



## CN Executive Vice President Sean Finn honored as head of 2017 Legal Affairs Department



First row (from left to right): Gilles Legault and Andra Syvanen.  
Second row: Eric Harvey, Mathieu Bergeron, Sean Finn, Mélanie Allaire and Cristina Circelli  
Top row: Olivier Chouic, Stephen Covey, and Mathieu Lamothe



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# CN Executive Vice President Sean Finn honored as head of 2017 Legal Affairs Department

By André Gagnon

**O**n May 29, 2017, the CN Law Department was named "In-house legal department of the year" for 2017 by The Montreal Lawyer. Sean Finn, Executive Vice-President Corporate Services and Chief Legal Officer; Olivier Chouc, Vice-President, Law; and Cristina Circelli, CN's Deputy Corporate Secretary and General Counsel, accepted the recognition with "great pride and humility."

"The primary quality of a company's legal department is to become and remain constantly relevant for the company it serves," Mr. Finn said. "Being familiar with and participating in the development of the corporate strategic plan and in the decision-making process, building and maintaining close relationships with senior management, the board of directors and the management team, and being constantly proactive and attentive are some of the key elements that will ensure the success of a company's law department," he added.

Sean, who is himself a certified train conductor, said that being familiar with the Company's operations is crucial to the success of CN's Law Department. In addition, within Corporate Services, which Sean has been managing for the past 17 years, the Department's lawyers are working closely on a daily basis with CN's Public and Government Affairs as well as with CN Police, Risk Management, and the Corporate Secretary's Office. The groups even developed an innovative tool for managing stakeholder relations that allows them to fully carry out their mandates.



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Part of Corporate Services, whose mission is to "grow and support CN's people, business and reputation," the lawyers in the Law Department are fully engaged in the Depart-

ment's strategic vision, which includes three areas of focus: engagement with internal and external stakeholders; collaboration, including the contribution of the Law Department, which is a true partner in CN's growth; and responsible leadership where each person has a role to play. The lawyers and their teams are directly involved with their colleagues from Corporate Services in 13 strategic business initiatives that the group has established. These initiatives are perfectly aligned with the Company's objectives. "It is extremely important for an in-house law department to have a clear vision and mission that are understood by all," Sean noted.

What's more, for the past number of years, Sean, Olivier and Cristina have been encouraging the lawyers in CN's Law Department to become trusted advisors to their cli-

ents. "What we are asking of our colleagues in Law is the same as what we are asking of our external legal advisors as top-notch advisors," Sean explained. "They must know the Company and be on the lookout for challenges and opportunities and strive to become trusted advisors."

That being said, the colleagues do not intend to rest on their laurels. Constantly striving to innovate and optimize the provision of legal services, last year they issued a request for proposals for external legal services to cut down on the number of providers. The goal of the initiative was to choose a number of firms that CN would do business with and implement a consistent strategy across all areas of law (e.g., litigation, commercial, environmental).

This year, Law Department management asked an exter-

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The tips page and respective encryption tools provide sources with multiple avenues of access to share information. Tips are received by a designated editorial team. Later this year, we'll be joining the elite few dozen organiza-

tions accredited by the Freedom of the Press foundation on Secure Drop -- the open-source whistleblower submission system.

*The Nation* has a long and proud history of publishing whistleblowers and defending and securing the First Amendment. Recent examples with definitive impact include Sarah Posner's revelatory story of a leaked religious freedom order from the Trump administration; Lauren Windsor's exclusive documents and audio from the Koch brothers' uber-secretive annual meetings; and a recording of a stop-and-frisk in action.

Our scoops have led to congressional hearings, forced policy change, been cited in court decisions, and shaped news cycles. We were also an early plaintiff in the ACLU's lawsuit against the National Security Agency and the Department of Justice over massive, dragnet surveillance of American citizens -- made public in the wake of the Edward Snowden revelations.

Together, we can confront and expose power in these trying political times. Just tip us off.

nal firm to lend its expertise and assess the legal services provided by CN's Law Department to its clients. The study will help determine how well the various levels of risk associated with the Company's operations align with the Company's business strategy and the legal complexity of required actions.

But innovation does not stop there, as CN's Law Department is currently working on developing a virtual office. According to Sean, "the public has a historical perception of the railway as being old technology, despite the fact that CN is a major user of new technology, particularly information technology, including big data." Olivier added: "Our Law Department is keeping pace and is also looking to acquire the best technology to support our lawyers, paralegals, and other professionals and their support teams."

Innovation will continue to play a key role in the development of CN's Law Department in the coming years. "In short," Sean added, "we have to constantly innovate and review our practices and processes in order to remain trusted advisors to our clients."

Sean pointed out that the Company itself serves as an example for the Law Department. "You will rarely find a more

traditional sector than railroading," Sean said, "and yet, since it was privatized in 1995, CN has transformed itself fundamentally by acquiring an extensive North American network and becoming the most efficient railway, in large part by fostering a culture of innovation that is still being promoted within the Company today. Right now, CN is engaged in another innovative transformation phase. We are asking all employees to move from railroad thinking to supply chain thinking."

CN's commitment to innovation can be seen throughout the Company, "whether in our relentless focus on safety, in our commitment to working collaboratively with our customers and to ensuring sustainability, or in our approach to stakeholder engagement," Sean noted.

Turning to the human factor, Sean, Olivier and Cristina pointed out that one of the strengths of the lawyers in the CN Law Department is their great involvement in the community through professional or charitable organizations at a local, regional, provincial and national level, which allows them to share and give back to the community. Sharing is an important human value for CN, "which also fully reflects our social commitment and our role as railroaders in the community," Sean added.

# CONGRATULATIONS

Smart & Biggar congratulates Sean Finn, EVP, Corporate Services & Chief Legal Officer and everyone in the Legal Affairs team at CN. We are proud to support your success.

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# CN, Legal Affairs Department 2017 honored at annual dinner



CN Law (from left to right) : First row: Shona Godwin, Cristina Circelli, Gilles Legault, Rose Marie Di Maria, Caroline Labbé, Michelle Cardinal, Samantha d'Andrea, Andra Syvänen, Wendy Kennish, Patricia Di Taddeo, Anna Gentile and Jonathan Leung. Second row: Stacy Patenaude, Angèle Guérard, Heidi McFall, Samantha Mignault-Brusewitz, Elaine Gregory, Melaine Allaire, Marc Ouellet, Natalie Le Cavalier, Rachel Heft, Catherine Moreau and Mathieu Tremblay. Third row: Paul Deegan, Hugo Delorme, Yannick Landry, Eric Harvey, Sean Finn, Mathieu Bergeron and Mathieu Lamothe.



Sean Finn (CN) and the Right Honourable Brian Mulroney (Norton Rose)



Sean Finn (CN) and Angré Gagnon (The Montreal Lawyer)



Antoine Stébanne (Osler) and Wendy McFall (CN)



Yannick Landry (CN)



Alphonse Giard



Catherine Simard, Theresa Feng (Norton Rose), Laurent Giguère (KPMG), Cristina Circelli (CN) and Lady Africa Sheppard (Norton Rose)



*Cristina Circelli (CN)*



*Patricia Di Taddeo, Angèle Guérard, Heidi McFall and Anna Gentile (CN)*



*Sean Finn (CN)*



*Jean Hallé, Mathieu Lamothe and Yannick Landry (CN)*



*Arlen K. Sternberg (Torys), Wendy Kennish (CN) and Dennis E. Mahony (Torys)*



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*Sean Finn (CN)*



*Sonia J. Struthers (McCarthy Tétrault)*



*Sean Finn (CN) and Pierre Lortie (Dentons)*

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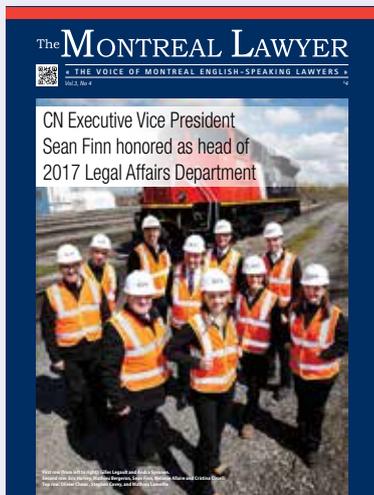
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# City lawyer fights for 'Made in Canada' tax reform

By P.A.Sévigny

**S**taring across the river from her 11th floor Longueuil office window, Marwah Rizqy told *The Montreal Lawyer* that "... this nation needs some real and comprehensive fiscal reform if we're ever going to pull children out of poverty."

As both a lawyer and professor in the University (of Sherbrooke) Finance Department, Rizqy is already working hard to sow the seeds that she hopes will bring about the fiscal reform Canada needs to remain competitive throughout the next century. When asked about what she had in mind for billions of dollars worth of potential tax revenue that are being hidden away in offshore tax havens, she said that it's time "... to work on some kind of fiscal reform that will develop an equitable tax base for everybody (including the nation's corporations) that will benefit everyone."

As both a fiscal specialist and a working academic who teaches tax law, Rizqy also mentioned that there's a big difference between avoiding a tax and evading a tax.

"I don't have much of a problem with the local hairdresser who doesn't declare her tips," said Rizqy. "She's going to spend the money on a dress so it's not a big loss to the economy." But compared to the hairdresser's petty larceny, she "...definitely has a problem" with the big international corporation that uses the law to legally



*Me Marwah Rizqy*

park its millions in other countries in order to avoid paying taxes in this one.

"That means that there's no money for schools," she said. "That means that there's no money to pay teachers, no money for books and that means that children have no way to pull themselves out of poverty."

Based upon the recent multi-million Euro fine that was levied against Apple when a European Union Commission ruled that Ireland granted the corporation over 13 Billion worth of undue tax benefits, Rizqy believes that it's time the Cana-

dian government follows the commission's example and begins to pay close attention to its own international trade. Instead of going after pensioners who owe the government a few thousand in assorted back-taxes, fines and penalties, Rizqy said billions of potential tax revenue are flowing out of the country with little more than the effort that it takes to press 'send' in some corporate accountant's office. While several questions remain as to what the government can do to recover money that's already gone, Rizqy believes that a globalized economy could, and should, provide every government in the G7 with the tools they need to close tax havens all over the world.

"If we can begin the process, then it won't be long before the rest of the G7 follow our example because it's to everybody's benefit," she said.

Young and ambitious, Rizqy is already recognized as a major figure in Canada's financial community who could easily become Canada's first female finance minister. As a confirmed Liberal, she turned her passion into politics when she decided to join Justin Trudeau's federal Liberals and run for office in Montreal's Hochelaga-De Maisonneuve during the recent 2015 election. As the riding is known to be a nationalist fortress that turned to the NDP during the 2011 'Orange Crush' election, several political observers still can't understand why the Liberals would risk having such a high-profile candidate face such long odds in order to win her seat in the next Parliament.

"I wasn't a token candidate," said Rizqy. "My sisters and I were born and raised by our single mother in this part of the city (Hochelaga-De Maisonneuve) and I went to the district's public schools right up to the time when I went away to university."

Although she was beaten, it was still a close race and Rizqy is still determined to find the next available seat in Canada's federal parliament "... because that's where the money is."

"Tax reform is the only way we're going to find the money we need to provide kids with the decent and free education they need to pull themselves and their families out of poverty."

# Exploring the Strategic Opportunities of Blockchain:

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In the first best-selling book about the blockchain revolution, Don Tapscott and Alex Tapscott argued that blockchain technology will transform financial services, the deep architecture of the corporation, animate the Internet of Things, recast the role of government, revamp our content industries, and solve important problems like the security of organizations and the privacy of individuals. New blockchain-based business models will transform most industries, and big disruptors may themselves become disrupted.

It's now time to take the next step and conduct deep research into killer applications — identifying the most important opportunities for blockchain in business and government and drawing the roadmap for how to get there.

# Financial forensic evidence: Reconstructing business income

— Part 1

by Richard M. Wise, Partner,  
and Andrew Yas, Consultant MNP SENCRL, srl LLP

**I**n valuing a closely-held business, there may be cases in which the reported income (on the financial statement) of the business might not reflect its real income. Unlike publicly-traded companies, the privately-owned business is less focused on reporting large profits on its financial statements; rather, it often tends to (legally) minimize its net income and, hence, taxes within a reasonable threshold. There are cases, however, where the records of a business are incomplete, missing or otherwise lacking.

Suppressed business income can have a material and direct impact on a conclusion as to the value of an enterprise and dramatically affect shareholders, lenders, investors, taxation authorities, divorcing spouses, and other stakeholders who rely on the meaningfulness and integrity of the financial statements of the enterprise.

This article outlines a number of considerations with respect to the reconstruction of a business' operating profits for financial valuation purposes, particularly in those situations where "the books are cooked" in order to suppress income. It also refers to authoritative sources that the forensic accountant or business valuator might use to support the analytical techniques applied in financial litigation involving shareholder, matrimonial and taxation disputes.



*Richard M. Wise*



*Andrew Yas*

For example, in the United States, Treasury Regulation 1.446 authorizes the Internal Revenue Service (IRS) to compute income in accordance with whatever method clearly reflects income in cases where the taxpayer maintains no records, or the financial records are inadequate and unreliable. The percentage or unit volume method has been considered an acceptable method of proving income in the United States Tax Court. Also, the U.S. Tax Court has allowed the use of third-party supplier records in ascertaining the cost of goods and the gross profit resulting from business activities where the records are inadequate.

Both the IRS and the Canada Revenue Agency believe that indirect methods should be considered when, inter alia:

- Gross profit percentages change significantly from one to another or are unusual or low for that business.
- The taxpayer does not make regular deposits of income, but uses cash instead.

Determining, or verifying, the gross receipts of a business can sometimes be performed by multiplying the number of units sold by the selling price per unit. If this can be done with reasonable accuracy, the gross profit margin can then be applied to determine the gross profit of the business before overhead expenses. Determining the number of units sold is generally geared to some performance function, e.g., gallons consumed, garments made, etc.

A restaurant business can provide a particularly good example of the types of procedures that the forensic analyst can apply in order to prepare his or her expert report.

In its Audit Technique Guide, the U.S. Internal Revenue Service states:

"One fact that is consistent is that all restaurants have numerous sales transactions with small dollar amounts, taking place in a short time frame, such as during lunch or dinner. Many restaurants, especially smaller or closely held ones, are cash intensive and employees and/or owners handle large volumes of cash transactions every day."

Some observations culled from various commentaries by forensic experts include:

"Industry associations can also provide a source of industry operating standards. Business appraisers often experience difficulty in determining exactly what an expense item should be, due to the questionable nature of the financial statement reporting of the subject company. Industry operating standards are very useful in deciding what a "normal" operating level of a company should be.

...

"Another way in which industry standards can be useful is in determining if accounts are being "padded". If most companies in an industry have gross profit margins of 45 percent, and the subject firm has varying amounts, all under 45 percent, a close examination of the cost of goods sold category is warranted. Other accounts where businesses tend to bury items are travel and entertainment, bad debt, and promotional expenses. Industry averages are very helpful in determining what appropriate levels should be."<sup>1</sup>

In an article<sup>2</sup>, Unreported Income and Hidden Assets, the author states:

#### "Look at the industry

There are statistics available for many businesses, and the statistics of the subject business should be compared with others similar to it. In particular, the gross profit margins should be compared, and the overall profitability should be compared. If in the industry, it costs fifty cents for each dollar of sales, and in the subject business, it costs sixty-five cents for every dollar of sales, then one should examine the expenses to see if they are inflated by personal or unusual expenses. It may be that there is a logical explanation for the variance of the subject business from the industry norm, but the variance itself is an indication that something is unusual, and deserving of special analysis." (Emphasis added.)

In a case study on restaurants published by the American Institute of Certified Public Accountants, the authors comment as follows:<sup>3</sup>

#### Case Study I – Restaurant

"[The wife's attorney] astutely noted the husband's lifestyle, his incredible ability to live lavishly out of the humble restaurant profits and meager salary of \$500 per week. The husband's other investments did not account for his style of living, either.

"Once [the wife's business valuator] received the tax returns, he quickly noted that food costs were averaging 55 percent of sales. This figure was in the line with what the husband was professing all along; however, it seemed extremely high for [the valuator's] comfort. [He] decided to dig deeper into the numbers.

"According to [his] own experience and several industry sources, restaurant food costs typically fall between 28 percent and 40 percent of sales, depending on the style of restaurant. ... Given this knowledge, [he] questioned why the costs were so far out of line with industry norms. There were four scenarios likely to cause such a significant discrepancy:

- "1. Low prices ...
- "2. Large or excessive food portions ...

- "3. Employee theft ...
- "4. Unreported sales ... ." (Emphasis added.)

The IRS provides guidance to its income tax auditors in various publications it releases. The IRS Internal Revenue Manual states that indirect methods of determining income involve the development of circumstantial proof of income through the use of bank deposits, source and application of funds, net worth or other methodologies.<sup>4</sup>

"Irregularities in a taxpayer's books, inconsistencies between reported income and personal living expenses, increases to net worth not supported by reported income, or cash [T accounts] that cannot be balanced are not unusual. These inconsistencies may lead examiners to conclude that the taxpayer's tax return and supporting books and records do not accurately reflect the total taxable income received. These conclusions may be confirmed by using an indirect method to reconstruct income." (Emphasis added.)

For a bar operation, for example, forensic analyst would obtain copies of purchase invoices from the liquor board and, based on the establishment's posted prices for the drinks

and estimated volume consumed, a sales figure could be reconstructed.

Interestingly, some of the methods used to reconstruct a defendant's business income can be very similar to those applied in determining damages for lost profits.<sup>5</sup>

In *Maltese v. Commissioner*<sup>6</sup> the United States Tax Court ruled in favour of the Internal Revenue Service, where the taxpayer failed to keep adequate records for a pizza restaurant's sales, cost of sales and expenses. Not all of the restaurant's receipts were deposited and some of the expenses were paid in cash. The court found for the IRS, which had used supplier information to reconstruct the income. The Service determined corrected gross receipts from the estimated number of pizzas that could be made from the amount of flour purchases during the years in question. However, because the IRS failed to compare the pizzas sold by the taxpayer with those sold by retail chains, which provided the information on which the reconstruction was based, it was criticized by the court. The IRS Pizza Restaurant Audit Technique Guide accordingly instructs its agents to support the application of the method by carefully documenting the quantity of flour the taxpayer would need to produce a given number of pizzas.



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The level of "actual" revenues may be imputed by dividing certain profit- or expense-related line items appearing on the firm's income statements by an appropriate "industry norm" profit margin or percent of sales statistic (such as total salary and benefit expense, operating profit margin, gross profit margin, etc.). The reported revenues may then be deducted from the imputed actual revenues, with any positive balance representing the amount of indicated understated revenues.

Another method often used for purposes of marking income-statement adjustments is to consult publicly available statistical reference sources providing industry "norms" or benchmarks with which a subject firm may be compared.

In the final analysis, a judge may have to weigh the expert evidence of each of the parties.

Part 2 of this article will use the business of a delicatessen to provide an example of how income can be reconstructed.

<sup>1</sup> S.F. Stone, "Analyzing and Adjusting Financial Statements", *Valuation Strategies, Third Edition* (Ed. R.D. Feder), John Wiley & Sons (New York: 1993), pp. 8 and 9.

<sup>2</sup> Posted at [www.divorcesource.com](http://www.divorcesource.com).

<sup>3</sup> *Income Reconstruction: A Guide to Discovering Unreported Income*, American Institute of Certified Public Accountants (New York: 1999).

<sup>4</sup> U.S. Internal Revenue Service, Department of the Treasury, *Internal Revenue Manual, Part 4, Chapter 10, Section 4, "Examination of Income", Section 4.1.10.4.6, "Indirect Methods of Determining Income – Overview"*.

<sup>5</sup> See, for example, Richard M. Wise, "Quantification of Economic Damages", *The Journal of Business Valuation, Proceedings of the Fourth Joint Business Valuation Conference of The Canadian Institute of Chartered Business Valuators and the American Society of Appraisers*, Montreal, 1998, pp. 361-412.

<sup>6</sup> TC Memo 1988-322.

## A unique Native Holiday, June 21st of each year

**M**.P. Robert-Falcon Ouellette (Winnipeg Centre) introduced petition e-607. The petition calls upon the House of Commons to designate June 21st of each year as a legal holiday. Making this day a legal holiday would solidify the original intent of National Aboriginal Day as a day for Canadians to recognize and celebrate the unique heritage, diverse cultures and outstanding contributions of First Nations, Inuit and Métis peoples.

"This day would serve to create and strengthen opportunities for nation building for Indigenous peoples and the ideal of reconciliation among Canadians," said Robert Falcon. "There have been many groups that have called upon federal, provincial and territorial governments to recognize June 21st as a legal holiday to recognize the true history of our nation." The full text of the e-petition can be found at: <https://petitions.parl.gc.ca/en/Petition/Details?Petition=e-607>

### Petition to the House of Commons

Whereas:

- June 21 is recognized as the Summer Solstice and holds cultural significance for many Canadian Indigenous cultures;
- In 1982, the National Indian Brotherhood (Assembly of First Nations) called for the creation of a National Aboriginal Solidarity Day to be celebrated on June 21;

- In 1990, Québec recognized June 21 as a day to celebrate the achievements and cultures of Canadian Indigenous peoples;
- In 1995, the Royal Commission on Aboriginal Peoples recommended that a National First Peoples Day be designated;
- In 1996, the Governor General of Canada proclaimed June 21 as National Aboriginal Day in response to these calls;
- In 2001, Northwest Territories became the first province or territory to recognize June 21 as a statutory holiday; and
- In 2015, the Truth and Reconciliation Commission called on the federal government, in collaboration with Aboriginal peoples, to establish a National Day for Truth and Reconciliation as a statutory holiday.

We, the undersigned, citizens of Canada, call upon the House of Commons to designate June 21 of each year as a legal holiday to be kept and observed throughout Canada. This day should serve to create and strengthen opportunities for Reconciliation and cultural exchange among Canadians. The day should facilitate connections between Indigenous and non-Indigenous Canadians in positive and meaningful ways. This day should solidify the original intent of National Aboriginal Day as a day for Canadians to recognize and celebrate the unique heritage, diverse cultures and outstanding contributions of First Nations, Inuit and Métis peoples.

# Check your grand-mother's jewelry box

By Olga Shevchenko

**T**oday, I would like to talk about natural pearls. Why do people pay fortunes for pearl jewelry at auctions? What makes pearls so valuable and searched for?

Pearls are gifts of Mother-Nature; being produced by the molluscs, they do not need any additional fashioning or embellishment. Pearls are gorgeous and glowing right out of the mollusc.

A pearl is an organic gem that comes from a living being, a mollusk. However, do not expect that you may find a pearl while eating oysters or mussels in a restaurant! The most pearl-producing mollusks are not edible.

As rarity is one of the major factors determining the value of any piece of art, including jewelry, natural pearls are valuable because they are rare. 100,000 different types of mollusks being known, only about 20 among them may produce pearls. Thus, natural pearls are extremely rare. They grow in the mollusks living in the "wild" nature, without intervention of men. Then, a pearl diver should dive for the mollusk to look for a pearl that may grow in it. He may find a pearl when he opens the mollusk or he may not. Actually, a pearl diver may dive for many years and amass only a handful of natural pearls. And, among these pearls only a few might be beautiful and valuable.

In some cultures of the ancient world, including Egypt and Rome pearls were considered to be the most valuable gems. Moreover, in ancient Rome, the so-called "sumptuary laws" were dictating how many pearls a person was allowed to wear at one time.



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You may not believe but in 1916 Louis Cartier, owner of the world-known luxury goods company Cartier, purchased a mansion on the Fifth Avenue in New York for a pearl necklace cost \$1 million in those days. Maisie Plant fell in love with that necklace made of two strands of beautiful white round natural pearls, and she traded her mansion for the necklace. Since then, this mansion has become a New York landmark for Cartier.

Today, the demand for natural pearls is rising as well as their prices. Big auctions, like Christie's and Sotheby's, are always offering exceptional jewelry made of natural pearls, and, as a rule, these pieces are extremely expensive.

For instance, the legendary Baroda pearls that used to belong to Sita Devi, one of the most notorious and flamboyant maharanis of all time famous for her passion to jewelry. Maharaja was madly in love with her and he made her a royal gift – a magnificent natural pearl necklace belonging to the Royal Treasury of Baroda in India.

This historic pearl necklace has two strands and it comprises 68 graduated (9.47 to 16.04 mm) natural pearls,

all matched to color, luster, size and shape finished with a Cartier diamond clasp. This necklace was referred to as "the epitome of elegance, extravagance and rarity".

In 2007, this stunning pearl necklace was sold at the auction at Christie's New York for a record price of US\$ 7,096,000. An anonymous buyer from Asia set this world auction record.

Unfortunately, today, due to overfishing and pollution, mollusks producing pearls are becoming rarer and rarer. Natural pearls may be found primarily at the auctions and

estate sales. Nowadays, the pearl market is cultured pearls market.

Therefore - if you have pearl jewelry that used to belong to your grand-mother or even great-grand-mother, you might be a lucky owner of a piece of jewelry made of natural pearls!

**You may purchase designer jewelry created by Jewelry Olga at the Boutique of Museum of Fine Arts of Montreal.**

## Suffolk University Launches Master's Program Focused on Big Data High demand for professionals with MS in Business Analytics

**S**uffolk University's Sawyer Business School will introduce a master of science in business analytics, or MSBA, program in fall 2017 in response to the enormous and growing demand for professionals with big data skills.

Companies want leaders who can turn data into insights and dollars, and business analytics is influencing a variety of functional business areas, such as operations, marketing, sales, human resources and logistics.

Yet the United States faces a talent shortage in big data, according to research from the McKinsey Global Institute, which predicts an unmet need of as many as 190,000 professionals with deep analytical skills and 1.5 million data and analytics managers by 2018, the year that the first full-time graduates of Suffolk's program will be ready to enter the field. The MSBA may be completed in one year of full-time study or up to two years of part-time course work.

The U.S. Bureau of Labor Statistics projects faster-than-average growth in jobs for management analysts – including business analysts – in coming years, as follows:

- Management analyst – 14 percent growth
- Market research analyst – 19 percent growth
- Operations research analyst – 30 percent growth
- Financial analyst – 12 percent growth

"Equipped with knowledge and practical skills of data management and business analytics, our graduates will be able to implement high-level, data-driven decisions across a wide range of industries," said Professor Ken Hung, chair of the Information Systems and Operations Management Department, where the program is based.

"We believe that MSBA graduates should be equipped with knowledge and hands-on experience in both data management and business analytics in order to be fully prepared for their prospective careers," said Hung.

The Master of Business Analytics Program qualifies as a STEM – designated program. In addition to reading MSBA graduates to apply business analytics technology and methodology in their fields, the MSBA program also may serve as an avenue to a career change for STEM graduates who seek to extend and apply their quantitative and analytical abilities in business analytics. The course work also can prepare graduates for future certification in SAS, Excel and SAP.

Students may opt to concentrate in areas including:

- Finance
- Healthcare
- Accounting
- Marketing

The Business School also offers undergraduate majors and minors in business analytics.

# The future of the legal profession?

## The polycephalous lawyer

By Me Alexandrine Huck-Ananou

I started my career as an Intellectual Property lawyer in Montreal in 2011 after a decade of studying in Europe, Canada and the U.S.A. I have since lived in California, Paris and London, and worked at four firms in three different countries<sup>1</sup>. In doing so, I have most probably transgressed all of the rules on how to have a successful legal career. The risk-averse, or some would say "wiser", lawyers would undoubtedly recommend sticking to one jurisdiction, spending a minimum of three years at a law firm, and specializing in one practice sector.

I would like to offer another, maybe (for some) controversial, view on what an early successful legal career can look like, and explore the legal career myths by arguing that the polycephalous (i.e. international, multi-disciplinarian and different) lawyer might actually be the future of our profession.

I will touch on three misconceptions about lawyers:

1. A lawyer cannot have an international career unless he/she works in international arbitration or international law.
2. A lawyer should be a specialist not multi-disciplinarian (in other words not a polymath).
3. A lawyer needs to conform in order to be successful.

### Can a lawyer truly have an international career?

"Unfortunately, most people are born in one place and then live in or near that place for the rest of their lives acting like plants, but I don't think acting like a plant is a good survival strategy for a human."<sup>2</sup> Doug Casey (American writer and founder of the Casey Research)

Many of my former classmates and colleagues have chosen to pursue careers in New York, Geneva, Hong Kong,



Me Alexandrine Huck-Ananou

Paris, London, Munich, Dubai etc. Some have come back to Montreal; others have spread the Canadian/Quebec culture internationally. Most of them, if not all, are in my opinion the most successful young lawyers I know.

It is difficult to reconcile the very nature of lawyers, i.e. experts in local law, and the desire to have an international legal career. Yet it is possible, and in fact being from Quebec might actually give you more international opportunities than you'd think. Quebec enjoys a strategic geographical and cultural position. For instance, thanks to its privileged relationship with France the Bar of Quebec has successfully negotiated an agreement allowing Quebec lawyers to take the Paris Bar exam (which was essentially reduced to an ethics (15 min) oral exam). This opens many other doors, notably the opportunity to work as a lawyer in any jurisdiction in the E.U. without having to take any additional exam.<sup>3</sup> The U.S.A is also accessible as many American bar associations allow Canadians with a common law degree (now available at many universities in Quebec) to take their State bar exam.

But how is it possible to be competitive and add val-

ue if you do not have specific knowledge of the local law. Developing legal acumen has become as important as having business acumen, and building this acumen requires more than good knowledge of the law. Other (often trivialised) skills/knowledge such as commercial awareness, industry knowledge, advocacy, creativity and strategy are sought-after tools that can add tremendous value especially when translating legal advice into business strategy advice. More specifically, in multi-jurisdictional patent litigation it is often paramount for clients to have a global view identifying the differences among the different key jurisdictions. I appreciated this very much while working at EIP Legal LLP (in London) on the *Unwired Planet v Huawei* case, one if not the largest telecoms case in the history of the UK. This was a David and Goliath case, fighting giants such as Samsung, Google and Huawei.<sup>4</sup> The client was American and required that we work with American lawyers. It was a definite strength to be able to serve as an interpreter between the two cultures.

Not knowing the law might also be an advantage.<sup>5</sup> As the law is constantly changing (even the most local law like procedural law) the skilled lawyer can grasp the opportunity to be an expert in the new case law or new legislation. When I worked at Allen & Overy LLP in Paris for instance, I was involved in a very large litigation for Pfizer, which combined my speciality, patent law, but also local regulatory law. I found that learning local French pharmaceutical regulatory law from scratch with a trained legal eye was an actual strength rather than a weakness.

Finally, globalisation has forced a certain degree of legal harmonisation (certainly in my particular field), which has definitely made it easier to transfer from one jurisdiction to another. Thus, I see no reason why in today's world a lawyer couldn't have a successful international career.

### Can you be a specialist and generalist at the same time?

The world is changing rapidly; even regulatory law recently deserved its own RegTech revolution (!). The legal profession is thus trying to catch up with the fast-moving business world of their clients: some start using "legal bots" to differentiate themselves while others offer services to target hot topic matters involving for e.g. AR/VR (augmented reality/virtual reality), blockchain, cyber security or artificial intelligence.

The reality is that most of our future clients won't require

advice that clearly fit into our siloed legal practices. I recently worked for one of the largest financial institutions in the world on a major cyber security threat, which necessitated creative legal thinking and combined copyright, patent law, data protection, trade secret law, contractual law, criminal law and regulatory law. My expertise in intellectual property was critical in providing a timely advice and strategy but the ability of my team to address the specificity of the matter while connecting the dots and bridging the gaps between the different legal fields was even more crucial.

Lawyers are increasingly asked to anticipate multi-dimensional business/legal issues for their clients and in order to meet this need we will have to get out of our comfort zones (specific legal practice) and be able to deal with complex multi-disciplinary matters.

### The importance of being different

I recently attended a conference at my firm on how to build your personal brand. This has become a hot topic but also one that makes lawyers cringe. Lawyers are not always great at marketing themselves, yet they can be incredibly valuable business advisors. Building your brand also means understanding what the clients want and how your particular strengths can help them achieve their goals.

Being different can help building your brand and finding your niche. I remember that coming back from my LL.M at UC Berkeley a partner at a top law firm in Montreal gave me the following career advice: "normalise" your resume, i.e. delete a bunch of degrees and experiences to make it all seem more "normal". Of course, I did the opposite and ended up working at one of the largest firms in the world thanks to my multi-cultural and multi-disciplinary background (I am an Epidemiologist and IP lawyer). In a conservative legal ecosystem, it is difficult to admit that one can have a non-linear career. Yet, I can find many examples around me to demonstrate that promoting your differences can lead to a very successful, original, rewarding, fulfilling and exciting career.

You can also leverage your difference. A good example is by creating networks thanks to your differences. For example, as a Canadian lawyer working in London (U.K.), I recently founded the Canadian Lawyers Association in the UK (surprisingly despite the presence of many Canadian law firms there was no association of this kind in the U.K.). This has

been the opportunity to connect with in-house counsels, local government, and industry leaders etc. (see more at <https://www.linkedin.com/groups/Association-Canadian-lawyers-in-UK-13514112/about>).

### Conclusion

As the younger generation of lawyers we have a duty to re-think and to a certain extent re-invent our profession. I hope this article inspire some to take more risks, grasp more opportunities and join the international, multi-disciplinary, polycephalous community.

- 1 I now live in London where I practice Intellectual Property Law at Bird & Bird LLP (ranked No. 1 in Europe for Intellectual Property Law).
- 2 I am not a proponent of Doug Casey's ideology.
- 3 Upon admission to the Paris Bar (or any other European Bar) you can apply to be a European Registered Lawyer in any jurisdiction in Europe and practice the local law. Also, the French Bar is currently negotiating an agreement with the Law Society in the United Kingdom in view of Brexit.
- 4 What I discovered during this case (which is rather unknown by most unless you've worked in that sector) was that the first phones providing internet used a different protocol which ran "Apps". In 89, Alain Rossmann (former Apple employee and founder of several other companies) said the App is the future. However as we all know today, this was made obsolete when Apple introduced the iPhone which used internet browsers rather than Apps. We often give credit to Apple for the creation of the App when Apple was actually the reason the App took an extra decade to become relevant (again).
- 5 See more in Malcolm Gladwell's book *David and Goliath*.

## Wall Street Fraud Watchdog Helps Prevent EB-5 Visa Investors From Throwing Their Money Away with Investment Specific Due Diligence and Assistance Finding the Most Skilled Lawyers

**The Wall Street Fraud Watchdog urges persons in China, Eastern Europe, the Middle East or South/Central America who would like to take advantage of the US government's EB-5 Visa program to call 866-714-6466 before they start throwing money at attorneys and or 'Regional Center' investment opportunities.**

Their biggest concern is a person or family like this will overpay for legal services or worse throw their money away on an investment that is over-priced, poorly planned, or it is little more than a scheme to steal the investor's money.

The Watchdog's fees are extremely reasonable and their due diligence service is market/area and investment specific with a huge emphasis on honesty. Additionally, as part of their service they will do their best to ensure a EB-5 Visa applicant/investor is dealing directly with some of the most skilled and experienced lawyers EB-5 attorneys in the US-who do not overcharge their clients. <http://WallStreet-FraudWatchdog.Com>

Recently, the Watchdog spoke with a South American business person who was on the verge of spending \$40K US on a US based law firm-just for his initial application along with what would have been a significant investment in an apartment REIT in Southern California-plus additional back end legal fees that would have been another \$40K. The group told the potential EB-5 Visa applicant very bluntly that in their opinion the law firm's fee were excessive.

Adding insult to potential injury the new apartment building in Southern California that had been promoted by a regional center had virtually no tenants-after being available for occupancy for three months. The apartment markets in much of Southern California are overbuilt, and the last thing the Wall Street Fraud Watchdog wants to see happen is a EB-5 Visa applicant/investor wasting their money on an investment that will not produce a return for a very long time-or ever.

One of the Wall Street Fraud Watchdog 's big worries about the USCIS EB-5 Visa program is that international law firms in China, Central America, the Middle East or in Europe could be more interested in fee generation for the firm than a high quality outcome for the EB-5 Visa applicant. At the same time- they are not confident an international law firm would be very accurate when it comes to solid investment advice related to a satisfactory investment for the applicant, or a regional center that has a make sense investment for the applicant. Their initiative is all about protecting the EB-5 Visa program applicant and their money , asking, " Why settle for less?" <http://WallStreetFraud-Watchdog.Com>

For more information related to investment due diligence for a potential EB-5 Visa investor, please contact the Wall Street Fraud Watchdog at 866-714-6466. <http://Wall-StreetFraudWatchdog.Com>

# The protection mandate: a vital tool

By Normand Jutras, Public Curator

**I**n Québec, more than 13,000 people are currently under a homologated protection mandate, meaning that each and every one of them was thinking ahead when they appointed a family member to take care of them in the event they were declared incapable.

In my opinion, a protection mandate is essential. It's an important planning tool that allows you to decide who will take care of you and your property in the event of your incapacity. If you don't have a mandate, your loved ones will make that decision for you—and they may not choose the person you would have chosen for yourself.

It's also an act of love and kindness toward your loved ones, because you'll be sparing them the trouble of having to institute protective supervision, not to mention possible confrontations during the meeting of relatives and friends, which is something we've seen happen before.

A recent survey revealed that 2.8 million people, or 42% of adults in Québec, have a protection mandate. This number needs to be higher.

Too many people think that incapacity is something that happens only to seniors, so they put off preparing their mandate until they're older. But, unfortunately, incapacity can strike at any age, whether because of an accident, a severe stroke, or mental health problems.

It was in 1990 that Québec introduced the protection mandate, formerly known as the mandate in case of incapacity. One of the most important aspects of my job as Québec's Public Curator is to educate people about it. Since my appointment in 2013, I've regularly talked about the protection mandate at meetings with representatives from the



*Normand Jutras, Public Curator*

health and social services network, and during my appearances as a guest speaker at various events.

There's no denying the benefits of the protection mandate. When you prepare your protection mandate, you specify in advance the scope of the powers given to the people who will take care of you and your property.

The protection mandate can be prepared by a notary or a lawyer, or using the form and guide available free of charge on the Curateur public's website.

When preparing the mandate, the mandator must pay special attention to their choice of mandatary, who must be someone they trust and with whom they will have previously discussed the subject.

The mandator can feel secure knowing that the mandate

can provide for certain surveillance measures, such as the production of an annual inventory or report. It's also always a good idea to appoint a replacement mandatary. You can also name two mandataries: one for your person and another for your property.

The mandate can be changed at any time. It's also recommended that you review it periodically, when major life events occur (separation, marriage, illness, etc.)

The enactment of the new Code of Civil Procedure in January 2016 reiterated the obligation of notaries and special Superior Court clerks to question the person concerned by the mandate during the homologation process. In addition, more interested parties are now notified during an application for homologation.

### A mandate for half of all Québécois

In our 2016-2021 strategic plan, my organization set a goal to increase citizens' awareness about the importance of protecting their loved ones should they become incapable. The target: 50% of Québécois with a protection mandate by 2021.

It is my firm belief that all Québécois need to take an interest in protecting their loved ones and that each and every person living in this province needs to consider the implications of incapacity.

The general consensus in Québec about the importance of friends and family to an incapacitated person is clear: 9 out of 10 Québécois say they would want to take care of a loved one who became incapacitated, and an equal number say they would want to be represented by a family member. The Curateur public's mission is to ensure the protection of incapable persons. It will always be there, as a last resort, to take care of incapable persons who are isolated or whose family cannot or does not want to assume this role.

#### A few facts about the Curateur public

- Founded in 1945
- Close to 660 employees
- A budget of almost \$62 million
- Administers assets of \$499 million
- More than 3,000 mandates are homologated annually in Québec, making the mandate the most common protection measure
- Oversees more than 43,000 adults and young Québécois who are under public or private supervision

## Fasken Martineau partners comment on Canada's efforts to legalize access to marijuana

**T**he Canadian federal government is setting the stage to legalize the use of marijuana by adults by July 2018. Last week, the government introduced legislation – the Cannabis Act – that establishes a legal framework for the production, possession, distribution and sale of cannabis and cannabis products, as well as the enforcement of cannabis related offences.

Fasken Martineau lawyers Barbara Miller and Christelle Gedeon, Ph.D., based in Toronto, recently published a bulletin providing an overview of the Bill.

While there are 43 companies that have the necessary authorizations from Health Canada to produce medicinal cannabis, the new legislation would legalize its recreational use. As such, adults over the age of 18 will be allowed to have up to 30 grams of dried cannabis in public, and to grow up to four plants per residence for personal use.

Interestingly, say the authors of the bulletin, "given the focus of the new law, and presumably to avoid the impression that the Liberal government is promoting the use of cannabis, the term 'recreational use' is notably not contained in the Bill." The proposed legislation contemplates measures for restricting access of cannabis to minors by, among other things, deterring illegal activities such as drug-impaired driving; and ensuring a quality-controlled supply by licensing commercial producers of cannabis. Moreover, the proposed bill contains provisions seeking to tightly regulate the promotion and advertising of cannabis and cannabis related products. The requirements for product labelling and restrictions on marketing and advertising activities borrow heavily from the food and pharmaceutical advertising restrictions already existing in Canada.

Still, Ms. Miller and Dr. Gedeon, a doctor in pharmacology and toxicology, note that many questions remain about the proposed legalization. For instance, still to be determined are the rules governing the distribution and sale of cannabis, including whether store front operations will be permitted, and which matters are to be managed by the provinces and local municipalities. Also outstanding are questions surrounding pricing, taxation, quality standards and inspection procedures to monitor compliance.

# Unprofitable subsidiaries becoming new tax haven for multinational corporations

**M**ultinational corporations are moving income from their profitable, high-tax subsidiaries into unprofitable ones to save money on taxes, a University of Waterloo study has found.

The study's findings shed light on a tax planning strategy that is not currently focused on by governments, which tend to focus their efforts on firms who move their money from countries with higher taxes to lower tax-rate countries to save.

"Governments expend considerable effort to prevent their tax bases from being eroded by companies moving their money offshore," said Ken Klassen, the study's author and an accounting and finance professor at Waterloo. "This insight could help tax authorities better target their efforts,"

Using theoretical models, the researchers examined income shifting by multinational firms and data from nearly 60,000 subsidiaries from 2003 to 2012 in Europe.

They found that firms that are in a country with a high tax rate are saving a significant amount of money by moving income to their unprofitable subsidiaries. The unprofitable subsidiaries are taxed at a lower rate than those that have higher profit margins.

The trend, said Klassen, is not unlike what he's seeing in research focusing on Canadian and American companies.

"Analysts may not consider that a Canadian multinational would want to shift income into the U.S., where the tax rate is higher," said Klassen. "These findings show us that North American companies can actually save a significant

amount of money if they move income to an unprofitable affiliate in another jurisdiction.

"Determining if foreign affiliates are experiencing losses could benefit organizations such as the Canada Revenue Agency (CRA) in deciding which transactions to scrutinize."

While changing income earning patterns to use the losses runs the risk of drawing attention from taxing authorities such as the CRA, said Klassen, the savings seem to outweigh the potential negatives for many.

If the subsidiary does become profitable again, however, the extra income would be taxed at a higher rate.

The study was recently published in *The Accounting Review*.

## Wrongly convicted man passes New York bar exam



Martin Tankleff, who was arrested at age 17 and would spend 17 years in prison for a wrongful conviction in the murders of his parents, has passed the New York state bar exam.

# Golden Visas & The Promised Land

**The scandal-ridden EB-5 program jumped back into the news this week with a Washington Post story about the Kushner company hawking Golden Visas in Beijing. Jared Kushner of course is Ivanka's husband and a top adviser to the president. He has recused from EB-5 issues and divested from much of the family business, but that hasn't fooled the Chinese. A culture that's been around for four thousand years knows a few things about emperors and princelings.**

We warned about EB-5 trouble in December and again in January. Critics say the visa program is a magnet for all sorts of shady deals. Senator Charles Grassley has denounced it on the floor of the Senate, saying the program may be "facilitating terrorist travel, economic espionage, money laundering and investment fraud." A Government Accountability Office report said international funds for EB-5 visas could come through the "drug trade, human trafficking, or other criminal activities."

Under EB-5, foreigners—these days, mostly rich Chinese—pay \$500,000 for the so-called "Golden Visa," gaining a green card and a path to U.S. citizenship. The program has brought in around \$20 billion and possibly a lot more—it's hard to get a firm figure out of the loosely supervised initiatives. It is beloved by the American real estate industry because it provides cheap money to finance development projects, including lavish spreads in Miami, Manhattan Brooklyn, Las Vegas and Beverly Hills. Never mind that the program is supposed to provide funds for the creation of jobs in economically distressed areas.

The Trump Organization is connected to EB-5 through a \$40 million play by a luxury hotel in Austin. Jared Kushner raised \$50 million in EB-5 funds for a luxury tower in New Jersey. It's the New Jersey project that thrust EB-5 back into the spotlight this week.

On Saturday, Washington Post reporters in Beijing got wind of a Kushner family EB-5 sales event. "Over several hours of slide shows and presentations, representatives from the Kushner family business urged Chinese citizens gathered at the Ritz-Carlton hotel to consider investing hundreds of

thousands of dollars" in the New Jersey project, the Post reported. The event was led by Nicole Kushner Meyer, Jared Kushner's sister. References to Jared Kusher and President Trump appeared in the promotional material. "Kusher family ties were an obvious part of the project's appeal," the Washington Post report noted.

"Even though this is the project of the son-in-law's family," Chinese investor Wang Yun told the Post, "of course it is still affiliated."

Of course it is. To win favor with the emperor, do business with the prince. The naïve do not survive long in the swamp.

The Post noted that since Mr. Trump became president, "rumors have circulated among the wealthy of the world about the future of the EB-5 program, given Trump's repeated vows to crack down on immigration and the increased congressional scrutiny of EB-5." The program was set to expire right before the Kushner sales pitch in China, but in an amazing coincidence, an extension mysteriously appeared in a obscure citation buried deep in the dense budget bill passed by Congress.

## THE LORD READING LAW SOCIETY SAVE THAT DATE

The Lord Reading Law Society is pleased to announce that on Wednesday, October 25th, 2017, it will be holding a gala dinner program featuring the Honourable Justice Rosalie Abella of the Supreme Court of Canada and Honourable Justice Stephen Breyer of the Supreme Court of the United States.

Please consult [www.lordreading.org](http://www.lordreading.org) or [www.facebook.com/LordReadingLawSociety](https://www.facebook.com/LordReadingLawSociety) for further details as the date approaches.

**Me Larry Markowitz, *President***  
**Me Ian M. Solloway, *Dinner Chair***

Prosecutions for EB-5 abuse are underway in California and Idaho, but President's Trump's hometown appears to be one of the biggest offenders. Senator Chuck Schumer is a fierce defender of EB-5 funds for major real-estate developers. Mr. Schumer is a longtime ally of the powerful developer and Democratic Party heavyweight Bruce Ratner, a Clinton confidant who built the Barclays Center sports arena and Atlantic Yards development in Brooklyn with more than \$500 million in EB-5 funds. Mr. Ratner is also in the EB-5 business on Long Island, where he has teamed up with a Russian mogul, Mikhail Prokhorov, to seek \$90 million in EB-5 funds for the renovation of Nassau Coliseum.

According to a Judicial Watch investigation, after leveraging more than \$1 billion in taxpayer assistance and EB-5 funds to develop Barclays Center and Atlantic Yards, Mr. Ratner walked away from the project. He sold his stake in Barclays to Mr. Prokhorov for more than \$500 million and transferred ownership of Atlantic Yards to a business controlled by the Chinese government for \$208 million. All this is perfectly legal, which is the real scandal.

In fact, most EB-5 money appears to end up in New York City. Recent data (see here and here) suggests that about 56% of EB-5 funds—more than \$10 billion—went to the city. David North of the Center for Immigration Studies drilled down into a study by two New York University scholars, Jeanne Calderon and Gary Friedland, who painstakingly compiled data from 52 large EB-5 projects nationwide.

Mr. North's conclusion? The Obama administration hid a "huge tilt" of EB-5 funds to New York. The "Obama administration," writes Mr. North, "...has refused to produce statistics on the distribution of EB-5 moneys geographically.... Whether the administration did this deliberately or not, the result has been to mask the enormous tilt of these funds—originally designed to serve depressed areas—to prosperous areas such as Park Avenue and Wall Street."

Responding to the EB-5 uproar this week, the Trump White House issued a statement saying it is "evaluating wholesale reform of the EB-5 program." Meanwhile, if you can afford one, the Golden Visa still buys a ticket to the Promised Land.

## Global legal services will see a deceleration in growth through to 2021 after sluggish 2016, says MarketLine

**The global legal services market experienced a slowdown in growth during 2016, resulting in a compound annual growth rate of 2.2% between 2012 and 2016, to reach a value of \$584.4 billion, according to data from research company MarketLine.**

The company's latest report states that North America continued to be the largest region in terms of value, accounting for 52.9% of the global market. Despite being home to some of the largest economies in the world, Asia-Pacific only achieved 14.3%, less than Europe with 26.8%.

The US continued to be the largest single market in terms of value, occupying 49.6% of global value in 2016 and 94% of the North American market, underlining the country's global importance.

Christopher Leyman-Nicholls, Analyst for MarketLine, says: "Although the market is forecast to grow in the near future, the rate of consolidation in the US suggests the legal services market is struggling to generate growth opportunities, explaining why the US market stood still in 2016. Given

the dominance of this market, its decelerating growth harms the sector's global value, encouraging large-scale mergers around the world."

An absence of growth in 2016 has encouraged the trend of mergers and acquisitions, which has picked up pace of late. One such merger is that involving Sutherland Asbill & Brennan and UK Eversheds, which has created a company of 2,300 legal professionals across 29 countries. Although growth is expected to return to the global market from 2017 onwards, the speed of recovery will be relatively slow compared to growth achieved before 2016. Consequently, the market should expect to undergo further mergers in the coming years.

Leyman-Nicholls continues: "MarketLine expects the US to be the main driver behind future growth, despite failing to grow in 2016. The US occupies nearly half of the global market, denying any other single country an influencing role. Were the current trend for mergers and acquisitions in the US to stop or slow down without the return of sustainable growth, the global market would likely decline in value."

# Build, Maintain and Evaluate Your Business Contact Network

"In today's complex society of comparably skilled, interdependent people, it is more true than ever that success is less a function of what you know than who you know and who knows you."

– Dr. Ronald S. Burt, Department of Sociology, University of Chicago

By Amber Vincent

**A**fter their license, the most valuable, and often ignored, asset an attorney has is their network of personal contacts. If your firm is stuck on creating its overall database, create your own using your email system, such as Outlook, or at the very least keep one in a spreadsheet. Be sure to categorize each contact with their industry or practice area (Real Estate, designate what kind of contact they are such as Referral or Client; and what they should receive from you like a holiday card so you can easily pull your list when the time comes.)

Understanding how business networks function, what makes some relationships stronger than others, and how to evaluate a robust community of influential contacts is key to efficiently achieving your goals.

A professional social network is a group of individuals who are in contact with one another and who serve each other as an unpaid labor source furthering their mutual business interests.

There are three kinds of contacts in such a network:

- Everyone you know

- Everyone you have ever known, and
- Everyone who knows you (but you don't know them)

The first group is where we focus most of our attention. It is the easily-met people, the people to whom you feel closest, including family, colleagues, neighbors, and friends.

The second group is the one most professionals tend to ignore. "Everyone you have ever known" are the contacts that you have allowed to fade over time, people you once knew well but no longer see often, if ever, or feel close to. This group - former neighbors, past customers or clients, someone you "did a deal with last year," classmates, a person who served on a committee or board with you - is a group worth focusing on.

Research shows that professionals often get key information, access to scarce and critical resources, some of their best leads and referrals from this second group. That's because these people are most likely to know about opportunities unknown to you. This makes it fair to say that a large measure of the future success in business lies with those from your past.

The third group of contacts is important in another way. They are a resource you have, but of which you are unaware. You become aware of them by that unexpected phone call or email with the familiar beginning: "I was

taking with your friend, Mary Jones, and she said you would be just the person we need to handle our new joint venture," or "I don't believe we've met, but several people I trust have said that we would be lucky to have you help with our new venture."

One of the goals in designing your network is to emphasize this third kind of interaction, commonly called the "power-" or "endorsement-referral" so that your

network does the work of furthering your interests for you. How do you accomplish power-referrals? By maintaining regular contact with members of your network, and by clearly communicating who you are and demonstrating to those contacts over time the specific applications of your expertise. Do that, and reciprocate when helped by others, and you'll develop a robust flow market information you can use and regular looks at desirable matters.

## New Book About the Art of Practicing Law

**A**uthor and lawyer John Allison has just released his third book, *The Art of Practicing Law: A Practical Guide for Lawyers*. This book fills the gap between the critical skills taught in traditional law school courses and the additional skills and attributes that are needed to be highly effective as a lawyer. The book is written to help lawyers master the art of practicing law, whether they are in private practice, in government agency practice, or working in-house for a business corporation or a non-profit organization. Law students reading this book will gain helpful insights about the practice of law as they decide where they want to practice.

The *Art of Practicing Law: A Practical Guide for Lawyers* provides clear guidance with illustrative examples on a number of topics, including these: building trust in professional relationships and communicating effectively with clients, colleagues and other people; creating and maintaining solid relationships with clients and serving their best interests; being an effective leader; dealing with difficult people without becoming adversarial; the art of negotiation; the keys to effective advocacy; developing case themes and narratives, taking depositions and working with expert witnesses in civil lawsuits; making the most

of mediation as an alternative to litigation; representing clients wholeheartedly without compromising personal morality or integrity; and maintaining personal well-being. The book can be purchased at [www.amazon.com](http://www.amazon.com).

The book's author, John Allison, is a successful lawyer with extensive experience. He was a law firm partner in private practice for many years, representing individuals, small businesses, non-profits and large companies. His law practice grew based on repeat business and referrals from satisfied clients. While in private practice he chaired a committee of the American Bar Association, served as a Judge Pro Tem, and had management roles at two different law firms. He then joined the legal department of a Fortune 100 company. As Assistant General Counsel he hired and led teams of lawyers representing the company in mass tort, class action and other complex litigation, and wrote the guidelines the company used to hire and evaluate lawyers in private practice. His experience working closely with senior corporate executives and department managers enabled him to develop a deep appreciation of what clients want from their lawyers. More recently, he founded The Coach for Lawyers, LLC which offers individual coaching, law practice consulting, mentoring and professional training for lawyers.

# UN Watch interrupted by Cuba, Pakistan, Saudi Arabia, China, Bolivia, UAE, Iran, Bangladesh, Venezuela

**C**uba, Pakistan, Saudi Arabia, China, Bolivia, UAE, Iran, Bangladesh, and Venezuela today attempted to silence UN human rights council testimony by the head of UN Watch, a Geneva-based human rights non-governmental organization, after he criticized or called for the removal of these countries from the council.

UN Human Rights Council, debate under Agenda Item 8, Vienna Declaration of Human Rights delivered by Hillel Neuer, executive director of UN Watch

Today we ask: Is the world living up to the Vienna Declaration, which reaffirms basic human rights?

We ask the government of Turkish President Erdogan, if it cares about human rights, why did they just fire more than one hundred thousand teachers, university deans, judges, prosecutors, religious figures and public servants?

We ask Pakistan, when will they release Asia Bibi, the innocent, Christian mother of five, now on death row on the absurd charge of blasphemy?

We ask Saudi Arabia, when will you end gender apartheid? When will you stop oppressing all religious practice that is not Wahhabist Islam? When will you release Raif Badawi, serving 10 years in prison for the crime of advocating a free society?

We welcome the Secretary-General's new pledge of UN reform. That is why today, pursuant to Article 8 of Resolution 60/251, we call for the complete removal of Saudi Arabia from this Council.

So long as 1.3 billion people are denied their basic freedoms, we call for the removal of China. So long as human

rights are abused by Bangladesh, Bolivia, Burundi, Congo, Egypt, Iraq, Qatar, and UAE, we call for their removal.

So long as the Maduro government imprisons democracy leaders like Mayor Antonio Ledezma of Caracas, and causes its millions of citizens to scavenge for food, we call for the removal of Venezuela.

So long as the Castro government jails Eduardo Cardet, a prisoner of conscience, we call for the complete removal of Cuba from this Council.

## Cuba interrupts on a point of order, followed by 8 other countries

**Cuba:** We are taking the floor under Article 13 of the UN General Assembly Rules, Point of Order. We heard the speaker, he has just taken the floor in this debate and

### STATEMENT FROM A.G. SCHNEIDERMAN

Attorney General Eric T. Schneiderman issued the following statement:

The passing of Justice Abdus-Salaam is an enormous loss for New York, our judiciary, and all who knew, respected, and loved her.

Justice Abdus-Salaam was not simply a trailblazer as the first Muslim female judge in the United States and the first African-American woman on the New York Court of Appeals. During her time on the bench, Justice Abdus-Salaam earned the respect of all who appeared before her as a thoughtful, thorough, and fair jurist.

I join all those who knew Justice Abdus-Salaam in mourning this terrible loss.

questioned the membership of the Human Rights Council, particularly our membership but also other countries. The decision on granting membership is up to the member states of the United Nations alone, pursuant to which they freely decide and elect who will be a member. And bear in mind resolution 96/31 of ECOSOC and resolution 60 of the UNGA, we would ask you to call the speaker to order and that we should confine our comments to what is on agenda. It's important that they are called to order, bearing in mind the prerogatives that NGOs enjoy.

**B**orden Ladner Gervais LLP is pleased to announce that The Honourable Louise Arbour, C.C., G.O.Q., has been appointed by Mr. António Guterres, Secretary-General of the United Nations, as Special Representative of the Secretary-General on International Migration in New York City.



"We are thrilled that Louise has accepted this prestigious position to advance important questions around migration at a time when countries around the world are facing substantial challenges and related debates on this important issue," said Sean Weir, national managing partner and CEO at BLG. "Louise has the knowledge and experience to make a positive impact, and she is an inspiration for all generations to show how we can actively make the world a better place."

Prior to joining BLG, Madam Arbour sat as a justice of the Supreme Court of Canada from 1999 to 2004, on the Court of Appeal for Ontario and the Supreme Court of Ontario. She has held senior positions at the United Nations, including that of high commissioner for human rights, and is a member of the Global Commission on Drug Policy and of the International Commission Against the Death Penalty. Madam Arbour is also a member of the Advisory Board of The Coalition for the International Criminal Court. She is the laureate of the 2016 Tang Prize in Rule of Law.

BLG looks forward to its continued relationship with Madam Arbour as jurist in residence.

**Bangladesh:** We also have the same position as Cuba with regard to the intervention made by the NGO, UN Watch. We note with very high concern that the language used by this particular organization is not only unacceptable, it is abhorrent. The basic premise of questioning the membership of the Human Rights Council with regard to a number of states is out-hand rejected. We believe that this is a matter of serious concern, the continued participation of this organization in the proceedings of this Council is, to our view, not desirable, and we would ask the Human Rights Council to take a unified view on this matter.

**Venezuela:** I wanted to support the points of order raised by Cuba and Bangladesh. My delegation would also like to state in writing its position. We reject what has been said by this political organization called UN Watch. They use this session to address political issues which have nothing to do with promoting human rights. Vice-President, we are under agenda item 8, the general debate, this is a thematic debate, it has to do with the Vienna Action Plan. We therefore reject the fact that this political body violates the spirit of cooperation that needs to prevail in our work. President, I agree that we need to respect freedom of expression and freedom to disagree with a country, but at the same time we demand respect, and we cannot accept offensive terms used against our country and our government. I would, therefore, president, ask you to call the speaker to order. Thank you.

**Pakistan:** We would support the well articulated arguments already given by Cuba, Bangladesh, Venezuela, and we would also align ourselves with their viewpoint, that this organization is way out of line, and the honor and respect of the Council should be always at the top of the agenda, and to target continuously particular countries by the organization, which we saw in the last agenda item also, and again in the last agenda item we had to take the point of order on the same organization, it is not in line, and we urge the whole Council to take a unified position on this, and we respectfully request the Vice-President to take Point of Order on this.

**United States:** Without addressing the substance of the speaker's statement, we are of the opinion that what we have heard of the intervention is indeed addressed to the subject matter at hand before this council and is within the UN rules and IB package. I believe that the speaker has already finished speaking as I understood it but if the speaker has not, we respectfully ask that you rule that the speaker be allowed to finish his presentation.

**China:** I support the statement made by Cuba, Bangladesh, Venezuela and Pakistan. Members of the Human Rights Council were elected by the member states, and this is an NGO which is making this kind of attack, which is totally unacceptable, and therefore I would respectfully request the Vice-President to end the speech that has been made by this NGO. And I would also call on this NGO to respect the rules of the Council in this regard.

**United Kingdom:** NGOs should be allowed to speak openly and freely in this forum. The NGO should be allowed to conclude their statement,

**Netherlands:** We highly value that civil society be able to speak. We ask you to allow the speaker to finish their statement.

**Canada:** Canada deeply believes that accredited NGOs should be authorized to take the floor in this council. What we heard from this statement is relevant to our ongoing discussions.

**Saudi Arabia:** I won't be long. We support the points of order raised by Cuba, Bangladesh, and China. Thank you.

**Iran:** We would like to support the point of order made by our distinguished Cuban colleagues, followed by Bangladesh and other distinguished members of the Council. Thank you.

**Latvia:** It is very important that we allow NGOs to express their views, even if we may sometimes disagree with what they say. That enriches our human rights dialogue. It is the better of courtesy to ensure that NGO statements should not be interrupted. I call on you to allow NGOs to continue.

**Vice-President (Egyptian ambassador Amr Ahmed Ramadan):** Actually NGOs were given the chance to speak, we have been listening to them since mid-day...

**Germany:** Like others before us, we would urge upon this council to listen to the voice of NGOs, even if we do not always agree with what they say.

**Bolivia:** Thank you, brother Vice-President. We feel compelled to second what has been said by Pakistan, China, Saudi Arabia, etc. We are not questioning freedom of expression, it is the content of what has been said which discredits the NGO. We are clear in how this NGO operates.

**United Arab Emirates:** President, the Emirates would also like to endorse the point of order raised by Cuba, China, Pakistan, Saudi Arabia and others. Thank you.

**Vice-President:** Distinguished members of this council: we have wasted more than 10 minutes, we listened to 15 countries whether to allow UN Watch to continue with this statement. We need all to recognize that we are short of time in this session. So with that in mind, we need to work in an efficient manner, to finish the agenda. With that in mind, I will ask the representative to respect member states, and more importantly to respect this Council.

**UN Watch:** Mr. President, we have the right to cite the suspension provision of this council's own charter. They can silence human rights defenders at home, but they cannot do so at the United Nations.

## BU Law Launches Certificate in Financial Services Compliance

With ongoing employer demand for compliance officers, Boston University School of Law is proud to announce its Certificate in Financial Services Compliance program, launching in the Fall 2017 semester.

The Certificate in Financial Services Compliance is a 12-credit part-time program delivered completely online, designed to give lawyers and non-lawyers alike access to the industry leading compliance faculty of BU Law's Graduate Program in Banking & Financial Law. One of the fastest-growing fields within financial services, compliance positions at financial services institutions, consulting firms and major corporations have exploded since the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010.

"Perhaps more important than the growth in the number of compliance personnel required in the area of financial services," says James Scott, director of BU Law's Graduate Program in Banking & Financial Law, "is the greater demand for professionalism. The scope of substantive knowledge required, as well as the increased breadth of risk management, monitoring and testing, policy drafting and implementation and training of business personnel has resulted in a dramatic rise in the professional stature of financial institution compliance officers."

# Council and direction 2017-2018

— Extract from Montreal Bar web site.

## THE COUNCIL

The members of the Council represent various areas of practice of the legal profession (private practice, government jurists, legal counsel to corporations, etc.) and serve as the eyes and ears of the Bâtonnier in the legal world and the community as a whole.

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- Mtre Nathalie Guertin, Director of Legal Affairs

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Administrative services ensure that the Section's affairs are properly managed. Their functions include the following :

- See to the execution of the Council's decisions;
- Manage current affairs;
- Administer the funds of the Section and manage the budgets of the Section;



*Sitting - from left to right : Mtre Philippe-André Tessier, Treasurer, Mr. Bâtonnier Brian R. Mitchell, Mtre Michel P. Synnott, First Councillor, and Mtre Extra Junior Laguerre, Secretary.*

*Standing - from left to right : Mtre Doris Larrivée, Executive Director, Mtre Alexandre Forest, Councillor, Mtre Walid Hijazi, Councillor, Mtre Robin Schiller, Councillor, Mtre Marie Cousineau, Councillor, Mtre Alexandra Popa, Councillor, Mtre Michael N. Bergman, Councillor, Mtre Sonia Lebel, Councillor, Mtre Francisco Couto, Councillor, and Mtre Caroline Larouche, Representative of the Young Bar of Montreal.*

- Deal with requests for conciliation submitted by advocates who accept legal aid mandates;
- Provide support and assistance to the Bâtonnier and the members of the Council;
- Provide the support needed by some forty (40) committees;
- Operate the Salon des avocats, for the benefit of members;
- Organize and manage a Referral Service for the public.

And, in cooperation with the appropriate committees :

- They organize the Journée du Barreau and the group swearing-in ceremony;
- They contribute to the organization of activities developed for the public;
- They deal with complaints of illegal practice submitted under the Act respecting the Barreau;
- They offer recognized activities as part of the Mandatory continuing education program.



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