defective equipment
- * Falling objects
- * Improper maintenance
- * Insufficient safety precautions

For those involved in an accident, the firm recommends people first seek proper medical attention for their injury, report the injury to their employer, document the event and then share the details of their case with an attorney to make clear their legal rights.

Cases that qualify may be eligible for a contingency fee arrangement with the representing attorney. In such cases, there are no upfront costs to the client to file the lawsuit on their behalf, with court and legal fees paid out of any potential settlement.

Library of Congress Prepares to Mark 800th Anniversary of Magna Carta

Curatorial Expertise and Magna Carta-Related Documents Available at Library

he Library of Congress is preparing to celebrate the 800th anniversary of the first issue of Magna Carta with a variety of events, including a symposium and participation in an American Bar Association (ABA) traveling exhibit.

In 1215, in a grassy meadow at Runnymede, the English barons prevailed upon King John to grant them a number of rights and liberties. This document, Magna Carta, or "Great Charter," one of the lasting treasures of human history, is one of the world's most enduring symbols of the rule of law, providing the basis for the concept that no one is above the law, not even the king.

A series of events at the Library, including a substantive symposium, will be announced at later dates.

The Law Library of Congress is providing materials for and curating a traveling exhibition on Magna Carta for the ABA. The exhibition will open at a 2014 ABA Annual Meeting in Boston and travel across the United States. In June 2015, the ABA Magna Carta Facsimile Traveling Exhibit will journey to England and beyond.

As media outlets prepare stories on Magna Carta, Library experts are available for consultation, including Law Librarian of Congress David Mao and Law Library Rare Book Curator Nathan Dorn.

Extensive Magna Carta-related materials are available for research in the Law Library of Congress. The materials illuminate the context of Magna Carta in medieval and early modern England and show how the charter came to occupy such an important place in the law and political thought of the United States.

RD Legal Funding Urges Qualified First Responders to Apply

ctober 3rd, 2013 is the final deadline for first responders and others eligible for compensation to apply to the September 11th Victim Compensation Fund (VCF). It is important to understand that just because a person is registered with the World Trade Center Health Program (WTCHP), they are not automatically registered for the VCF. People who have health problems should register separately for both.

Officials from the VCF have been pushing to get the word out to possible applicants. They held several town halls throughout New York City to inform people about the process, how it works, and when the deadline is. The Special Master of the fund. Sheila Birnbaum, attended a few of them herself. While advocates like the FealGood Foundation say they are going to fight to get the deadline extended, they have also said now is the time for first responders and anyone who is eligible or thinks they might be eligible to register with the VCF.

Recently, an announcement was made adding prostate cancer to the list of cancers now covered under the James Zadroga Act. This means responders will be able to get treatment from the WTCHP at the various clinics dedicated to helping people affected by 9/11.

Over 30,000 people have registered for the VCF. To date, the VCF has only paid about \$14 million, due to reasons including incomplete applications and a backlog in the review process. RD Legal Funding stands ready to help first responders who can't afford to wait for the second portion of their award due to them in late 2016. The first advance by the VCF will be given after the determination is made that the applicant is qualified and an award letter is sent. At that point, claimants will only receive 10% of the award with the remaining 90% coming in late 2016.

If you are a first responder and want more information about how RD Legal Funding can help you access the 90% portion due to you in late 2016, contact Joseph Genovesi, President of RD Legal Funding, at 800-565-5177, ext. 140. If you have your award letter and are ready to begin the application process, please fill out our brief online application.

Next Level Funding Spotlights the Variety of Bad Credit Business Loans It Offers

Next Level Funding encourages professionals with subpar credit history to apply for business cash advances or loans designed specifically for those with bad credit

Next Level Funding, a company known for the large amount of loans and cash advances it has handed out, is currently highlighting the variety of options it offers to business owners with bad credit. From business cash advances to unsecured loans, Next Level Funding provides financial solutions designed to meet any business's needs.

"At Next Level Funding, we are dedicated to helping every business flourish. To this end, our business cash advances and loans are available to all professionals, even those with bad credit. Though you may not qualify for a traditional loan, with our financial solutions you can still take your business to the next level," said Michael Hollander, sales manager at Next Level Funding.

The professionals at Next Level Funding understand that like any company, businesses with poor credit often need cash to hire new staff, expand their inventory, or for any other upgrade or improvement. The firm offers a diverse selection of bad credit business loans and cash advances, all of which feature low maintenance processes and fast turnaround times to help businesses with any credit score get the assistance they need as quickly and easily as possible.

Businesses with poor credit are encouraged to contact Next Level Funding and apply for an unsecured business loan designed specifically for those with bad credit ratings. More information about the loans and advances offered by the company can be found on its website at http://www.Next-LevelFunding.com. Interested professionals can also reach out to the company by dialing 877-208-7761. The company maintains active profiles on a variety of social networks, including Facebook and Twitter at http://www.facebook.com/NextLevel-Funding and http://twitter.com/NextLvlFunding, respectively.

Brother Enforces P-Touch® Tape Cassette Patents Against EZ Replacement Labels

(Consent Judgment and Permanent Injunction)

n September 3, 2013 the United States District Court for the District of Delaware entered a Stipulation, Consent Judgment and Permanent Injunction in the case of Brother Industries, Ltd. v. EZ Replacement Labels, LLC., Case No. 1:13 cv 1095 GMS. In the Complaint, Brother Industries accused the defendants of infringing three United States patents covering its tape cassettes for its P-Touch label printers. Under the terms of the Permanent Injunction:

EZ Replacement Labels, LLC. and its Members, affiliates, officers, directors, agents, servants, employees, successors and assigns and all other persons and organizations in active concert or participation with it, are hereby permanently enjoined and restrained from engaging in any of the following activities:

- (a) Making, using, selling or brokering the sale or offering for sale in the United States or importing into the United States, any of the Accused Products and any other label cassettes that infringe one or more claims of either of the RE43,228 and RE43,022 patents;
- (b) Otherwise directly infringing, contributory infringing or inducing infringement of any of the claims of the RE43,228 and RE43,022 patents with respect to the Accused Products and any other label cassettes that fall within the scope of one or more of the claims of either of the RE43,228 and RE43,022 patents for the life of those patents; and
- (c) Assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) and (b) above for the life of those patents.

EZ Replacement Labels, LLC. is one of several separate lawsuits that Brother Industries has brought against alleged infringers of its patents covering its tape cassettes.

The accused cassettes were supplied to EZ Replacement Labels, LLC. by SK2 Technology, Limited in Hong Kong.

Toshikazu Koike, the President of Brother Industries stated "Brother Industries is committed to vigorously enforcing its patent rights in the United States and around the world and that Brother is pleased to have obtained a permanent injunction in this case."

About Brother

Brother International Corporation is one of the premier providers of products for the home, home office and office. The U.S. corporate office in Bridgewater, N. J., was established on April 21, 1954 and currently markets many industrial products, home appliances and business products manufactured by its parent company, Brother Industries, Ltd. of Nagoya, Japan.

These products include an award-winning line of Multi-Function Center® machines and printers. Brother also provides the number-one line of facsimile machines in the U.S. and is the leader in electronic labeling, with its full line of P-touch® Electronic Labeling Systems. For more information you can visit the website at www.brother.com.

Working with you for a better environment

At Brother, our green initiative is simple. We strive to take responsibility, act respectfully and try to make a positive difference to help build a society where sustainable development can be achieved. We call this approach Brother Earth. www.brotherearth.com

The World Customs Organization expands its anti-counterfeiting tool IPM

he World Customs Organization (WCO) is building a network of official partners by extending its anti-counterfeiting tool IPM, to legal representatives and law firms working with brand owners.

The WCO is an intergovernmental organization representing the interests of 179 customs administrations worldwide. One of the WCO's main concerns is combating counterfeiting. Customs administrations are on the frontline accounting for 70% of worldwide seizures and 90% of European seizures. Consequently, the WCO launched an anti-counterfeiting action plan comprised of regional container interception operations and an on-line communication tool called IPM (Interface Public-Members).

IPM is the only truly global anti-counterfeiting tool that serves as an interface between customs officers and the private sector. IPM's online and mobile application enables right holders to provide customs officers with real-time data on their products facilitating the identification of counterfeit goods.

Today, it is crucial that the WCO work hand in hand with all private or public partners active in the fight against counterfeiting. IPM Partner is a new initiative for lawyers and legal representatives involved in Intellectual Property protection. The contribution of legal stakeholders in the fight against counterfeiting is vital and called for a more structured approach. In response to growing demand, the WCO developed a framework to include legal stakeholders in the IPM interface.

Joining the IPM Partner network has many advantages, of which and above all, the possibility of joining the WCO in its on-going effort to combat counterfeiting and the growing threat it poses to our society and economy.

MANAGING YOUR FIRM'S SEASON TICKETS Survey shows 43% wasted

t's July and the season for buying and allocating your season tickets- football, basketball, hockey, concert, and theater. Law firms everywhere are sending in their share of the estimated \$30 billion that will be spent this year by businesses on tickets and suites to entertain and cement relationships with clients, prospects and referral sources.

According to a recent article in Forbes, TMS, which handles ticket programs for thousands of companies, including giants like Google, Hewlett-Packard and J.P. Morgan Chase, did a survey revealing 43% of tickets were unused or given away at the last minute and not used as intended. Few partners or marketing directors want to see their business development dollars wasted as revealed by the TMS survey.

Our Ideal Client

Our clients range in size from boutiques with fewer than 10 lawyers to regional firms of 90 attorneys. These are firms where an entrepreneurial spirit, the same entrepreneurial spirit that drives Alyn-Weiss, permeates the enterprise. It's where lawyers-owners look at strategy and evaluate tactics as they affect them and their clients directly, not in an institutional or abstract sense. The practice of law, from where we see it, is a relationship business. It always has been so for our clients and their referral sources. It always will be.

Highlighted Seminar
Executive Development Course (EDC)
Begins Jan 22, 2014 in Ottawa

Mini-MBA for changing times

his flagship program condenses key topics from leading MBA and EMBA courses into eight high impact days. It is designed to boost your career success through a comprehensive understanding of the pillars of business: strategy, marketing, financial acumen, negotiations and people skills.

As the "rules of the game" are changing in almost every functional area of an organization, this learning experience offers timely exposure to new techniques, tools and trends. Launched in 1949, this is Canada's top concise management program with hundreds of participants graduating each year. Now offered in Ottawa, the content is designed to be relevant for those in both private and public sectors, including small and large companies, government services and nonprofit organizations. In addition, a half-day session will be tailored on challenges specific to the public sector.

The MONTREAL LAWYER

THE VOICE OF ENGLISH-SPEAKING LAWYERS WHEREEVER, WHOEVER THEY ARE

The Legal Picture Magazine for Lawyers and Jurists

Email: mtllawyer@videotron.ca

Website: themontreallawyer.com

Advertising: 514-353-3549

