



As Bâtonnier of the Montreal Bar

Greg Moore maintains the century-old tradition



BARREAU DE MONTREAL

Anti-terrorist bill C-51

«Clearly not-constitutional !»
says CBA

McCarthy Tetrault's Kim Thomassin
and four other executive women
leaders help young women students
reach the top



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Maintaining the almost 100-year old tradition.

An interview with the bâtonnier of the Bar of Montreal,

Mtre Greg Moore of Joli-Cœur Lacasse

Edited by André Gagnon



*Me Greg Moore,
bâtonnier of the Montreal Bar*

You are designated as an English-speaking bâtonnier. What is the significance of that?

The Montreal Bar traditionally elects an English-speaking bâtonnier every three years. This tradition is close to 100 years old. Before that, English-speaking members of the Bar were regularly elected as bâtonnier; the tradition crystallizes that fact.

The tradition underscores the important contributions that English-speaking lawyers have made to the Montreal legal community. Recent English-speaking bâtonniers include Elizabeth Greene, Stephen Schenke, David Collier, and Allan Stein.

In addition to this rotation at the bâtonnier level, the

by-law of the Montreal Bar stipulates that at least 4 of the 13 Council members must be English-speaking. The presence of English-speaking lawyers on the Bar Council ensures that our programs reflect and respond to our membership.

Members of our Council sit on the Quebec Bar's Conseil général and Executive Committee, so the contributions of English-speaking members have an impact across the province.

For example, when the Quebec Bar made submissions to the National Assembly on the new Code of Civil Procedure, our members pointed out that the English translation contained many inaccuracies that needed to be corrected. In suggesting corrections, we identified ambiguities in the French text, which were corrected and improved the overall law. The same occurred when the Quebec Bar drafted the new Code of Ethics.

The quality of Quebec legislation in English is a fundamental component of access to justice. When English-speaking Quebecers or parties from outside the province cannot properly understand a law because it is poorly drafted, they cannot assert their rights or fulfil their obligations.

In addition, the English and French texts of a law have equal force and will be interpreted with reference to each other. When the French text is drafted without consideration for the English text, and when the English text is translated instead of being drafted by legislative drafters, that interpretation will be frustrated, which



«The English speaking section of the Montreal Bar has a proud tradition of producing first class barristers. Lawyers like Colin Irving, Vince O'Donnell, Arclen Blakely and Lynne Kassie are just a few examples.

Greg is following in these footsteps and has done a terrific job maintaining the bilingual tradition of the Montreal Bar. His diversified background with the Federal Ministry of Justice, McCarthy Tétrault and his role as batonnier while serving with Joli-Coeur Lacasse have groomed him to become one of our leading litigation counsel. His reputation in intellectual property litigation where he was retained to represent one of the leading firms in the city speaks for itself. We will hear a lot more from Greg Moore in the future.»

– Stephen G. Schenke, former bâtonnier of the Montreal Bar, partner, McCarthy Tétrault Montreal .

could lead to distortions to the legislator's intent.

Finally, the National Assembly has a constitutional obligation to publish legislation in both languages, which implies an obligation to do it properly.

This is an important problem that might have escaped the Quebec Bar's attention had it not been raised by English-speaking members of the Montreal Bar, such as the former bâtonnier of Montreal, Casper Bloom.

Will the representation of English-speaking lawyers change with the new governance structure at the Quebec Bar?

The Montreal Bar Council is not affected by those changes. Montreal's representation at the Quebec Bar will, change,

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however, and we are working to ensure that English-speaking members and young members of the Montreal Bar will continue to be heard at that level.

The campaign has begun to elect the new Board of Directors of the Quebec Bar. Montreal lawyers will elect 4 members to the Board. The Montreal Bar Council passed a resolution to promote the candidacy and election of one English-speaking member and one member who has been practicing for 10 years or less. These two groups represent a significant part of our membership and of the Quebec Bar. By their numbers and history of contribution to the Bar, it is important that they be represented and heard.

I urge every lawyer in Montreal to vote for our representatives on the Board of Directors and for the new bâtonnier of Quebec. The vote will take place on-line at the beginning of May.

Have you enjoyed being the bâtonnier of Montreal?

It has been an incredible experience! It has been very rewarding to see how many lawyers devote their time to our 40 committees and various other activities. Lawyers in different fields of practice work for the benefit of the greater community, despite their demanding work schedules and personal or family commitments and pursuits.

The theme at the Montreal Bar this year is "C'est MON Barreau!" We are proud of the diversity of the Montreal Bar; our members represent rich cultural heritages and practice in almost every field

of law. We want to remind our 14,000 members that the Bar depends on their individual contributions to our committees and activities.

It has been fascinating to represent the Montreal Bar outside of Quebec. We have no idea how avant-garde the Quebec legal culture is and how we are looked to and envied by our colleagues in other jurisdictions. We have close relationships with Bars around the world who see us as leaders in alternative dispute resolution, legal ethics, and openness to multicultural legal practice. There is a richness to legal life in Montreal, which reflects our great city, and that we take for granted even though it is actually quite rare.

At the Opening of the Courts in

September, the Montreal Bar will organize a day of continuing legal education with representatives of the Bars of Paris, Toulouse, Philadelphia, and Port-au-Prince.

Your term as bâtonnier will end in May. What lies ahead for you?

I look forward to devoting my professional time to my intellectual property practice at Joli-Coeur Lacasse.

I will take a few months off from the Bar and then pick one or two projects to focus on. Improving access to justice is a fundamental challenge that every lawyer has to consider in their daily practice. The Montreal legal community has to remain a leader in developing solutions and I would like to contribute to that effort.

Thanks Greg

For your continued commitment to the legal profession, our colleagues and our clients.



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Cross-examination of plaintiff's lost-profits damages expert: Part 2

by Richard M. Wise



Part 1 discussed the Sales Projections (But-For) Approach to the quantification of economic damages and provided areas where the cross-examiner can discredit plaintiff's lost-profits damages expert. Part 2 discusses two other generally-accepted methodologies and identifies the various areas for cross-examination of plaintiff's expert.

As noted in Part 1, plaintiff's expert must support a reasonable approach to the quantification of economic damages so that proof can be made to demonstrate to the court that the losses have been quantified with reasonable certainty or reasonable probability. Exactitude is not required.

Before-and-After Approach

This approach is generally best suited to a business ha-

ving an established track record of operations or pattern of activity. It compares actual (adversely-affected) operating results during the damage period to normalized, but-for results. Adopting this approach, the expert estimates, or extrapolates, plaintiff's but-for results during the damage period based on (a) normalized actual results experienced by plaintiff prior to defendant's alleged damaging acts and (b) normalized actual results after the injurious effects of the event have subsided. The plaintiff's adversely-affected, actual results during the damage period are compared to the pre- and post-damage periods' actual results, which serve as "benchmarks", considering seasonality, cyclical-ity, and any non-recurring or unusual items, as applicable. Often, in practice, only the "before period" is available for purposes of projecting plaintiff's but-for results in the damage period.

When plaintiff's past operating activity is used in projecting the but-for results in the damage period, the assumptions underlying the but-for projections must be reasonable and supportable. Courts typically reject speculation, conjecture, double-counting, and "leaps of faith".

Some Matters for the Cross-Examiner to Address

- The "Before" (pre-damage) period that was used to determine plaintiff's actual results prior to defendant's alleged damaging act(s).
- Any adjustments made to "normalize" the pre-damage, "Before", results, and the related, material underlying assumptions.
- The "After", or "back-to-normal", period used subsequent to the damage period.
- Any adjustments made to the post-damage, "After", results.
- Whether any interpolation by the expert (averaging "Before" and "After" revenues) is meaningful or representative.

- Whether plaintiff's "Before", "After" and/or "But-For" periods had possibly been affected by, or were a function of, seasonal and/or cyclical factors.
- "Normalization" adjustments, if any, made to the "Before" and "After" damage period results, particularly with respect to subjective and judgmental factors.
- Whether there might have been new competitors that entered the marketplace during the damage period.
- Whether substitute, alternative, or competitive products had been introduced in the marketplace during the damage period, possibly rendering the pre-damage period results to be unrepresentative, on a going-forward basis, for purposes of estimating plaintiff's but-for results.

Yardstick (Comparable) Approach

The Yardstick Approach might be suitable if the plaintiff's business does not have a sufficiently long historical track record and, consequently, the Before-and-After Approach is not feasible.

Adopting the former approach, the damages expert compares the plaintiff's adversely-affected results during the damage period to those of similar businesses ("comparable businesses"), if available, or to industry performance which may serve as a yardstick, and reconstructs the operating data of the plaintiff on a but-for basis. In this regard, the expert analyzes available financial and operating data of the guideline companies. Adjustments are then made, as appropriate, to the respective financial data of the plaintiff's business and those of the guideline companies, so as to minimize any material differences in the accounting

policies or practices as well as business or industry conditions. Non-recurring, unusual, extraordinary, and discretionary items are also adjusted, as necessary.

The difficulty with the Yardstick Approach lies in (a) properly identifying similar, comparable businesses or industries that would serve as meaningful yardsticks or "comparables", and (b) demonstrating that the lost profits claimed by plaintiff, appropriately adjusted, would be comparable to the profits generated by the guideline (peer) businesses.

In some cases, a comparable, but unaffected, division or branch of the plaintiff may provide the necessary yardstick. For example, a plaintiff operating a chain of retail stores in which Store A has been injuriously affected might consider the operations of one of its other (unaffected) outlets, Store B, assuming that Store B has similar characteristics with respect to size, demographics, strategic location, competitive environment, floor space, parking facilities, and so forth. In such a case, the regression analysis technique referred to in Part 1 may prove useful in forecasting but-for sales of damaged Store A.

Some Matters for the Cross-Examiner to Address

- "Comparability" of the guideline (comparable) businesses used by plaintiff's expert in making his or her projections.
- Reliability of the statistical industry data used in estimating plaintiff's but-for results, including considerations regarding geographical dispersion.
- Appropriateness of the adjustments made to the financial data of the plaintiff and to those of the com-

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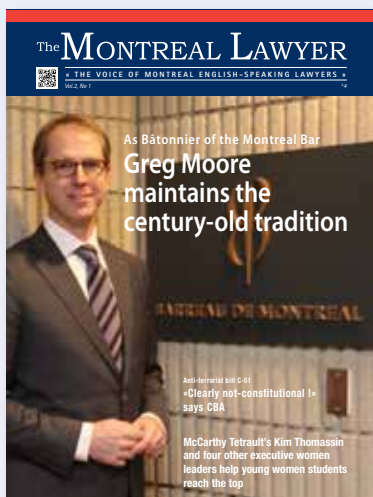
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parable businesses to minimize any major differences in their respective accounting treatments.

- Whether the time period(s), or timeframe(s), relating to the underlying source data used in making projections are compatible (e.g., automobile dealer sales in May vs. November or department store sales in December vs. March).
- Similarities between each of the guideline businesses used as a yardstick and that of the plaintiff, such as size, product mix, geographic location, customer base and diversity, intellectual-property protection, demographics, capital structure, profit margins, maturity of the business, off-balance-sheet assets and liabilities, depth and experience of management, regulatory issues, etc.
- Whether, or the extent to which, the respective notes to the financial statements of the comparable businesses can have an effect on the interpretation of the results that were used by the expert in performing his/her calculations vis-à-vis the plaintiff's business.

- Whether there were any material customer, supplier, labour, and/or other contracts in force that would render the comparable-company results inappropriate for application to plaintiff's business.
- Whether any related-party transactions involving the comparable businesses might distort their results for use as yardsticks or "comparables".
- Steps taken to verify the comparability of the guideline businesses and the source data extracted from them.
- Underlying assumptions that were made, and the support therefor.

Conclusion

While the facts, circumstances and evidence of each situation will differ, there are enough areas relating to the plaintiff's expert's lost-profits damages quantification that can be challenged by defendant's counsel in cross-examination, so as to discredit, or at least cause the court to place less weight on, the expert's opinion. In most cases, the cross-examiner will have had the benefit of his or her own damage expert's professional input.



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26 Leading Corporations Sign Catalyst Accord, Supporting 25% Women on FP500 Boards by 2017

Growing support for boardroom diversity signals changing landscape
of business leadership in Canada



Me Jean charest



Me Chantal Tremblay

The composition of Canada's corporate boardrooms is being transformed, thanks to the support of Canada's savviest business leaders. Today, Catalyst Canada announced that the list of Catalyst Accord signatories—companies pledging to increase the overall proportion of FP 500 board seats held by women to 25% by 2017—has grown to include 26 leading corporations.

"By publicly committing to boardroom diversity and setting goals, these companies serve as role models for others, demonstrating that leadership and accountability start at the top," says Alex Johnston, Executive Director, Catalyst Canada. "We celebrate these corporate leaders for sending a powerful message that the status quo is not acceptable when it comes to the dearth of women on corporate boards."

The Catalyst Accord calls for participating companies to accelerate the pace of change and help lift the average representation of women on FP 500 boards to 25% by 2017 by setting their own goals. Catalyst makes available to all



«From left to right, Sophie Brochu, Isabelle Hudon, Isabelle Marcoux and McCarthy Tétrault's Quebec region partner in charge, Kim Thomassin»
Picture from Radio-Canada weekly people show, «Tout le monde en parle».

Accord signatories its directory of CEO-sponsored board-ready women.

According to the 2013 Catalyst Census: Financial Post 500 Women Board Directors, women's representation on FP 500 boards increased from 14.5% in 2011 to 15.9% in 2013. While these numbers represent the first signs of meaningful growth and momentum, four out of 10 (41.7%) public companies continue to have no women on their boards.

"The leadership of these 26 companies is a significant step in accelerating change around the boardroom table, but there is still much work to be done. We encourage all FP 500 corporations to set goals and commit to the Catalyst Accord," says Ms. Johnston. "It has never been more evident globally that women leaders are essential to business success. Gender diversity on boards helps drive better business results and strengthens Canada's economic competitiveness."

Catalyst accord signatories: Leading the way

Catalyst salutes and thanks the following Accord signa-

tories: BMO Financial Group, Borden Ladner Gervais LLP, CIBC, Chubb Insurance Company of Canada, Cineplex Entertainment LP, Coast Capital Savings Credit Union, Deloitte LLP, Dentons Canada LLP, Desjardins Group, EY, HSBC Bank Canada, Intact Financial Corporation, KPMG

LLP Canada, Linamar Corporation, Manulife Financial Corporation, McCarthy Tétrault LLP, Metro Inc., MTS Allstream Inc., National Bank of Canada, PwC Canada, RBC, Scotiabank, Talisman Energy Inc., TELUS Corporation, WestJet Airlines.

The Catalyst Accord

McCarthy Tétrault's Kim Thomassin and four other high profile prominent women executives join to help young university students to reach the top jobs

McCarthy Tétrault is pleased to announce that Kim Thomassin, Managing Partner for the Québec Region, together with Isabelle Hudon, Sophie Brochu, Marie-Josée Lamothe and Isabelle Marcoux, has committed to participating in "l'effet", an innovative program based on the premise that ambition changes the equation.

Designed to offer women practical tools to propel their professional ambitions, l'effet a comes to life through five challenges of 100 days during which you can follow the various stages that will lead Mses. Thomassin, Hudon, Brochu, Lamothe and Marcoux towards accomplishing the objectives they have set for themselves. Between January 29 and May 15, 2015, these five remarkable women executives will also share advice and inspiring insights on the various social media platforms and the l'effet a website (www.effet-a.com).

Ms. Thomassin has chosen as her challenge to work with university students. Her objective is to help a group of young women develop negotiation and leadership skills that will help them thrive when they enter their careers, obtain better terms of employment and earn more money. "I applaud the determination exhibited by these five exceptional women executives and visionaries, who are generous enough to get personally involved in order to help more women climb the corporate ladder to executive positions," said Marc-André Blanchard, McCarthy Tétrault's Chair and CEO. "We are the first Canadian law firm to sign the Catalyst Accord, partnering with Catalyst in its

call to action for Canadian corporations to increase the overall proportion of FP500 board seats held by women to 25% by 2017. Through Kim, McCarthy Tétrault continues its commitment to create opportunities for everyone."

"Even though women represent more than half of Master's graduates and 41.3% of Bachelor's graduates, only 19.8% of them sit on boards of directors," said Isabelle Hudon, Executive Chair, Québec, and Senior Vice-President, Client Solutions, Sun Life Financial Canada, a founding partner of l'effet a. "Countless studies show that a greater presence of women in the upper echelons of a corporation has a positive effect on profitability. Due to her personal and professional background, Kim is an ideal spokesperson to inspire young women to fully achieve their ambitions."

Please join us in following the progression of these five l'effet a challenges between January 29 and May 15, 2015 on Twitter, LinkedIn and Facebook, and the l'effet a website (www.effet-a.com).



Ask an Expert

By Olga Shevchenko

Coco Chanel mentioned once that "hard times arose an instinctive desire for authenticity". Following this wise thought, people are increasingly willing to make tangible investments like fine arts or jewelry. According to various sources, the number of the wealthy people is increasing - there are more than 12 mln millionaires and roughly 2,000 billionaires. These lucky individuals want to possess the most beautiful and the rarest. As well, instead of investing only in financial markets or real estate, they enjoy owning something tangible, like fine arts or unique jewelry along with wine and vintage cars.

Thus, 2014 was a stellar year for jewelry. Not by chance, 2014 was dubbed "the most expensive year" because a number of "the most expensive" items

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were sold - for example, the most expensive time-piece, ever auctioned and sold, was Patek Philippe Super Complication pocket watch. It was sold for \$24 million.

What is the most coveted jewelry sold at the biggest auctions like the Christie's and Sotheby's? Colored



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diamonds, large colorless diamonds, jewelry having renowned provenance and signed, created by the most famous jewelry houses, like Van Cleef & Arpels, Cartier or Bulgari).

For instance, at Sotheby's Hong Kong, a 8.41-carat Fancy Vivid Pink diamond was sold for nearly \$17.8 million; this set a new world auction record for this type of diamonds. It is not by chance, however, that this diamond has fetched such an unimaginable price - pink diamonds are one of the rarest gems in the world. 90% of them come from the Argyle mine in Australia that is supposed to be closed in 2020. Which means that supply is very limited.

Moreover, pink diamonds are usually tiny, less than 20 points, with low clarity and pale color. According to Sotheby's, "only 0.1% of the twenty million carats of rough produced annually is pink, and a whole year's worth of production of these pink treasures over half a carat would fit in the palm of your hand".

As well, natural pearls and some colored gems like large rubies and sapphires were sold at a record price.

In the case with colored gems, their provenance played an extremely important role - the rubies from Burma and the sapphires from Kashmir are considered the cream of the crop. For instance, a famous Burmese ruby called the "Graff Ruby" (8.62 carats) was sold for \$8.6 million Sotheby's Geneva, setting a new world record for a ruby, and the price per carat as well: \$997,727 per carat. Its color is called "pigeon-blood", the top and the most coveted color for rubies meaning pure red with a hint of blue.

What is sold at Christie's and Sotheby's is a reflection of the current tendency of the rich to invest in tangible assets like rare jewelry. As is seen from these examples, there is a good reason why such astronomical prices were paid for the jewelry at these famous auctions - this jewelry is exceptional and unique.

Next time, we will discuss why colored diamonds are so expensive.

If you have any questions - ask Olga Shevchenko.

ICCRC launches worldwide Fraud Prevention Month campaign

Regulatory body reminds consumers of illegally operating immigration consultants

As part of a nationwide effort by private sector firms, government agencies, law enforcement, and consumer protection organizations, the Immigration Consultants of Canada Regulatory Council (ICCRC) is urging consumers of immigration services to be vigilant when seeking professional assistance to immigrate to Canada.

March is Fraud Prevention Month and the national regulatory body is launching a global campaign to inform immigrants and their families that anyone who provides immigration services for a fee must be registered and regulated by a governing body. "The law is clear," says Bob Brack, President & CEO of ICCRC. "Canadian immigration consultants must complete rigorous training and testing prior to entry into the profession. The Council oversees their compliance with professional standards and has a robust complaints and discipline process in place. As with those who impersonate lawyers and doctors, posing as an immigration consultant is illegal." Penalties range from fines of up to \$100,000 to 2 years imprisonment.

ICCRC is launching a month-long, worldwide social media campaign targeted at major source countries of immigrants and visitors to Canada. To raise awareness of the dangers of using unauthorized immigration consultants, a video, available in English, French, Mandarin and Punjabi, will be launched during Fraud Prevention Month and distributed internationally.

Consumers can find the registry of Regulated Canadian Immigration Consultants (RCICs) website at www.iccrc-crcic.ca and are encouraged to report unlawful service providers to www.iccrc-crcic.ca/ALERT.

Lawyer Martin Cauchon buys Power Corp's subsidiary Gesca regional dailies



Martin Cauchon

Power Corp. has sold all of the French-language regional newspapers in Quebec operated by its Gesca subsidiary to a new media company headed by former federal Liberal cabinet minister Martin Cauchon..

The value of the deal announced Wednesday wasn't disclosed.

Groupe Capitales Medias has purchased newspapers in Quebec City (Le Soleil), Trois-Rivieres (Le Nouvelliste), Ottawa-Gatineau (Le Droit), Sherbrooke (La Tribune), Sa-

guenay (Le Quotidien) et Granby (La Voix de l'Est), along with their websites.

However, the insurance and investment conglomerate (TSX:POW) will continue to operate its flagship Montreal La Presse.

The sale comes five months after Quebecor's Sun Media announced the sale of its English-language newspapers to Postmedia for \$316 million, and about a year after Sun Media sold 74 weekly newspapers in Quebec to Transcontinental for \$75 million.

Cauchon told a news conference the buyers want to maintain "a strong regional press," but the former politician wouldn't say if the deal will lead to job cuts among the 530 employees.

He said it was important to get the newspapers out of Gesca.

"It is an open secret that the regional media, within the framework of Gesca, would probably have had problems. They were just a little part of their business model."

Cauchon said the negotiations with Gesca were "long and difficult" and came amid declining readership of print media. While regional newspapers have done better than urban dailies, he said no decision has been made about moving the papers to digital platforms.

Claude Gagnon, who has headed the regional newspapers for Gesca since 2009, becomes president and general manager along with remaining president and editor of Le Soleil. Managers at each daily will also remain unchanged.

Gesca president Guy Crevier said the sale of the regional papers will allow the company to concentrate on developing and commercializing La Presse+, a digital version of

the newspaper available on iPads and other tablets at no charge.

Many details remain unanswered, including who is funding the purchase and will a former politician respect the autonomy of newsrooms and journalists, says University of Ottawa communications professor Marc-Francois Bernier.

"It's a big change and a period of uncertainty for all journalists, advertising employees and manager in the daily re-

gional newspapers," he said in an interview.

Bernier said the newspapers being sold have deep roots in their communities and may not have accepted just being a section in La Presse+.

The union representing the acquired newspapers and the Quebec journalism federation welcomed the sale, saying there appeared to be a lack of interest by La Presse towards the other dailies.

The Honourable Martin Cauchon acts as counsel to the DS Welch Bussières group and also leads the China Working Group sector.

Mr. Cauchon was first elected to political office in October 1993 in the federal riding of Outremont, Québec. Throughout his distinguished political career, he held many pivotal cabinet positions, including Secretary of State (Economic Development Agency of Canada for the Regions of Québec) from January 1996 to January 2002, Minister of National Revenue from August 1999 to January 2002, Minister of Justice and Attorney General of Canada from January 2002 to December 2003, as well as Minister with political responsibility for Québec during that same period. In 2013, Mr. Cauchon participated in the Federal Liberal Party leadership race as an official candidate.

These ministerial portfolios provided Mr. Cauchon with in-depth knowledge of a wide variety of issues, in particular the numerous challenges faced by corporations in knowledge-based economies, market globalization, human rights, and provincial, national and international partnerships. Mr. Cauchon represents our clients for their affairs in Québec, in Canada and internationally. With a solid understanding of Québec's economic development issues, he works as a team with his colleagues to provide strategic legal advice regarding economic development initiatives for northern regions. At the national and international levels, Mr. Cauchon advises entities of all sizes seeking to develop business opportunities and partnerships.

Having also developed close relationships on numerous levels in China and having in-depth knowledge of the Chi-

nese market, Mr. Cauchon is responsible for the development of the firm's strategy for China, and to implement its related initiatives. In its 2014 edition, The Best Lawyers in Canada (Woodward/White) recognized Mr. Cauchon as a leading lawyer in the areas of International Trade and Finance Law. Prior to his political career from 1985 to 1993, Mr. Cauchon practised law in civil and commercial litigation. Mr. Cauchon joined DS Welch Bussières in 2014 after having practised commercial law with other large law firms since 2004.

Mr. Cauchon completed a Master of Laws in International Business Legal Studies at the University of Exeter, in England. He is the Vice-Chair of the Canada-China Business Council and the Chair of its Quebec Chapter and a member of numerous boards of directors.

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Lu Chan Khuong

Me Lu Chan Khuong is a candidate for the position of Bâtonnier, the first election under the new governance rules adopted by the Quebec National Assembly. The vote will be held between May 5th until the 22nd electronically. Here is her main platform for a «new Barreau».

I am currently Vice-President of the Quebec Bar. My platform revolves around 4 themes. They are: For an inclusive profession, for fair Bar fees, for our young members and for a clear mission.

1. For an inclusive profession

Proud to be a lawyer

This honourable sentiment has been lost over the past few decades, in step with the decreased importance of lawyers' role in society. Formerly a major influence in the community and a voice against injustice, lawyers seem to have a more passive role today. We must find that pride again and regain our rightful place. That is my goal, and the following are some possible solutions.

For a strong Bar...YOUR Bar

The Bar has 25,000 members. There's a lot of power behind that number, but how many members take an interest and become actively involved? For many lawyers, the Bar is a necessary evil. Their only dealing with it is when they pay their annual fees and register their professional development credits. My challenge will be to make sure you feel more a part of your organization by encouraging you to become involved in several ways.

I pledge to set up a mechanism for you to provide us with your comments and suggestions, either electronically (directly on the home page) or verbally. I want a true dialogue. I hope to see a diversified presence of attorneys representing the profession and on the various advisory and standing committees. Your Bar is fortunate to count among its members highly respected lawyers in many areas of practice. Lawyers are generous with their time and knowledge, and I will make sure they participate. The Bar has 25,000 members; we must increase the number of them who take part in its activities.

For all areas of practice

Society, its values and its needs have evolved. The same can be said of the practice of law. The Bar must take account

of this evolution in its approach, the positions it takes and the services it provides to its members. Without ignoring those who practice in traditional fields, it must also reach those working in other sectors such as Crown and penal prosecutors, administrative judges, government lawyers, in-house counsel, entrepreneurs, managers, teachers and many other sectors currently being developed.

The Bar's vision: excel through prevention

Protecting the public requires that our members keep their knowledge current. The Bar must guarantee excellence through comprehensive, inexpensive training.

The training currently being provided is satisfactory. However, I believe that we can improve the diversity of the training offered by providing courses in outlying areas of the province and developing free training specifically designed for our young lawyers and members working in non-traditional sectors.

2. For fair Bar fees

I am chair of the Bar's Finance Committee so I am very aware of the state of our finances. As a graduate in Business Administration (with a major in Finance) and an MBA, I have the knowledge it takes to propose ways to reduce the annual fees.

The Barreau ended its 2013 fiscal year with a surplus of over \$1.5 million and the same surplus is expected for 2014. It's time to let members benefit from this sound and responsible management.

Professional liability insurance

Members currently pay an annual premium of \$1,200 for \$10,000,000 of coverage. I pledge to propose that members be able to choose the extent of their professional liability insurance and the corresponding costs.

That coverage is currently 10 times higher than in the rest of Canada. This calls for a debate as to whether this amount of coverage should be maintained and we will start that debate.

Representation costs

There was a time when the Bar had the financial means to pay for greater representation of its members nationally and internationally. Today we must review that practice and only keep those initiatives which are directly related to the Bar's mission and its current commitments. I propose to eliminate costs that are no longer justified.



Luc Deshaies is a partner in Gowlings' Montréal office, practising in the areas of employment and labour law.

He has, among other activities, acted for employers in collective and individual labour relations and occasionally for managers in dismissal matters. Throughout his practice Luc has acted before all judicial and administrative tribunals interested in labour matters in the province of Québec. Over the years, he has advised employers whose main activities are based in Québec, but also in Canada and abroad, as part of mergers or transfer matters.

He practises in English and French.

Luc is the immediate Past President of the Bar of Montréal.

He sat on the Executive Committee, the Finance Committee, the General Committee, the CARPA Committee, as well as the Information Technology Committee of the Québec Bar.

Luc is also President of the National Committee of Canada of the International Union of Lawyers.

This does not mean that we will no longer promote our members outside Quebec, since that will remain a priority, but it is clear that we must avoid duplicating services that are already being offered and eliminate unnecessary expenses.

Public access to justice

Access to justice is directly related to a person's financial means. Due to the cost, an increasing number of people are choosing not to assert their rights or are representing themselves in court. Those most affected are from the middle class since the most needy are provided with legal aid.

We must find workable solutions for them. I pledge to reform the legal insurance committee so it can continue its work. Also, to lessen the financial burden, I will advocate an abolition of the tax on legal fees or a tax credit for legal fees.

3. For our young members

Over one-third of registered lawyers have been practicing for 10 years or less.

I have served as President of the Young Bar of Quebec and I have had the privilege of sitting on the Conseil général du Barreau. While in those positions, I made other members aware of the challenges young lawyers face. I have always stressed the importance of young lawyers and I will continue to do so. Their voices should be heard on decision-making bodies. I pledge to give them a seat on all standing committees where the law allows.

Know their needs...

Who are these young lawyers and what difficulties do they meet in trying to establish themselves professionally? How can the Bar assist them? There are many questions surrounding this issue. I pledge to conduct a survey to gather essential information and set up appropriate tools. The Bar should encourage, support and assist young lawyers who are starting their legal career.

4. For a clear mission

The Quebec Bar recently set up a new organizational structure which takes account of the changes the professional system is going through. I propose to pursue that work by beginning an in-depth examination of the role the Bar should play in a constantly changing society.

Over the years, the Bar has had many roles. It was seen as

a social player, guardian of the fundamental values of a law-abiding society, defender of the interests of its members and protector of the public. It's time to reflect on the priorities we want to establish, particularly regarding the balance between protecting members of the Bar and protecting the public.

I present my thoughts on these issues in the hope of setting up satisfactory mechanisms to deal with them.

Lu Chan Khuong, Ad.E, BAA, MBA, Adm.A
Vice-President, Bar of Quebec
Quebec this march 24th 2015

McCarthy Tétrault is pleased to congratulate Toronto partner Christopher Wayland as he begins his term as President of the Toronto Lawyers Association. Founded in 1885, the Toronto Lawyers Association represents the interests of 3,500 members through numerous information, education and advocacy activities.



"We are extremely proud of Chris's achievement," said Dave Leonard, National Practice Group Lead, Litigation. "Chris's involvement in the Toronto Lawyers Association provides the opportunity to shape current legal issues that have a direct impact on our clients and the community."

Mr. Wayland is a partner in the firm's Litigation Group. He has extensive experience acting as lead counsel in both complex criminal and civil matters, including white collar fraud matters, environmental, regulatory, commercial and constitutional litigation. He has acted for public companies, municipal councils, universities and individuals whose professional livelihood has been on the line. In addition to his involvement in the Toronto Lawyers Association, Mr. Wayland is Immediate Past Chair of the OBA Criminal Justice Section Executive.

A Bar up to your image

- Chief legal vulgarizer
- A positive image of the lawyer
- The public interest lawyer
- Good relations among lawyers

Though Quebec society generally has a negative image of lawyers, the majority of claimants report that their contact with a lawyer is a positive experience. The Quebec Bar must take on the mission to change the public perception to reflect this reality, to show how our profession responds to the public's legal needs and adapts itself in order to continue to be a relevant legal resource.

Role of Chief Legal Vulgarizer

We believe the Quebec Bar must intervene as an institution in public debates to explain the legal context, in certain cases, including the role of lawyers. Such interventions must be neutral and informative, so the public at large can follow along. The Bâtonnier of Quebec should be the intervenor of choice in the media when a thorny legal problem arises. His rôle must be to explain the legal issues and demystify the legal system. The lawyer's image can only benefit from this type of approach.

Build a positive image, in contrast to the litigation lawyer's image of perpetual confrontation

Whether in works of fiction or in contacts people have with them, lawyers are often associated with

litigation, whether criminal, family or civil. So the public associates lawyers with hostility and confrontation. In fact, the lawyer is much more than a pleader. By promoting the other areas of activity of our profession, the public will recognize the varied and fundamental role that lawyers play in our society. In taking on the role of counsel and interpreting the law, a lawyer positions himself above the problems and represents a source of solutions that enables him to find the best way to solve a legal issue.

Taking a stand to protect the public: the public interest lawyer

The Quebec Bar must continue to play a fundamental role in protecting the public, especially regarding proposed legislation. The public must be informed that the Bar regularly takes a position to stand up for respect of fundamental freedoms, the respect of minorities, the coherence of our legal system and the adoption of rules that are easy to understand and apply to all participants in the legal process.

Re-establish good relations between lawyers

The tense atmosphere that sometimes prevails in criminal or family law matters can cause relations between lawyers to deteriorate. We hope to foster a dialogue to improve relations because, as they say, clients pass, but colleagues remain. Courtesy between confrères and consœurs is fundamental, so we must encourage it.

Worker Advocate Urges Supreme Court to Take Case to Overturn Government Union Bosses Forced Dues Powers

Case builds on Foundation-won Supreme Court precedents

National Right to Work Foundation staff attorneys have filed a "friend of the Court" brief with the U.S. Supreme Court, urging it to hear a challenge to public-sector union officials' power to force America's civil servants into dues-paying ranks. Foundation attorneys filed the brief late Friday in support of the challenge, titled *Friedrichs v. California Teachers Association*, brought by ten California teachers supported by the Center for Individual Rights.

Nearly 40 years ago, the Court ruled in the Foundation's *Abood v. Detroit Board of Education* case that public-sector workers can be compelled to pay union fees as a condition of employment, but have a constitutional right to refrain from the part used for union political and members-only activities. Since then, National Right to Work Foundation-assisted workers have repeatedly challenged government union officials' power to force public employees into union fee payments as a job condition.

In 2012, the Court suggested in the Right to Work Foundation-won *Knox v. SEIU* ruling that it was ready to reassess whether union officials' forced dues powers, which it called "something of an anomaly," violate workers' First Amendment rights. Responding to that suggestion, many workers have filed lawsuits seeking to eliminate forced unionism in America. Several of those cases are Foundation-supported

In *Knox's* wake, the Court ruled last year in another Foundation-won case that individuals who indirectly receive state subsidies based on their clientele cannot be forced to pay union fees. This victory in *Harris v. Quinn*,

a class-action suit filed by several Foundation-assisted Illinois homecare providers, renders unconstitutional similar homecare unionization schemes in at least 13 other states, freeing roughly 500,000 providers from forced union dues nationwide. Moreover, in *Harris*, the Court criticized *Abood's* allowance of any forced fees for public employees as "questionable on several grounds."

Foundation staff attorneys also are assisting nine airline fleet employees who are suing the Transport Workers Union of America to establish railroad and airline workers' right to refrain from paying any union dues or fees. In December 2014, a federal district court judge granted the case class-action status. Underscoring the case's significance, the Department of Justice then intervened in the case to defend the constitutionality of forced union fees.

In their *Friedrichs* brief, Foundation attorneys explain why the Court should take the case and strike down union officials' forced dues powers, describing the lessons learned from many cases involving workers who have struggled to stop paying for union politics against their will.

"Union bosses have abused their extraordinary government-granted power to compel workers to fund their political activities unless workers object a power granted no other private organization in our country for far too long," said Mark Mix, president of National Right to Work. "The First Amendment right of workers who refrain from union membership to automatically not pay union dues at all, especially for politics, is long overdue."

Settlement concerning mental health laws coverage

Attorney General Eric T. Schneiderman today announced the fifth settlement since last year in an unprecedented enforcement effort of mental health parity laws. The settlement, reached with Rochester-based Excellus Health Plan, requires the health insurer to cover residential treatment for behavioral health conditions and reform its procedures for evaluating behavioral health treatment claims. The settlement also requires Excellus to provide notice of a new appeal right to 3,300 members whose requests for inpatient substance use disorder rehabilitation and eating disorder residential treatment Excellus denied from 2011 through 2014. The estimated value of Excellus's denial of these individuals' requests is up to \$9 million.

Excellus, which is part of the Blue Cross Blue Shield Association, has 1.5 million members and is upstate New York's largest health plan. An investigation by Attorney General Schneiderman's Health Care Bureau found that Excellus denied inpatient substance use disorder rehabilitation recovery services seven times as often as inpatient medical services.

"My office has taken an aggressive approach to enforcing mental health parity laws that I hope can serve as a national model," said Attorney General Scheiderman. "Mental health and addiction recovery treatments must be regarded the same as other health insurance claims under the law. We will continue to take on those who ignore the law and reinforce the false and painful stigma often associated with these ailments."

Today's settlement with Excellus is the Attorney General's fifth enforcing the mental health parity laws since last year. Insurers Cigna, MVP Health Care, and EmblemHealth have already entered into settlements, and last week, the Attorney General entered into a settlement with ValueOptions, the behavioral health vendor for MVP and Emblem.

New York's mental health parity law, known as Timothy's Law, was enacted in New York in 2006, and requires that insurers provide mental health coverage at least equal to coverage provided for other health conditions. The federal Mental

Health Parity and Addiction Equity Act, enacted in 2008, prohibits health plans from imposing greater financial requirements or treatment limitations on mental health or substance use disorder benefits than on medical or surgical benefits.

Excellus, based in Rochester, is part of a community that, like many parts of New York State, is experiencing an opioid overdose epidemic with deadly consequences. Heroin overdoses in Monroe County have doubled in recent years, and have increased fivefold since 2011. In 2013 alone, there were 65 heroin-related deaths in Monroe County. Access to substance use disorder treatment – in particular inpatient rehabilitation treatment – is vital to addressing this scourge.

The Attorney General's investigation revealed that many of Excellus's inpatient substance use disorder rehabilitation denials were the result of its requirement that members fail outpatient treatment multiple times before accessing such care, which conflicts with New York State guidelines and is not applied by Excellus to medical care. The investigation also showed that some of these denials appear arbitrary and wrongly decided, and that Excellus did not cover residential treatment for behavioral health conditions in its standard contract. In one case, Excellus denied residential treatment coverage, due to lack of a benefit, for a 16-year old girl suffering from the eating disorder anorexia nervosa, even though she was at 83% of ideal body weight, had amenorrhea (the absence of menstruation), malnutrition, unstable vital signs, and bradycardia (a dangerously slow heart rate). The girl later attempted suicide and had to be hospitalized in a medical unit.

Under today's agreement, Excellus will provide notice of a new appeal right to 3,300 members whose requests for inpatient substance use disorder rehabilitation and residential treatment it denied from 2011 through 2014. These members will get an opportunity to file an independent appeal, if they paid out of pocket for the treatment that Excellus denied, and did not previously file an external appeal. The estimated value of Excellus's denial of these individuals' requests is up to \$9 million.

“Clearly not constitutional:” CBA appears on Bill C-51

“My name is Hassan Yussuff and that is one of the reasons why I’m against this bill.”

That was the president of the Canadian Labour Congress yesterday as he began his presentation to the Public Safety Committee hearing into Bill C-51.

He appeared Wednesday evening along with the Canadian Bar Association and four other witnesses: the Mackenzie Institute, the Council for Muslims Facing Tomorrow, the American Islamic Forum for Democracy, and a security expert with 20 years in the intelligence community.

Eric Gottardi, chair of the CBA’s Criminal Justice Section, and Peter Edelmann, an executive member of the Immigration Law Section, appeared in support of the CBA’s submission. Together the two had just 10 minutes so were only able to touch on a few key items of concern.

“It is difficult to overstate how important this bill is,” Gottardi told the committee.

First of all, he said, the CBA opposes the creation of the “advocating or promoting terrorism” offence, saying among other things it could be counterproductive and self-defeating by driving terrorism further underground and away from scrutiny. It’s “corrosive” of freedom of expression, he said.

“Is our democracy so fragile that we must outlaw recklessly made statements? I think Canadians are made of sterner stuff.”

Secondly, he said, CSIS operates in the shadows for national security reasons; expanding its mandate to include police powers raises the real risk of abuse, noting that in the 1970s, the RCMP engaged in “dirty tricks” in the name

of promoting national security. The McDonald Commission recommended splitting police and intelligence powers, which resulted in the creation of CSIS, he reminded the committee.

Thirdly, many of those new powers will overlap with police powers – and the Air India inquiry showed the kind of problems that can arise when CSIS and the RCMP don’t cooperate.

Peter Edelmann started by saying that 100 per cent security doesn’t exist, and that while you need security to enjoy your fundamental rights, the opposite is also true.

He pointed out problems with the bill’s vague language – legislation needs to be precisely drafted; and also the CBA’s issues with the lack of provisions for comprehensive and effective oversight.

Asked by a committee member whether the bill violates the constitution, Edelmann responded, “There are parts that are clearly not constitutional,” for example, “we have no precedent in Canadian law for judges authorizing breaches of the Charter.”

Gottardi added, “There are portions of the bill that we support. There are parts that are unconstitutional, nothing we say here could save them.”

The question-and-answer portion of the hearing went much the same way as earlier sessions have gone, according to earlier media reports: Conservative MPs lobbed softball questions at witnesses who support the legislation; Liberal MP Wayne Easter, whose party will support the bill but has vowed to amend it if elected, looked for quick fixes while noting that he has a private member’s bill before Parliament calling for a national oversight body. NDP MP Rosane

Doré Lefebvre, whose party firmly opposes the proposed legislation, asked pointed questions about security and the constitutionality of the bill.

Is new legislation necessary?

Brian Hay of the Mackenzie Institute made some interesting points about the way Canada's current anti-terrorist regime can be improved without the need for new legislation.

"Canada faces historically unparalleled threats to security," he said, "but care must be taken to be sure that the result of the action" taken to counteract those threats is not out of proportion to it. He also noted that information-sharing between agencies is already going on, and suggests that this new law could "make it more transparent."

But the new law would not have prevented the terrorist attacks last fall, he said, and when Parliament was assaulted there was no coordinated plan to deal with it.

"Perhaps the problem is not the lack of law but a lack of coordination and planning."

As well, he said, the CSIS Act is a good piece of legislation, and "in the current security environment it may be a good idea to give CSIS more power to act." But, he added, "This act anticipates that CSIS can break the law, and this may well be overreach."

Raheel Raza of the Council for Muslims for Tomorrow made the clear distinction between spiritual Islam – Islamism – and political Islam – Islamist. She's been writing and speaking about the radicalization of Muslim youth since 2000. Kids have nowhere to go between the mosque and the mall, she said, and they find in these ideas something to take an interest in.

She had qualified support for Bill C-51, approving of measures such as increased information-sharing, making air travel safer, barring terrorist propaganda and giving CSIS disruptive powers, but added she considers the bill "a work in progress," with "weaknesses as well as strengths." In particular she called for more comprehensive review, if not oversight, and stressed that all activities must conform to the constitution and Charter.

Zuhdi Jasser, president and founder of the American Islamic Forum for Democracy, is the son of political refugees who fled Syria in the 1960s. He served in the U.S. navy as a

medical officer. He appeared via Skype from Phoenix.

The current "whack-a-mole" approach to terrorism "is not only failing, but we are in danger of not being able to keep up," he said. Bill C-51 is a good short-term strategy for combatting terrorism; a longer-term strategy must involve working with reformers within the Muslim community.

His primary message is that the West can't let political correctness or fear of appearing Islamophobic or racist "stand in the way of identifying the Islamist nature of terrorism."

"Muslims have to be held accountable as adults," he said, "otherwise you're infantilizing us." He calls that the "bigotry of low expectations," to think that Muslims can't or don't understand modern thinking.

"Muslims are being given a pass," he said.

Me Yvan Niquette new Quebec Legal Aid vice-president



Denis Roy, president of the Quebec Legal Aid Society is announcing the nomination of Me Yvan Niquette as vice-president. Me Niquette was until now director general of the South Shore Legal Aid Community since 1997.

Lawyer Niquette has been employed by legal aid since 1987 when he articulated for the research center. He has practiced at legal aid offices in Longueuil and Lacolle. Me Niquette succeeds Me Céline Giroux as vice-president. She retired in September 2014 after her appointment in 2013.

The Quebec Legal Aid Society is the largest law firm in the province with more than 350 lawyers and notaries practising throughout its territory.

Maryland Carey Law and Pace Form Environmental Law Alliance

Environmental law programs look to create new model of specialized legal education

Pace Law School and the University of Maryland Francis King Carey School of Law are proud to announce the creation of a new partnership between their nationally ranked environmental law programs. Dean David Yassky, of Pace, and Dean Donald Tobin, of Maryland, signed the memorandum of understanding that commences the Maryland-Pace Environmental Law Alliance. This first of its kind collaboration between environmental law programs will draw on each program's strengths in the field to train the next generation of environmental lawyers in a new era of legal education and environmental challenges.

In its first phase, the Alliance will allow Pace and Maryland to share environmental externship and experiential learning opportunities, engage in faculty and student exchanges and training programs, collaborate on global environmental law projects, and hold joint conferences, workshops and symposia. The schools will begin offering the semester-long student exchange program in the fall 2015 semester. Beyond this initial stage, the Alliance will look to create joint curricular and degree opportunities, teamwork between environmental law centers and clinics, and joint research projects and publications among other initiatives.

"This is an exciting opportunity for students and faculty at Maryland and Pace," says Professor Jason Czarnecki, Pace's Gilbert and Sarah Kerlin Distinguished Professor of Environmental Law and Executive Director of Environmental Law Programs. "The Alliance brings together two top innovators in environmental legal education in a collaboration that spans the Mid-Atlantic Watershed." Robert Percival, Maryland's Robert F. Stanton Professor of Law and Envi-

ronmental Law Program Director, remarked, "This will give students at both schools greater access to environmental externships and expertise in the D.C. and New York City metropolitan areas and even around the world in countries like China and Brazil."

Quebec Code of Civil Procedure lectures

"The English-Speaking Section of the Barreau de Montreal will hold in-person CLE courses in English on the new Quebec Code of Civil Procedure, which will come into effect in 2015. Some 27 hours of lectures on diverse subject matter contained in the New Code will include pre-litigation measures; changes in terminology; self-representation; efficiency in the litigation process and the use of technology; Appellate proceedings; extraordinary measures; family law procedure; the use of experts; administration of proof.

The English-Speaking Section of the Bar of Montreal is committed to assuring the availability of continuing legal education in English, as well as the highest level of professionalism in the practice of law. Dates, times and places for these courses will be announced shortly.

Ian M. Solloway
Chair
English-Speaking Section
Bar of Montreal"

Almost half of the euthanasia deaths may not have been reported in Belgium in 2013.

The New England Journal of Medicine (NEJM) published a new study concerning the Belgium euthanasia experience titled: **Recent Trends in Euthanasia and Other End-of-Life Practices in Belgium.**

Similar to previous studies, researchers sent a four page questionnaire to 6188 physicians who had certified death certificates in the first half of 2013 in Flanders Belgium. The study received a 60.6% response rate with 3751 returned questionnaires. The data represents about 6% of all deaths.

The data indicates that:

1. 4.6% of all deaths were euthanasia.
2. .05% of all deaths were assisted suicide.
3. 76.8% of the requests for euthanasia or assisted suicide were granted.
4. 1.7% of all deaths were hastened without explicit request.

The data did not include information concerning the number of unreported euthanasia deaths.

With help from a researcher in Belgium I learned that in 2013 there were 61,621 deaths in Flanders Belgium. Since the data from the 3751 questionnaires indicated that 4.6% of all deaths were euthanasia, therefore there may have been as many as 2834 assisted deaths in Flanders in 2013.

Since the official Belgian euthanasia report stated that there were 1807 reported euthanasia deaths in Belgium, of which, 1454 were from the Flanders region, therefore about 1380 assisted deaths may not have been reported in Flanders Belgium in 2013.

This means that almost half of all euthanasia deaths may not have been reported in Flanders in 2013.

The study also found that 1.7% of all deaths were hastened without explicit request. Since there were 61,621 deaths in Flanders, therefore about 1047 deaths may have been hastened without explicit request in Flanders Belgium in 2013.

The recent Supreme Court of Canada assisted death decision suggested that abuse of euthanasia laws in other jurisdictions was only anecdotal. Canada needs a Royal Commission to set the record straight.

Euthanasia is out-of-control in Belgium.

The Nation, America's Oldest Weekly Magazine, Celebrates 150 Years at Forefront of Politics, Arts, Culture, and Conversation

The Nation, America's oldest weekly magazine, celebrates its 150th anniversary with a quintuple-length, blockbuster edition of the magazine featuring the best and brightest of its past and present -- out today. Co-edited by Nation editor and publisher Katrina vanden Heuvel and long-time correspondent D.D. Guttenplan, the contents are a 'who's who' of the greatest American writers, thinkers, politicians, personalities and activists of the past two centuries, and a gathering of the journalists and rabble-rousers committed to instigating progress today.

"150 years as America's oldest continuously published news weekly is a thrilling, if daunting, accomplishment," says vanden Heuvel. "Change is inevitable, but the one constant in The Nation's history has been faith -- not in political parties or policies, but in what can happen when you tell people the truth. It is this notion that has sustained The Nation since its founding: that and the idea that there are always alternatives -- in history, in politics, in life -- that would make our country and the world a more humane, just and secure place. This special issue signals our enduring commitment to that philosophy."

Founded by abolitionists in 1865, The Nation has chronicled the breadth and depth of American political and cultural life from the debut of the telegraph to the rise of Twitter. This 268-page special issue revels in the magazine's rich history, yet the issue, like The Nation, leans forward, weaving together both celebrated and surprising voices from the archives with those of friends and contributors commissioned especially for the 150th. And, while an indelible print experience, The Nation is offering the issue freely as a downloadable PDF for the first time ever. A select number of print copies are also available upon request.

In a fascinating conversation that spans generations, contemporary writers offer their own reflections on some of the most engaging articles from the archives. New York

City mayor Bill de Blasio takes on a radical remedy for homelessness from 1920; MSNBC host TourÃ© engages with Langston Hughes's landmark commentary on black culture; historian Greg Grandin discusses William Appleman Williams and America-sans-empire; Vivan Gornick responds to Emma Goldman's exploration of statelessness; and Paula Giddings reflects on Howard Zinn and the civil-rights movement.

Archival excerpts from every decade of the magazine's existence feature some of the best that was thought and said in its pages -- much of it inspiring and eerily prescient, some of it shocking, all of it fascinating to read. James Baldwin, Ralph Nader and Hunter S. Thompson -- all of whom published their first pieces in The Nation -- are featured, as are Martin Luther King, Jr., Albert Einstein, Henry James, Frederick Law Olmsted, Hannah Arendt, John Steinbeck, IF Stone, Jean-Paul Sartre, Stephen F. Cohen, Ray Bradbury, W.E.B. DuBois, Gore Vidal, Barbara Ehrenreich, Christopher Hitchens, Melissa Harris-Perry, John Leonard, Alexander Cockburn, Alice Walker, Edward Miliband, Tony Kushner, Molly Ivins, Jonathan Schell, Patricia J. Williams and Christopher Hayes, among others. Taken together, these excerpts comprise a history of the last 150 years in what The Nation called, in its very first issue, "the conflict of ages, the great strife between the few and the many, between privilege and equality, between law and power, between opinion and the sword."

At the heart of the issue are three groups of original essays specially commissioned for this occasion, which demonstrate deep correspondences between past and present ideas about what it would mean to imagine a radically better future. In "The Nation and the Nation," writers including Eric Foner, JoAnn Wypijewski, Rick Perlestein, Katha Pollitt, Betsy Pochoda, Peter Kornbluh and David Corn explore the magazine's surprising influence on everything from poetry to feminism, radicalism to right-wing conservatism, Cuba to coverage of the arts.

Sports Concussions Legal Research Article Published in University of Maryland Law Journal

Anthony R. Caruso, Esq., sports attorney and NFL Agent, has announced the publication of his legal research and analysis on current issues involving sports concussions.

Entitled "Collegiate Collisions on the Field and in the Courtroom: Will Labor Peace Save Student-Athletes from Further Injury?" the article appears in the prestigious Journal of Business and Technology Law of the University of Maryland School of Law. The article is the culmination of legal research and analysis of the ever-evolving topic of concussions in light of recent developments with the NCAA.

"Concussion-related topics are at the forefront of all discussions involving contact sports, and rightfully so," says Caruso. "For too long, this topic has been side-stepped as a necessary evil for the participation of the athlete. Medical research now clearly obviates any further attempts to ignore the significance and full understanding of this dangerous condition."

The research article is a detailed and convincing argument for the advancement of education, treatment and prevention of concussions without dismantling the intricate framework of the student athlete as currently existing. "This issue needs to be resolved in a thoughtful and well-conceived manner by all parties involved, rather than in a fragmented and incongruent fashion by various courts throughout the nation," says Caruso. "Those involved with college and pro sports at various levels have been aware of concussions for quite some time, but have yet to seriously address the inherently competing issues until very recently. We need to keep the momentum moving forward in favor of the player, particularly the student-athlete."

Launched in the fall of 2005, the Journal of Business & Technology Law has provided a publication venue for the latest thinking on business and technology issues. As the first publication to examine these issues together, the Journal seeks



to add an important voice to the nation's legal scholarship. The publication can be found using the following link: <http://digitalcommons.law.umaryland.edu/jbtl/>.

Caruso is uniquely positioned to comment on issues concerning college and pro football players because of his extensive experience in sports and business law. As a prominent sports, media, and entertainment attorney based in the New York City / New Jersey area, he has significant experience in negotiating complex transactions relevant to the professional athlete and served as an NFL Agent for several pro players from 1994 to 2000. "I enjoyed protecting the interests of the professional athlete both on and off the field," says Caruso. He has now returned to the role of NFL agent and has several players under his representation.

In addition to being a sports entertainment attorney and NFL agent, Caruso teaches sports related courses as an adjunct professor at NYU. He also previously founded and served as legal counsel to a new sports league, where he later became the commissioner. He gained international attention in his representation of beauty pageant winner regarding a media blackmail situation. Mr. Caruso provided all legal counseling and negotiations, strategy, media supervision, and crisis management in that case. He has appeared on various programs including NBC, FOX, MSNBC and E! News, and is routinely requested by the media for his advice and views on current sports/legal issues.

The rules governing business expansion into the United States

Written by Jean-Philippe Brunet, Partner, CHRP, Norton Rose Fulbright

Revised by Roger Jacques Mensch, US Immigration Law Advisor

(Lawyer – Foreign Legal Consultant, Quebec / Attorney, Washington State), Norton Rose Fulbright



Jean-Philippe Brunet



Roger Mensch

INTRODUCTION

Canadian companies, in their business expansion projects, focus actively south of the border for ventures opportunities.

They must, however, ensure to satisfy US immigration requirements concerning the entry of foreign workers into the country.

I- VISAS

As a general rule, everyone needs a visa to enter the US except US citizens, permanent US residents, or nationals of a country designated under the US Visa Waiver Program (hereinafter referred to as the VWP) – or Canadian citizens. Canadian citizens and nationals of VWP countries do not need a visa to enter the US as tourists ("WT") or business visitors ("WB").

The VWP allows the nationals of 38 designated countries (see: <http://travel.state.gov/content/visas/english/visit/visa-waiver-program.html>) to travel to the US, for tourism

or business purposes, for stays of 90 days or less, without first obtaining a visa.

Nationals of VWP participant countries must, however, satisfy VWP requirements, including obtaining pre-authorization from the United States Customs and Border Protection (the "CBP") via the ESTA (Electronic System for Travel Authorization) website <http://www.cbp.gov/travel/international-visitors/esta>, before using the VWP program and applying for entry to the US, in order to apply for and be issued pre-authorization valid for five years.

Until September 30, 2015, ESTA approval processing fees are USD\$14.00 (USD\$10.00 for the Corporation for Travel Promotion and a USD\$4.00 system administration fee). As of October 1, the fee will increase by USD\$4.00.

Canadian citizens do not need pre-authorization or a visa to apply for admission to the US as tourists or business visitors, for stays of six months or less.

To be able to travel to the US as a tourist or business visitor, foreign nationals of countries other than Canada or VWP participants must obtain a "B1/B2" visitor's visa from the US embassy or consulate in their country of citizenship/nationality or country to which they have been lawfully admitted.

A visa is a document issued by a US embassy or consulate from the United States Department of State (the "DOS") and affixed to the passport of a foreign national when required pursuant to the rules detailed above.

A visa allows its holder to go to the pre-clearance inspec-

tion area at an international airport or seaport or border crossing and seek admission to the US directly from a CBP officer.

Having a visa is not an automatic guarantee of admission to the US; it is only an indication that a US embassy or consulate employee has determined that the particular passport holder could seek admission to the US as a tourist or worker, as the case may be.

The CBP officer will specify the status and confirm the authorized duration of the stay in the US, generally up to six months, depending on the activities stated at the time of the request for admission.

II- PURPOSE OF TRAVEL TO THE US

It is paramount to determine the purpose of the trip to the US beforehand.

A. Business visitors

As a general rule, travelers may enter the US as business visitors to perform tasks that do not reduce the opportunities for US citizens or permanent residents to obtain employment or acquire experience in the US labour market.

Thus, such tasks may not compete directly with the activities that US citizens or permanent residents could carry on in the US.

Also, no US company or US operations may profit from the business visitor's planned activities.

In addition, a business visitor may not receive compensation directly or indirectly for tasks performed in the US. A business visitor should remain on the payroll of his or her foreign employer and that same employer should pay all the visitor's travel expenses in the US.

If there is any doubt regarding the nature and scope of the planned tasks in the US, it is preferable to apply for a legal status, which permits employment in the US.

B. Legal Status (with employment authorization)

The role of the US government is to protect the US labour market, including US citizens and permanent residents. Thus, the American government asks US employers to hire primarily Americans.

However, the US government has implemented various procedures allowing foreign workers to be hired, either tem-

porarily, e.g., in H-1B, L-1A/L-1B, TN, E-2 non-immigrant status, or permanently, e.g., lawful permanent residence or a so-called "green card".

The most common non-immigrant status

1. H-1B

According to the category known as H-1B or "specialty occupation", there are three requirements that must be satisfied before a foreign national will be allowed to work as a professional in the US labour market:

- i. The American government, specifically the U.S. Department of Labor (the "DOL"), requires proof that the American company will pay the foreign worker a proper salary (according to geographic, occupation, and job requirements);
- ii. If the salary is considered acceptable, the US company must file a petition for a non-immigrant worker with a Regional Service Center of the U.S. Citizenship and Immigration Services (the CIS) in the US; and,
- iii. After receiving approval from the CIS, the worker must either:

Le Mérite du Barreau de Montreal awarded to Me Ian M. Solloway

The Bâtonnier of Montreal, Me Greg Moore, has announced that Me Ian M. Solloway will be the recipient of the 2014-2015 prestigious Mérite du Barreau de Montréal in recognition of his exceptional contribution to the Montreal Bar and its activities.



Ian M. Solloway

Me Solloway is the Chair of the English-Speaking Section of the Bar of Montreal, having occupied this position for an unprecedented six years since 2009. In 2004, Me Solloway was awarded The Past-Presidents Medal of the Lord Reading Law Society in October 2014 for having achieved excellence in the profession; having made a significant contribution to the community and being of the highest integrity.

The Mérite du Barreau will be presented to Me Solloway at the Annual General Meeting of the Montreal Bar to be held on Wednesday, May 6th, 2015 at 5:30 pm in Salle 5.15 (Salle Jules Deschênes) of the Montreal Courthouse.

- file a visa application with an American embassy or consulate abroad; or,
- apply for admission directly at a CBP land or airport border control point.

It should be noted that H-1B visa numbers are subject to an annual quota set by the US Congress. For fiscal 2015 the quota is 85,000.

2. L-1

The intra-company transfer category is also frequently used by foreign companies that have a presence in the US or those that want to penetrate the US market and establish a presence in the US.

The following requirements apply to L-1 non-immigrants:

- The foreign employer and the American entity that will benefit from the foreign worker's services must be in a parent subsidiary or affiliate relationship (e.g. generally, be jointly owned and controlled);
- The foreign worker must have worked for the foreign employer for at least one year, on a continuous full-time basis, in an executive or a managerial position or in a highly specialized knowledge role in the three years immediately preceding the petition; and,
- The foreign worker must work in the US in an executive, managerial, or specific knowledge role.

3. TN

The North American Free Trade Agreement ("NAFTA") also provides several additional procedures aimed at facilitating the admission of foreign professionals to the US.

The requirements for this category, also known as "TN," are as follows:

- The applicant must be a national of a NAFTA signatory country (USA, Canada, Mexico);
- The applicant's profession must be listed in Appendix 1603.D.1 of Schedule 1603 of the NAFTA;
- The applicant must satisfy the training or work experience requirements of the category established by the NAFTA; and,
- The applicant must work in that profession in the US.

4. E

Many treaties have been entered into and signed by the US and various foreign countries whereby the citizens of the signatory countries of such a treaty may apply for an E non-immigrant status and obtain permission to work in the US, namely:

- The E-1 or "Treaty Trader" for companies that do a substantial part of their international trade with the US; or,
- The E-2 or "Treaty Investor" for enterprises that will be investing a substantial sum of money in an American company.

CONCLUSION

Before travelling to the United States, it is important to determine (1) if a visa from the DOS or pre-authorization from the CBP is required and (2) the exact purpose of the trip to the US.

Failure to do so could have serious consequences, including fines, being banned from travelling to the US or even detention, or being greatly inconvenienced in the event of a subsequent trip to the US.

The Honourable Jean-Louis Baudouin appointed to the Order of Canada

Fasken Martineau, a leading international business law and litigation firm, is pleased to announce that the Honourable Jean-Louis Baudouin, Ad.E., has recently been made an Officer of the Order of Canada for his contribution to the advancement of civil law in Canada, as a professor and a Justice of the Court of Appeal of Québec.

"Congratulations to Jean-Louis for this most prestigious award that honours his remarkable contribution to the legal field. We are proud and honoured to have him as a member of our firm," said Éric Bédard, Fasken Martineau's Managing Partner for the Québec Region.

Jean-Louis is also a member of the Royal Society of Canada, as well as other prestigious academies and associations. Over the years, he has received honoris causa doctorates from various universities in Canada, France and Belgium. He is also the recipient of numerous honours and awards, such as the Grand Officer medal of the Ordre national du Québec, as well the Canadian Bar Association's Ramon John Hnatyshyn Award for Law in recognition of his outstanding contribution to legal scholarship in Canada.

The Order of Canada, one of the country's highest civilian honours, was established in 1967, during Canada's centennial year. It recognizes outstanding achievement, dedication to the community and service to the nation.



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