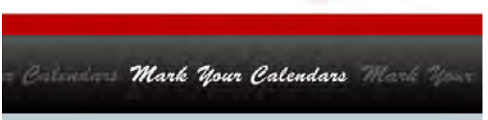
February/March 2013

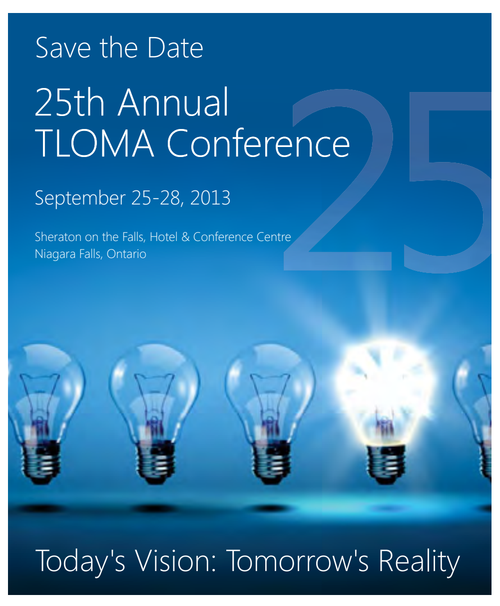
TLOMA Today

A publication of The Law Office Management Association



Click on each event for more details

- **The Power of Influence in Human Resources**
  March 5, 2013
- **Grab Success by the Horns**
  March 27, 2013
- **Marketing, Advertising and Spin**
  April 9, 2013
- **Summer Networking Event**
  June 7, 2013
- **December Networking Event**
  December 6, 2013



President's Message

As I sat reflecting on my long bus ride north to the wilds of Aurora last Friday evening, with the onslaught of the "big storm"...READ MORE

Evolution of Group Benefits Plans in Canada

'TRADITIONAL' versus 'NON-TRADITIONAL' Plans

Traditional 'insured' and non-flexible group insurance programs for small to medium size corporations are no longer the norm. Many companies are now...READ MORE

The Minefield of Consolidating Paralegal Services in a Post-Merger Environment

With the current wave of law firm mergers taking place in North America, including a significant number of cross-border...READ MORE

A New Associate's Take on...

Why Litigation Needs Technology

Every lawyer desires to have a thriving practice, busy with clients and files, and sufficient billings to cover the...READ MORE

How to Grow Your Business Not Your Workload

So you have your own practice. It is your dream – come-true. You love what you do, you are passionate about the area of law you practice...READ MORE

Savings Through Lease Verification

Lease Verification is a detailed analytical process through which your lease and the corresponding operating costs billed...READ MORE

So Where Do We Stand Now With the AODA?

Will Law Firms Have to Abide by the IASR?

Assuming your company (yes even if you are a one person law firm) is now in compliance with the Customer Service Standard (CSS) of the AODA...READ MORE

Easy, Essential SEO for Lawyers and Law Firms

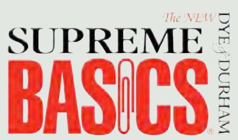
If your law firm is not showing up on the first page of search results, you are no where. Very few online searchers ever go beyond the first...READ MORE

Preparing For Canada's New Anti-Spam Legislation

Canada's new anti-spam legislation is coming soon. Commonly referred to as "CASL", the new legislation will impose strict obligations that apply to...READ MORE

TLOMA Today
Editor: Janet Baker
Advertising: Liz Barrington

TLOMA thanks the 2012 Platinum Sponsors for their generous support.



2013 TLOMA President

By: Janice Rooney

SNOWFLAKES ARE ONE OF NATURE'S MOST FRAGILE THINGS, BUT LOOK WHAT THEY CAN DO WHEN THEY STICK TOGETHER.....

Business Partner Directory

The right products and services are essential to effective legal administration. Check out TLOMA's Business Partner Directory to acquire information about Business Partners in the Legal Industry.

New Listing:
Amovo

LiteScape Technologies

As I sat reflecting on my long bus ride north to the wilds of Aurora last Friday evening, with the onslaught of the "big storm" raging, at each stop along the way, winter tried its very best to bring intensity inside the sanctity of the ice covered bus. Somehow I felt a sense of power over nature in this large mechanical beast with huge wheels struggling and slipping over the snowy roads, yet I also felt a combined sense of fragility, peace and contentment. Yes - the picturesque whitewashed landscape posed a threat, but it gave way to the warmth and comfort of a shared circumstance - a bonding with others on the bus – spontaneity abounded as we laughed at our plight and continued our adventure. As we bid farewell to one, then another as we each neared the end of our journey, a whopping 90 minutes together in a confined space, it brought a grin to my face as we plodded along finding humour in the darkness. "We're all in this together" I thought as we climbed ever steeper up each hill on the journey – snowflakes - all sticking together in our harmonious moment of discomfort. We were all different, yet we were "one" at that moment in time. Winter in Canada - what a wonderful time to be alive.

Well, if those aren't the words of an eternal optimist, I don't know what is.....2013 is well underway as I continue my path of daily learning, personal growth and continued optimism, together with the other "snowflakes" in TLOMA. Through networking, clinging on for dear life, laughing, displaying our "sparkle" and generally wondering what tomorrow will bring, we grow together as an Association – only we will not "melt" in the spring, rather we will blossom in glorious profusion.

To say that it is indeed a humbling experience and sincere privilege to be your President elect for 2013 is a gross understatement. I continue to enjoy immensely the camaraderie, knowledge sharing, empathy and friendships gained through my involvement with TLOMA over the past (almost) 9 years. From joining and then Chairing the Compensation Committee to sitting as Human Resources SIG Leader on the Board, and last year as Vice-President elect, I thank each and every one of you for instilling in me the desire to give back to this great Association through participation and leadership. We all strive to be the best we can in our roles both at work and at home and we share what we have learned to make things better for those that follow. Such is the legacy of the TLOMA Board of Directors and as the "corporate reins" get handed over on February 13th to the 2013 Board, I happily embrace the future, hoping my "part" of the legacy is worthy. Thus begins my wonderful one year journey of learning from others and leadership as your new President.

We, as TLOMA members, are part of a mosaic of talents all coming together, like snowflakes, bonding through a shared vision, diversity of talent and our sense of wonder at what comes next and asking "why". All of us are "frosted" with an infectious sense of humour which I am sure is why we are all working in the legal industry. As someone once told me many years ago, networking and maintaining relationships through our business contacts will serve you well throughout your career. I have never forgotten that advice and have had the reputation of "keeping in touch" steadfastly when it might have been easier to let go over the years. I have had the privilege of working with

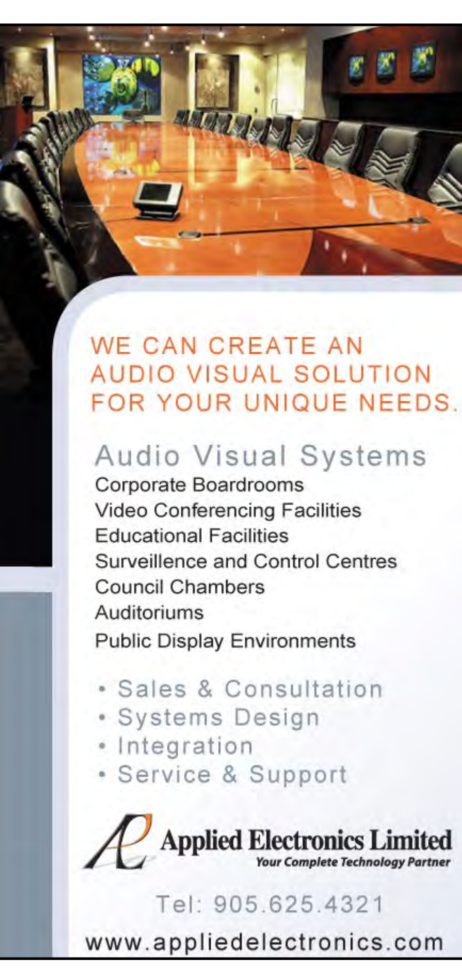
SNOWFLAKES ARE ONE OF NATURE'S MOST FRAGILE THINGS, BUT LOOK WHAT THEY CAN DO WHEN THEY STICK TOGETHER.....CONTINUED....

strong role models both as peers, bosses and mentors over my career – all instilling in me to "be the best you can be". That is all anyone can ask of us. I have myself happily nurtured and mentored others, watching them grow – our relationships developing into trusting, caring, life-long friendships – all sewn as seeds from business networking opportunities. Networking – a key component in your career and priceless.

TLOMA is the heart and soul of industry-based networking opportunities. Whether you are new to the legal industry or not, being a part of TLOMA means that you have a reliable and trustworthy source for knowledge sharing and learning through the experiences and expertise of others; it provides opportunities for challenging the status quo, mentoring and sharing ideas. Establishing a formalized mentoring program is one of the key areas of focus for the Board over the next year. We want to create a legacy of shared learning as we formalize the process in the coming months. I do hope you will be a part of that mentoring legacy both in 2013 and beyond.

In closing, I want to share that 2013 joyously marks our 45th Anniversary as an Association and marks the 25th Anniversary of our TLOMA Annual Conference. I look forward to celebrating these wonderful milestones with all of you. With the expert guidance from my Board of Directors, we will strive to continue the excellent work that has gone on before. Your feedback is important and I invite you to contact me, or any member of the Board at any time. I know you all share in my continued optimism for TLOMA's longevity and that you will join me on our journey to tomorrow, spreading the word about the benefits of being a member of TLOMA.

Janice Rooney
2013 TLOMA President



EVOLUTION OF GROUP BENEFITS PLANS IN CANADA

'TRADITIONAL' VERSUS 'NON-TRADITIONAL' PLANS

By: Ray Morel

Ray held a Finance SIG on October 12, 2012 at Minden Gross LLP

Traditional 'insured' and non-flexible group insurance programs for small to medium size corporations are no longer the norm. Many companies are now incorporating benefits plans with far more flexibility to reflect the changing needs of employees.
Group insurance programs have been rooted over the last 10-20 years with traditional structures, plan designs for a one-size-fits-all mentality with all Canadian insurers showing very little difference from one another. Second, the cost of these types of programs has continued to escalate with as much as 30% to 40% of premiums still going to higher than necessary insurance company expenses.

The evolution of employee health and benefit plans moving to 'non-traditional' plans and solutions, involves more flexibility in providing customized plans that better accommodate an employee's benefit requirements. Also, placing all benefits with one insurer or provider who cannot or will not provide that kind of flexibility is also no longer the norm. Canadian employers can now select the best insurer by benefit line and work with a second health and dental claims administrator to provide greater plan flexibility and by doing so, can effectively reduce those typical 30%-40% in insurer expenses to 10%-15%. These types of more flexible health and dental plans are administered on an ASO (Administrative Services Only) basis, whereby insurance is provided for only those high-exposure drug claims known as 'stop loss' insurance.

Third-party independent administration systems make the selection of multiple insurers or providers an easier process and again are available at a fraction of typical insurer admin costs.

Benefit plans are becoming more complex to meet the needs, wants and expectations of the employer's workforce. Canadian employers are moving towards increased flexibility and more choice within benefit programs. ASO (Administrative Services Only) programs can be customized for employees within a company's group by employee levels such as rank, years of service and credentials. The use of Health Care Spending accounts is another example under an ASO arrangement where complete flexibility, with the ability of maximizing cost exposure, can be provided down to the employee level.

To recap, 'traditional' insurance programs are generally divided into two (2) parts. Namely 'insured-pooled' benefits (i.e. Group Life, Accidental Death & Dismemberment and Dependent Life). The second component of the program are the health and dental benefits which are generally priced on an experienced-rated basis, in short applying the company's own claims experience to arrive at a single/family rate structure. In this instance, the premiums must cover the company's actual claims, plus the insurer's expenses, reserves and estimated insurer trend/inflation costs, that make up the additional 30%-40% in total expense factors referenced earlier.

Using a 'non-traditional' approach, the fully insured/pooled benefits can be secured by a stand-alone 'pooled only' specialty insurer at generally lower costs with generally superior contractual provisions in certain benefits. The health and dental benefits on the other hand, can be provided by a

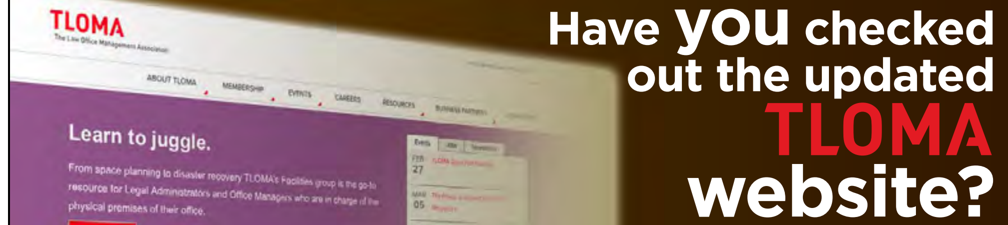
EVOLUTION OF GROUP BENEFITS PLANS IN CANADA 'TRADITIONAL' VERSUS 'NON-TRADITIONAL' PLANS CONTINUED....

second specialty health and dental claims administrator on a 'non-traditional' ASO basis, once again at a fraction of the cost (i.e. 10%). These types of specialty health and dental claims administrators generally offer much greater flexibility in plan design by employee. To demonstrate the cost differences consider the following:
Traditional Insurer Cost to pay a $50/$100 drug claim at 30% = $15.00 ($50 @ 30%) and $30.00 ($100@30%). These same claims paid through a specialty health and dental claims administrator would generally be in the $5.00 per claim range. These significant cost reductions can now be applied to improved and greater flexibility for the employee and/or significant cost reductions for the company and the employee if they are participating in the payment of their group insurance program. By using this 'non-traditional' approach and solutions, it is not unusual for a corporation to reduce their overall benefit costs in excess of 20% with an improved program for their employees. Also, most specialty health and dental claims administrators will further guarantee their 'flat-cost-per-claim' payment for generally up to three (3) years.

Traditional brokers who are paid commissions on rising premiums, have no incentive whatsoever to introduce a lower cost methodology as their commissions would reduce significantly in doing so. In reality, under a traditional insurer program, a broker receives a pay increase for each new employee added and/or increase in group insurance premiums. That traditional arrangement is clearly not in the client's or the employee's best interest.

In summary, the evolution of group benefit plans will continue to evolve with both greater plan flexibility as well as changing the 'one insurer fits all' model, to a better choice of multiple insurers and claims administrators with the use of a third-party admin system. The evolution will bring better employee choice at lower costs for the employer and possibly the employee as well, if they are participating in the payment of those premiums.

Ray Morel is the President & CEO of The Morel Group of Companies. Mr. Morel has specialized in group insurance programs for over 30 years. He and members of the Morel family, have earned an industry reputation as 'innovators' and 'change agents', by developing proven approaches, solutions, systems and more recently, the building of employer/employee owned, private medical/wellness centres, all of which continue to change the manner 'traditional' group insurance programs have been underwritten, funded, administered, delivered and communicated to both Canadian and US employees. Ray can be reached by email at Ray.Morel@morelgroup.com. Website: http://morelco.com



By: Catherine D'Aversa

THE MINEFIELD OF CONSOLIDATING PARALEGAL SERVICES IN A POST-MERGER ENVIRONMENT

With the current wave of law firm mergers taking place in North America, including a significant number of cross-border mergers, the resulting international "behemoths" will be firms with thousands of lawyers. The number of law firms with revenue of $2 billion is expected to double by 2013, according to rankings reported in the American Lawyer Magazine. Law firms are merging in order to create an offering to clients, both in terms of expertise and geographic coverage. Law firms are taking a "strategic review" to look to the future and determine where the firm needs to be over the next several decades in answer to the needs of their clients, who are increasingly going global.

Integration of systems and infrastructure is not only vitally important in this climate, but incredibly complex and sometimes requires the consolidation of several different types of technology, systems and processes. The human resources aspect is also fraught with pitfalls, particularly with regard to the merging of paralegal services post-merger that undoubtedly will cause some job losses.

How can law firms tackle these issues, make the best decisions and come out with a fully integrated paralegal service under the circumstances?

THE MINEFIELD OF CONSOLIDATING PARALEGAL SERVICES IN A POST-MERGER ENVIRONMENT CONTINUED....

Location

International expansions often target countries such as the UK, Asia, US, Canada and Africa. Some of the time, this geographical spread may be necessary to be able to service local markets, with language, currency and legislation emerging as primary reasons for a global model. As a result, the law firm offices involved in the merger may be located in the same and different jurisdictions.

A review of paralegal services, technology and systems in each office location must be reviewed to determine whether it is cost effective to maintain, consolidate or eliminate in each of these offices.

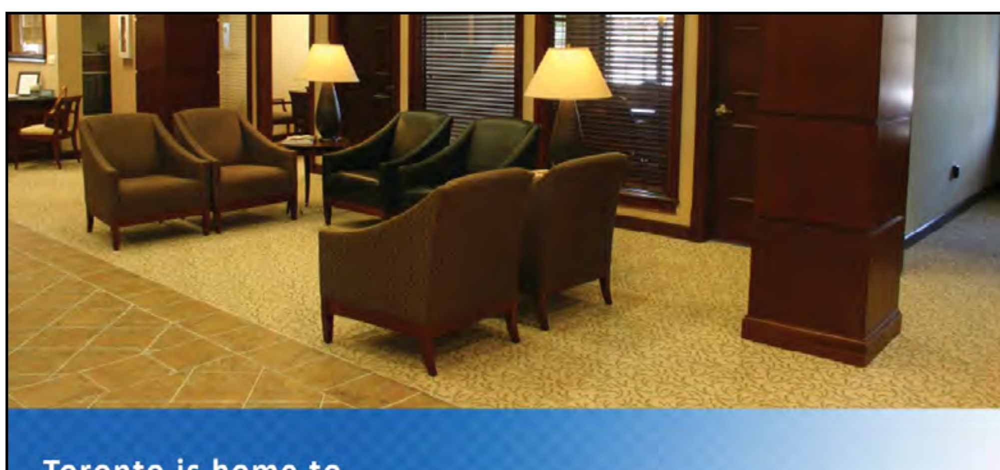
Paralegal Services

Post-merger, an analysis of the productivity of each paralegal department is necessary to identify redundancies, as is the establishment of benchmarks against which to measure each group. Creating a paralegal assessment tool based on the substantive legal, performance and professional competencies required to meet the post-merger firm's needs is a good starting point.

In the current highly competitive human resources environment, paralegal managers may find it pays to subscribe to Pareto's principle that 20% of the best staff performs 80% of the work. This could result in a push for the top-performing paralegals and managers to deliver more, and trimming of the fat by getting rid of the mediocre performers. This not only delivers economies of scale but reduces overheads, staffing costs and the duplication of infrastructure for departmental accommodation.

And of course, changes to paralegal staffing levels will also affect management, so this analysis will help to drive management layoffs and restructuring. The analysis process therefore also needs to:

- Determine the cost (both economically and perceptually) of terminating resources
- Identify gaps in the structure or the skill set of the remaining paralegals and managers, and
- Implement a sound change management program to soften the impact on those who are retained.



Toronto is home to some of the finest law offices in Canada.

We should know.

We have the pleasure of serving 8 of Toronto's 10 largest firms and 13 of Canada's 20 largest firms.

www.interiorcare.com

INTERIOR CARE®

Superior Service. Green Solutions. National.

Technology

A critical area in creating efficiencies is technology. It is also an area of frequent discord between merged law firms and can be a deal-breaker. Ideally, a technological review should happen during due diligence ahead of the merger to identify whether integration of the systems and software in use is possible, and more pertinently, whether it makes economic sense to do so. Some of the questions that need to be answered include:

- What technologies are being used in the various practice areas and locations?
- How do they compare in terms of compatibility and functionality for the tasks involved and adaptability for future changes?
- What are the costs to combine functionalities and/or convert data to one system?

The answers to these questions will help to identify which technologies should be retained and which are likely to become obsolete.

THE MINEFIELD OF CONSOLIDATING PARALEGAL SERVICES IN A POST-MERGER ENVIRONMENT CONTINUED....

Systems & Processes

The combining of systems and processes requires a similar comprehensive review, to determine the functionality, cost and capabilities of each modus operandi currently in use, in each of the law firm locations. Pre-merger, each office will have its own policies and service standards addressing the preparation and delivery of paralegal work. How does the post-merger firm deal with these policies and service standards? Will these processes be consolidated? How will the various offices interact and consolidate the various processes? Office systems such as telephone, copying facilities, document management, accounting and HR are often highly individualized to each location, particularly when cultural differences and national legislation come into play. Management or hiring practices that work in North America may verge on the taboo in the Far East. For example, the established policies of a British firm may be too conservative for American counterparts, and staff training may take on a different connotation entirely in an Asian or African environment.

Precedents

Law firm precedents hold an important place. Law firm mergers with more than one office in a particular jurisdiction, will experience conflicting significances around the various precedents among the merging firms. The question that will need to be answered is whether each pre-merger firm should maintain individual precedents, or whether the precedents should be consolidated. In the latter instance, a review process will be necessary to determine which precedents have greater value, and the results may be controversial.

In any event, whether the merger is within one jurisdiction or multiple jurisdictions, it may be important to develop a uniform look in the law firm documentation and communication. The best resolution will be to create a review committee comprising of lawyers from various offices and jurisdictions. This group will review all precedents and make recommendations on the final choice and the process for achieving it.

Resources

Some law firms are hiring paralegal consultants to carry out the post-merger review and implementation of recommendations. This type of across-the-board review and analysis requires significant, qualified resources if it is to be achieved in a timely and cost-effective manner. As a fixed-term project, outsourcing to a qualified consultant in the capacity of project manager offers a number of benefits such as:

After a merger, a number of departments and services require streamlining.

- An external resource is unencumbered by personal loyalties and is able to conduct the review and analysis objectively, without prejudice of prior relationships or assumptions to colour the analysis or recommendations.
- A qualified professional with expertise in developing and implementing programs, policies, systems and procedures is able to promote consistent paralegal practices for the merged law firm.
- An experienced project manager understands the complexities of the numerous and sometimes sensitive issues of merging groups, particularly across different cultures and jurisdictions.
- A qualified professional with expertise in assessing and restructuring paralegals, support staff and work flow to meet needs of lawyers and clients post-merger.

In conclusion, the merging of paralegal services in a post-merger environment requires an expertise not commonly found internally in law firms. With the recent trend towards building firms based on mergers, an expert project manager is essential to achieve optimum results in the shortest possible time frame.

Catherine D'Aversa is President of Legal Resource Consulting - http://www.legalresourceconsulting.com - and works with law firms and in house law departments to improve law clerk productivity and profitability using her extensive skills developed over more than 32 years in the legal industry.

Please consider the environment before printing this publication.

SUPREME
BASICS®
IS the Exclusive SUPPLIER of
DYE & DURHAM
LEGAL PRODUCTS
Canada's Brand
FOR LEGAL SUPPLIES
www.supremebasics.com 1-800-667-3690

WE ARE NATIONWIDE:
Alberta...Saskatchewan...
Manitoba...Ontario...CANADA!

25th Annual
TLOMA Conference
September 25-28, 2013
Sheraton on the Falls, Hotel & Conference Centre
Niagara Falls, Ontario

Today's Vision: Tomorrow's Reality

SAVE THE DATE:
September 25-28, 2013

By way of a sneak preview....our upcoming Annual Conference Event, is just seven months away, and is going to be at the five-star Sheraton on the Falls Hotel & Conference Centre, in the heart of Niagara Falls, Ontario.

TLOMA's 25th Anniversary Conference promises to be extra special with amazing keynote speakers focused on critical insights you can no longer ignore, an exciting Trade Show and many educational workshops to help you manage tomorrow's reality, today.

Come and reconnect with your TLOMA friends and colleagues and enjoy the stunning views, amazing tourist attractions and delicious food....it will be an event to be remembered!!!

Mark the date in your calendar and look for our upcoming Early Bird Registration!

Kind Regards,

Mary Lavis
Chair, 2013 Conference Committee

A NEW ASSOCIATE'S TAKE ON...

WHY LITIGATION NEEDS TECHNOLOGY

By: Josh Silver

Every lawyer desires to have a thriving practice, busy with clients and files, and sufficient billings to cover the rent. Traditionally, a busy practice meant mountains and mountains of paperwork, and lawyers struggling to keep up. Indeed, despite the desire to build a thriving practice with as many clients as possible, at a certain point, the practice may reach a tipping point where the number of files and clients makes managing the practice difficult or even untenable. The busier the practice, the harder it is for a lawyer to stay on top of their case load. However, not being able to stay on top of the case load is simply not an option for the competent practitioner.

To that end, it is a little surprising the reluctance with which the legal community is prepared to adapt or embrace change, and adopt new or existing technologies that can maximize their ability to manage their practice. What is even more remarkable about this unwillingness to introduce new advancements to the practice of law is that in the recent past, the legal community has embraced technological innovations such as bookkeeping and time management software, email and smart phones.

Each of these innovations, although reluctantly adopted by the legal community, has unequivocally improved the practice of law. Each of these technologies has enabled practitioners to dramatically increase their efficiency, while simultaneously making them more accessible to their clients. Simply put, once adopted, these technologies have served to make the legal community a better place, and lawyers the world over wondered how they ever managed their practice without these tools.

Granville West Group

Helping you and your staff plan for retirement
Contact us for a no-obligation review of your group retirement plan

Toll-free 1.800.518.4247
www.roadmapforsuccess.ca

Chris Forman

Peter Graham

Tom Chipman

Bookkeeping and time management software allowed lawyers to keep more accurate records of their dockets, appointments and court dates. Similarly, software developments allow lawyers to be notified of pending deadlines for filings, whether it be for statements of claim or defence, affidavits, confirmations of court appointments, or any of a myriad other court filings.

The introduction of email and subsequently smart phones has allowed lawyers to stay in constant contact with their offices and their clients, consequently providing far greater service. Technological advancements have consistently improved the quality of the practice of law. Technology now exists that can make a litigator's practice far more modern and efficient. It is clear that technology is necessary in a litigation context.

Similarly, in any litigation, there are certain elements and steps to be accomplished that are particularly crucial if success is to be achieved. Research is to be conducted in a timely manner; communication with clients is essential to receiving instructions and carrying them out; motion records may need to be done on short notice; backpages need to be drafted and formatted properly.

For each of the above pressure points over the course of litigation, and many others, there are technological innovations which help to achieve these goals. For any young, aspiring lawyer, who has grown up in an age of readily accessible information and intelligent technologies, it would be anathema to work in a law firm environment that does not embrace time-saving technologies. Who could envision going to work at a firm without high speed internet, reliable internet access, online researching capabilities, laser printers, and file, accounting, or document management programs? Yet there are still law firms and sole practitioners practicing in Ontario who refuse to embrace or adopt these existing technologies. In today's dog-eat-dog world, where consumers are knowledgeable about the products

A NEW ASSOCIATE'S TAKE ON... WHY LITIGATION NEEDS TECHNOLOGY CONTINUED...

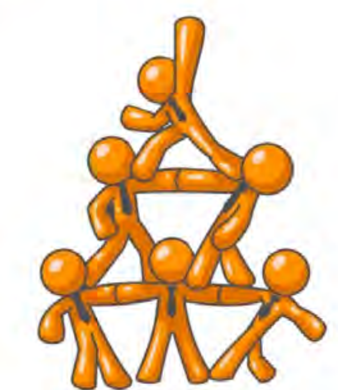
– or practitioners – they intend to hire, refusing to be progressive is a practice management strategy destined for failure.

Time-saving measures such as these can be both small and large, but ultimately, the simple fact that they improve upon the efficiency of the legal practice cannot go unnoticed. When a client is billed for the lawyer's time, the client expects the lawyer to be as efficient as possible. The client does not want to pay for the time it takes the lawyer to flip through the various pages of the file to find information that could be easily stored and recalled with the simple click of a mouse.

In this day and age of comparison shopping, the savvy client is far more likely to hire the technologically savvy law firm, as opposed to the archaic, out of touch law firm. When the goal at the end of the day is to provide your clients with the best possible service, it is imperative to embrace legal technologies designed to improve your practice.

Josh Silver is a graduate of the dual-J.D. program at the University of Windsor and the University of Detroit-Mercy. Josh completed his articles with a boutique litigation firm in downtown Toronto acting for both plaintiffs and defendants. He is currently practicing in the areas of Litigation and Estates law.

**This is part of a series brought to you by Korbitec which presents the viewpoints of new associates.*



Let us be part of your team

Legal Recruiting Services
1235 Bay Street – 10th Floor, Toronto M5R 3K4
416-934-5564
www.trafalgar.to

Mary Anne Divjak
madivjak@trafalgar.to

Sharon Page
spage@trafalgar.to

HOW TO GROW YOUR BUSINESS NOT YOUR WORKLOAD

By: Magda Williams

Smaller Practice Challenges

So you have your own practice. It is your dream – come-true. You love what you do, you are passionate about the area of law you practice and you have some clients. You have worked hard, and now more clients find their way to your office. As a lawyer, you know all about working long hours, but...what is taking up a lot of your time? Is it servicing your clients, sourcing new ones, or is it the daily business of running an office?

Construction Managers & General Contractors

MARANT

Building Partners

MARANT provides construction management and general contracting services to corporations and legal firms. Quality spaces – on time & on budget.

MARANT Construction Limited
200 Wicksteed Avenue
Toronto, ON Canada M4G 2B6
T 416.425.6650

www.marant.ca

HOW TO GROW YOUR BUSINESS NOT YOUR WORKLOAD CONTINUED...

In my own experience dealing with clients, by the time the staff size reaches 7+, the daily business of running an office becomes a big deal.

Employee Issues

If the mundane every day logistics of maintaining your practice keep you awake at night, you are not alone. Most studies of small business owners indicate employee issues are the most frustrating part of work. Those issues, government submissions, administration etc., eat into the time which could be spent on more productive areas of your practice, or with your family and friends.

Relinquishing Control

Paradoxically, this is the first step a practice owner needs to take in order to move their business to the next level. It is one of the hardest things a small business owner can do if he/she is to seriously expand. It sounds obvious, but there are many strings attached, some of them emotional. Being in control got you there in the first place, right? It is hard to delegate. But as long as you keep trading your own time for money, you will hit a ceiling and stay there. A consultant I know deals with business owners who hover around $2,000,000 of annual gross revenue and stay there. Good, but not great...She helps them take the leap into the big leagues, but getting there usually means shifting control away from specific tasks and towards monitoring other people who take care of them for you.

Delegate More

So, it is time to **delegate more**. But what does one let go? There is an option of getting someone to help with the law, but you yourself are good at it. Now is the time to ask yourself - what parts of my business are the least satisfying? Which ones do I put off until tomorrow? This is your clue. Let them go! You can **hire staff**, but what if they don't work out? As a lawyer you know how hard it is to fire anyone. And to accommodate a new hire, you would need more office space, a phone, a parking space...This is an incremental fixed cost when your revenue stream may be variable.

Outsourcing

There is another option, which is steadily gaining popularity: **outsourcing**, or transferring portions of work to outside suppliers rather than completing it internally.

The practice of contracting a business process—rather than staffing it internally—is a common feature in the modern economy.

One can outsource just about anything, and this alone can be overwhelming. Some common functions that are outsourced are Payroll, Benefits experts, HR, Bookkeeping, and Accounting to name a few. On the other hand, there are some solutions which come in **packages** - several services bundled together for a predetermined fee. This can make your life a lot easier.

The **potential benefits** to look for in an **Outsourcing service** are:

- A support system in an non-productive area you have no expertise/interest in

HOW TO GROW YOUR BUSINESS NOT YOUR WORKLOAD CONTINUED...

- An operating cost saving
- Better budgeting thanks to a predetermined inclusive service fee
- Depth of service available as your needs arise. Some services assign dedicated Specialists who get to know you and your employees and provide hands-on daily support
- Increased employee satisfaction thanks to Employee retention tools, such as participation in a investment programs, group life and disability insurance, online courses, group discounts for various services, EAP's.
- Saving in Benefit costs through participation in Group Health Benefits plans which may offer you coverage usually available for large corporations and take care of annual renewal negotiations
- Reduced liability if possible with the CRA
- Strategic partnerships for mutual referrals

Things to **be wary** of in choosing an Outsourcing partner:

- Undisclosed extra costs
- High set up fees
- Call centres where you never speak to the same person
- A service which still requires you to do a lot of prep time personally before handing off
- A supplier who does not assume liability for their mistakes
- Poor quality of outsourcing vendors

If you are getting by for now, that's fine. But at the appropriate time, an outsourcing solution is a smart interim step in building your business. By freeing up your own time from tasks that aren't core to your business, you can rely on the expertise of others when you need it and focus on what will generate revenue for you.

Magda Williams is in Business Development at PEO Canada Employee Management – www.peocanada.com - an integrated human resource outsource services company. She can be reached at 416-570-5704 | Toll Free 1-877-271-7720 magda.william@peocanada.com.

Find us on

Would you like to see your article published in TLOMA *Today*?

TLOMA welcomes our readers to contribute relevant and timely articles.

By: Wendy Burgess

SAVINGS THROUGH LEASE VERIFICATION

Lease Verification is a detailed analytical process through which your lease and the corresponding operating costs billed to you are reviewed to ensure compliance with the terms of your commercial lease.

Best Case Scenario - you achieve cost reductions on your rent expenses.

Worst Case Scenario - due diligence. All stakeholders are satisfied that rent payments are no more than what you agreed to pay for, through hard won lease negotiations.

At times, due to lease clause interpretation, oversight, or human error, operating costs may be overstated. Lease Verification starts with a review of the lease and the year-end statement of operating expenses, followed by inquiries to the landlord for clarification and/or additional details, very often leading to findings of savings opportunities.

The landlord/tenant relationship is a partnership - often a long-term partnership. The lease establishes the basis for the standards and practices of the partners.

Typically, an audited statement of operating expenses conforms with the landlord's standard lease. Most sophisticated, well represented tenants are able to negotiate mutually agreeable legal and cost containment changes to a landlord's standard lease. Although the audited statement is vetted to the actual expenses, such hard won negotiated changes to your specific lease are typically not audited. The process of Lease Verification performs this task to identify any potential financial impact to your bottom line that was not intended and/or specifically agreed to under your lease.

COMMON LEASE VERIFICATION SAVINGS OPPORTUNITIES

Overhead - Overhead is defined as management fees, administration fees, salaries of employees, imputed landlord office rent, leasing costs and leasehold improvement expenses. Are operating costs a cost centre or a profit centre? What are the true costs of administering a realty tax bill? An insurance bill? Depreciation schedules? Does your lease provide that you pay for salaries AND a 15% administration fee? On the flip side, is your landlord incurring expenses to reduce operating costs on your behalf?

Vacancy Gross Up Calculations - Some operating cost expenses are variable with occupancy. Is the gross up calculation used an accurate, equitable reflection of costs for vacant space? If you have vacant unused space, are you receiving the full benefit of the credits for premises cleaning? Premises utilities?

Parking - In many commercial office complexes, parking is treated as a separate cost centre with its own revenue and expenses. If not, is the parking revenue being credited to the parking expenses included in your operating costs?

Capital Expenses - Where included, are they incurred to replace due to wear and tear and maintain the building to an acceptable standard? Or, are they to improve the building to a new standard? Are they amortized and if so, on what basis?

Ultimately, how well your lease is negotiated determines what you are and are not responsible to pay for as an operating cost. Lease Verification ensures the negotiated lease agreement is adhered to; more often than not this process results in cost savings.

Wendy Burgess is Director, Lease Verification at Ellington Tenant and Facilities Services - http://www.ellingtonre.com - and has been providing lease verification, lease negotiation and lease management/administration of commercial office and retail properties since 1987. She can be reached at 416-238-1555 ext. 38 or by email at wendy.burgess@ellingtonre.com.

2012 Silver Sponsor

It is with deep sadness that we announce the death of Laureene Lee on January 27, 2013.

Many of you may know, Laureene was the Director of Human Resources at Fasken Martineau DuMoulin LLP. Laureene initially joined the Firm on November 1, 1988 when it was still Campbell Godfrey & Lewtas. The following year, she was a pivotal member of the senior management team involved in the merger of Campbell, Godfrey & Lewtas with Fasken & Calvin. Laureene held many responsibilities in addition to her HR role and, as such, was instrumental in developing the administrative platform for the newly merged Fasken Campbell Godfrey, now known as Fasken Martineau.

Laureene became a member of TLOMA in 1988. She was involved with the TLOMA Social Committee (more recently known as our Conference Committee) in 1994, was the Human Resources Section Head in 2001 and was on the Compensation Committee from 2001 to 2003. Laureene became a life member of TLOMA in 2010 when she retired.

"Legacy" is a well-used word but with Laureene it is also well deserved. Her influence, innovation and leadership will impact Faskens for a very long time. Those of us from Laureene's Fasken Family, will remember her with deep affection and will miss her very much.

Dear Family and Friends,

… I know that many of you have been praying for me. Thank you from the bottom of my heart.

Looking back, the first symptom that something was wrong was in 2004, when I lost fluidity and flexibility in my movements. In 2007 the falls started and escalated into 2008-2009. In 2009 I had severe neck drop which resulted from the back muscles dying. I was diagnosed with "A Typical Parkinsonism with MSA".

Please do not cry for me, I was blessed with a loving and devoted husband for 48 years, two wonderful sons and daughters-in-law, and three exceptional grandsons. I also played many roles in this life - as a Wife, Mother, Sister, Aunt, Baker (well known for the black cakes), fundraiser for St. Thomas, Social Convener for the Breens, and my most favourite role, as the Little Dictator of the Rosary Group.

I hope in some small way I had a positive effect on you, as I did when our paths crossed.

- Laureene

Those wishing to do so can make a donation to the Parkinson Society of Canada.

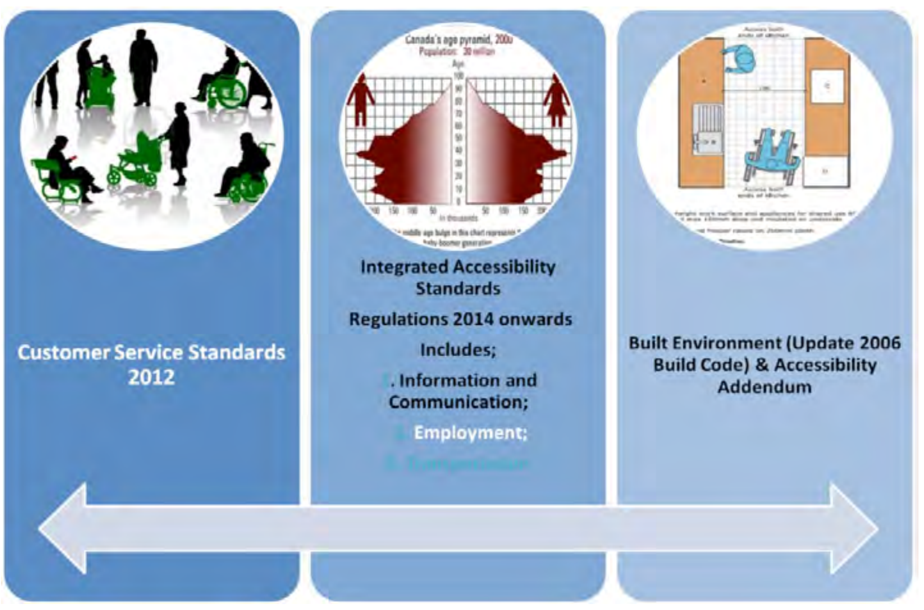
Jane held a Facilities SIG on January 23, 2013 at Goodmans LLP

By: Jane Sleeth

SO WHERE DO WE STAND NOW WITH THE AODA?

WILL LAW FIRMS HAVE TO ABIDE BY THE IASR?

Assuming your company (yes even if you are a one person law firm) is now in compliance with the Customer Service Standard (CSS) of the AODA, the harder part of the AODA should now be in your focus, in particular, if you are in charge of both Facilities and Human Resources at your law firm.



I will devote the next few articles in explaining this next phase referred to as IASR or the Integrated Accessibility Standards Regulations.

There are 3 components in this blended Regulation which includes:

1. Employment Standards
2. Communications and Information
3. The Build Code with Accessible Addendum (now under review until March 1st , 2013)

In today's article for TLOMA I will start with the Employment Standard. This standard will now require employers (private employers this pertains to you now) to provide an accessible environment across all stages of the employment cycle from recruit to talent management (and absence management).

It will be critical now for law firms as employers to bring real estate, facility managers, designers, and architects who work with your company. The reason for this is barriers in the workplace need to be removed at all points of the employment cycle for all potential employees.

2012 Silver Sponsor

By employees, this Regulation stipulates this can include full time, part time, paid law students and students. This may include unpaid staff in certain circumstances.

Learning more about the Human Rights Code for Ontario will be critical for all of the key players in your workplace (Optimal has an e learning tool about the Human Rights Code as it relates to the AODA) as the AODA has created the framework around the essence of the Human Rights Code for Ontario re: accommodation for disabilities.

Accessibility will now move from just being a tool for the management of disabilities and the return to work of employees with work-related and non-work related injuries and illness. It will now be under the AODA IASR to move into the regular workplace processes from recruitment to testing, to hiring, to career development and promotions.

SO WHERE DO WE STAND NOW WITH THE AODA? WILL LAW FIRMS HAVE TO ABIDE BY THE IASR? CONTINUED...

The requirements under the Employment Standard for the IASR include ensuring accommodations are made for all disability types outlined in the Human Rights Code for Ontario. As well the stages of employment where this applies includes:

- Recruitment, assessment/testing, selection
- Providing accessible formats and communication supports for employees and potential employees
- Workplace emergency response information
- Documented individual accommodation plans
- The return to work and disability management process
- Performance Management
- Career development, advancement and lateral moves
- Redeployment

Bottom Line and Next Steps for Ontario Based Law Firms

The areas of expertise which will help move law firms forward in compliance with the IASR are ergonomic/human factors design and disability management/ accommodation. It is these two areas of expertise which need to be included for your internal work teams which should be created in your law firm. Engineering, architects, interior designers, IT, communications, HR, and Facility Managers need to sit together to learn more about the IASR and specifically about the Employment Standard. An audit of all of the related programs in place including purchasing, IT software and hardware, human resources policies and procedures, FM/architectural/engineering/ designers processes and approaches need to be reviewed at the same time. From this, a Strategic approach to compliance with the Employment Standards is required and this is where experienced consultants who know your business operations well will be an asset. Following this review, a written Plan for Compliance is required both for your business strategy and operational impact. As well this document will be needed as part of the mandatory reporting to the Accessibility Directorate of Ontario (ADO) on a scheduled basis.

The CSS phase of the AODA roll out was the easy part for business. Human Resource managers were most often delegated to ensure all of the CSS training of employees was completed and to ensure Policies were written correctly and placed into the correct areas of the business.

With this next phase, the IASR will no longer be within the sole scope of practice or expertise of Human Resources alone. The IASR will require a coordinated, strategic approach by Senior level Directors and Managers who can be fully operational in the AODA's IASR.

The time to move on this is now as timelines are short for compliance. The outcomes for early adopters of the IASR will include major and tangible benefits including:

- locating and hiring excellent and qualified employees and lawyer;
- compliance with regulatory requirements for the province;
- excellence in Diversity and Inclusion in the workplace to the benefit of the business
- enhanced brand and business reputation,

to name a few. When you are ready to sit down as a team, seriously consider calling in the experts in this field for the initial meeting so as to wade through all of the material in an efficient and accurate way. This will play a critical part of guaranteeing the success and strategic implementation of the IASR as part of the overarching AODA process for Ontario.

JE Sleeth Optimal Performance Consultants and Author Carswell Publishing
Jane Sleeth is a Senior Ergonomic Consultants with Optimal Performance Consultants an ergonomic and accessible design firm with offices across Canada & in the US. The authors can be contacted about this topic at 416 860-0002 or AODA@OptimalPerformance.ca

By: Janet Ellen Raasch

EASY, ESSENTIAL SEO FOR LAWYERS AND LAW FIRMS

If your law firm is not showing up on the first page of search results, you are no where. Very few online searchers ever go beyond the first page of results. In the eyes of Internet users (everyone), if you do not appear on this first page, you are not credible. You will not get the call.
What can you do to improve your search engine results?

Search engine optimization (SEO) is an online marketing strategy that helps position your firm among the top results for given search terms. It involves creating a structure for your website that meets the need of search engines, and populating your site with a constant supply of fresh, keyword-rich content.

Automated search engine spiders constantly "crawl" through web pages, compiling word indexes which they then use to rank pages based on algorithms. The algorithms assign varying weights to elements like keywords and phrases, as well as links. The resulting calculation pushes some web pages higher on a search engine results page than others.

"Search engine spiders must be able to access and easily make their way through all of the pages of your website," said Kim Mears. "Anything that prevents them from doing so will affect your ranking. Poor optimization could even prevent your site from being indexed at all."

Mears is chief visionary officer and founder of Mears Interactive, a Denver-based online marketing agency. She recently discussed search engine optimization before the Rocky Mountain Chapter of the Legal Marketing Association.

"The basics of SEO are not hard to master," said Mears. "There are things you must do and things you must avoid. In general, you should track your results using Google Analytics, choose the right keywords, create effective metatags, build incoming links and add well-written, fresh content."

Is Your Law Firm Website Working?

Although there are a number of search engines, Google dominates this field with 85 percent of search traffic. "If you aim to optimize for Google and its algorithms," said Mears, "you should be in pretty good shape with any search engine."

Google Analytics is a service offered by Google that generates detailed statistics about traffic on a website. The basic service is free and fills the needs of most lawyers and law firms. It generates useful reports on site performance and tracks visitors from online referral sources.

"Google Analytics provides valuable insight into the effectiveness of your website," said Mears. "You need to know what's going on. Once you have a clear picture of what is working well, you can do more of it. When you have a clear picture of what is working poorly or not at all, you can fix it or eliminate it."

Reports generated by an analytics program can be used to determine visitors, bounce rates and page views. "Unique visitors or users are the number of distinct entities that visit your site," said Mears. "'Bounce rate' refers to the number of visitors who look at one page, don't find anything they need, and leave the site immediately. A bounce rate above 40 percent is bad.'"

2012 Silver Sponsor

Specialized Software Support For Legal Professionals!!

- Office 2010 Migration Services
  Planning through to Rollout
- Windows 7 Training & Support
- Document Forensics & Refinement
- Template & Content Management
  In tandem with *FlexPoint Software Solutions*

Contact Becky at bcabray@creativetraining.ca
www.creativetraining.ca

Keywords Do the Heavy Lifting

SEO involves researching the most relevant and searched keywords and phrases for your practice and target industry, and using them so that your website will get more traffic.

Analytics programs will let you know the exact keywords or phrases that visitors are using to find you. “Never assume that you know the best keywords,” said Mears. “There are as many words (and spellings of those words) used to search for something as there are individuals. If your website does not include the exact words a user enters in a query, your site will not show up in the search engine result set.

“Once you know the most common keywords, make sure they appear throughout the site – in content and in metatags,” said Mears. Good keywords include “lawyer” and “attorney” and “law firm,” as well as words related to geographic location, areas of practice, and industries and problems of clients.

In choosing keywords, remember to use words that a potential client would use rather than words that an attorney would use. Be specific. “Bitten by a dog” is more specific than “personal injury.” The Wordtracker website provides valuable information on keywords you are using or considering.

Create Effective Metatags

Metatags are searchable terms that lie “beneath” each page of a website. Although metadata are not displayed, they are visible to search engine spiders. To see the metatags on your site, right click on a page and then go to “view source.”

“What appears when you do this is a page of code,” said Mears. “Near the top of that code, you will see metatag titles, descriptions and keywords. If these areas are populated with automatically generated strings of text and numbers, this is a problem. There is nothing for the spiders to read.”

Each page on a website should have its own unique metadata. Poor metatags will significantly compromise your search engine results.

The title tag is the title that you want to appear as the link at the top of a search result. It should identify the contents of a document and be 72 characters or fewer, so it will appear in its entirety.

The description tab tells the search engine and viewers what your page or site is about. It contains the descriptive text that appears on a results page underneath the title. “A page with a good description tag will entice more people to click through to the site itself,” said Mears. “Ideally, it should be between 150 and 160 characters. If there is nothing there, Google will populate this area with something random.”

The keywords tag includes a list of keywords. “There is much debate as to their value in the location,” said Mears, “but they can’t hurt. Keywords included here must actually appear somewhere in the page and should not exceed 500 characters.“

Incoming Links Add Weight

Your website can have two kinds of links – outbound and inbound. It never hurts to link to credible sources from your website, but it does not do much to enhance SEO.

“Having inbound links, where other Internet sites link to yours is important,” said Mears. “It is seen as an endorsement. The more popular your website is, as measured by the number and quality of links coming to your site from other sites, the higher it will be ranked in search engines. The more popular the site that links to you, on a scale of 1-10, the bigger the boost.”

Incoming links should be from websites and pages that contain content relevant to the law, your practice, your focus industry, or your location. “You can have an intern methodically contact these sites and ask that they link to you,” said Mears. Sites with ‘.edu’ and ‘.gov’ are ranked particularly high.

Content Marketing Takes the Stage

The hottest new element in the field of SEO is content marketing – providing a steady stream of interesting and informative content to improve your rankings in organic (non-paid) search results.

Content can be words (including web pages, blog posts, articles, lists, press releases and white papers), but it can also be photos, videos, slide decks or webinars. Linking back from content you post on Facebook or YouTube brings with it the high popularity weight of those sites, which rank 10 on a scale of 1-10.

Search engines search only words. Any time you use non-verbal content, like a picture or video, be sure to have good, keyword-rich “alt tags” behind them.

Search engines love words, and they give twice the weight to the words on home pages as they do to other pages. “It is a huge mistake when a law firm’s home page is heavy in graphics, especially flash graphics, and light in words,” said Mears. “If there are no words there, especially important keywords and phrases, search engines will pass this page right by.”

Home pages should also include keyword-rich internal links. “You should be able to reach every page of your website from the home page,” said Mears. “A site map containing links to your website’s various sections or pages also helps make sure the search engines find their way.”

Content that is attractive to search engines will be useful and informative. It will balance good use of keywords and phrases with natural phrasing. Emphasize keywords in headlines, subheads and the first sentence/paragraph of each section. Use heading

EASY, ESSENTIAL SEO FOR LAWYERS AND LAW FIRMS CONTINUED...

tags, which carry extra weight.
Be aware that search engines will penalize any content that is not original. If you plan to syndicate content to more than one page, section or site, change it up a bit.

Take Off Your Black Hat

"The Google algorithm is very smart," said Mears, "and it gets smarter every day. You might think that you can fool it, but you can't. Do not unnaturally 'stuff' or 'cram' your site with keywords. Do not include keywords and links in the same color as background text, in hopes of hiding them and juicing up your results. Do not use metatags that do not match page content. Do not work with 'link farms.'

"Once Google has associated you with such 'black hat' practices, you will be penalized with reduced rankings or even elimination from their database," said Mears. "The only way to get indexed and ranked again once this happens is to change your URL – and your practices."

Janet Ellen Raasch is a writer, ghostwriter, copyeditor and blogger at Constant Content Blog who works closely with professional services providers – especially lawyers, law firms, legal consultants and legal organizations – to help them achieve name recognition and new business through publication of newsworthy and keyword-rich content for the web and social media sites as well as articles and books for print. She can be reached at (303) 399-5041 or jeraasch@msn.com.

By: Joseph Cohen-Lyons & Paul E. Broad

PREPARING FOR CANADA'S NEW ANTI-SPAM LEGISLATION

Canada's new anti-spam legislation is coming soon. Commonly referred to as "CASL", the new legislation will impose strict obligations that apply to a range of business emails and other electronic communications that you might not consider to be "spam". All businesses, even those without formal email marketing programs, should assess their potential exposure to CASL and, if exposed, turn their minds to compliance now.

WHAT IS CASL?

CASL is a broad piece of legislation that is designed to promote economic activity and the use of electronic commerce by targeting "spam" – unwanted electronic messages and communications that far too regularly target consumers and business. CASL also targets other threats to the internet, including the installation of spyware and other malicious code and "pharming" (which involves directing individuals to fraudulent websites).

CASL TO APPLY BROADLY

The anti-spam regulation in CASL will apply broadly. All "persons" must comply, including for-profit and not-for-profit organizations and Crown agents.

CASL regulates the sending of "commercial electronic messages" ("CEMs"). A CEM is any message that is sent by any means of telecommunication that it "would be reasonable to conclude has as its purpose, or one or more of its purposes, to encourage participation in a commercial activity." "Commercial activity" is defined broadly to mean any conduct that is of a commercial character whether or not carried out for profit.

PREPARING FOR CANADA'S NEW ANTI-SPAM LEGISLATION CONTINUED...

Examples of CEMs that would be regulated by CASL include: offers to sell, purchase or barter goods, services or land; offers to provide business or investment opportunities; and advertisements or promotions of commercial activities.

HOW CASL OPERATES

CASL will impose three primary prohibitions:

- a prohibition on sending, or causing or permitting to be sent, CEMs without the express or implied consent of the recipient and in compliance with prescribed form and content;
- a prohibition on altering transmission data in an electronic message so that it is delivered to an alternate address without express consent, unless the alteration is in accordance with a court order; and
- a prohibition on installing a computer program on another's computer, or causing an electronic message to be sent from such a computer, again without express consent, unless this is done in compliance with a court order.

These three broad prohibitions are subject to a number of exceptions and limitations, which are detailed in the statute and in proposed regulations (discussed further below).

The remaining discussion will focus on the CEM prohibition, as that prohibition stands to have the greatest impact on widespread, quite ordinary electronic business and marketing communications.

REGULATION OF COMMERCIAL ELECTRONIC MESSAGES

As noted above, CASL will prohibit the sending of commercial electronic messages unless two requirements are satisfied:

- the message conforms to certain specified criteria related to content and form; and
- the organization sending the CEM first obtains the express or implied consent of the recipient.

EXEMPTIONS FROM CEM REGULATION

Before turning a more detailed review of CASL's regulation of CEMs, it is important to note that CASL completely exempts certain types of messages from any form of regulation: (1) messages sent to persons with whom the sender has a personal or family relationship; (2) messages sent in the actual conduct of commercial activities (recall that a CEM is sent to "encourage participation in commercial activity"); or (3) activities specified by regulation.

In early January 2013, the federal Department of Industry released draft Electronic Commerce Protection Regulations, its second attempt to put in place regulations under CASL. Among other things, the draft regulations would clarify the general exemptions to the prohibition on sending CEMs by:

- defining family relationships in terms of being connected by blood, marriage, common-law partnership or adoption;
- defining a personal relationship as based on direct, voluntary, two-way communications and other factors from which one could reasonably conclude that the relationship was personal; and
- by creating a series of new exemptions to CASL regulation of CEMs, including,
  - CEMs sent by employees, representatives, contractors or franchisees of an organizations to others within the organization, provided that the CEM concerns the affairs of the organization;
  - CEMs sent by employees, representatives, contractors or franchisees of an organization to another organization if there is a current business relationship between the organizations and the CEM relates to the business of the organization or the person's role or functions within the organization;
  - CEMs sent in response to requests, inquiries or complaints; and
  - CEMs sent to satisfy legal obligations, to provide notice of existing rights and obligations, or to enforce rights and obligations.

PRESCRIBED INFORMATION TO BE INCLUDED IN CEMs

For CEMs that are not exempt from CASL-regulation, CASL imposes the two requirements noted above – prescribed content and form, and consent.

The required information prescribed by CASL can be found both within the text of CASL itself and in the Electronic Commerce Protection Regulations (CRTC), regulations issued by the Canadian Radio-Television and Telecommunications Commission ("CRTC") under CASL and which will come into force at the same time that CASL takes effect ("CRTC Regulations").

The required information includes the name and address of the company (or person) sending the message as well as information enabling the person to whom the message is sent to readily contact the sender. All CEMs must also clearly and prominently set out an unsubscribe mechanism that allows recipients to "readily perform" the unsubscribing function.

In addition to the CRTC Regulations, the CRTC has published detailed guidelines on a number of topics relating to CASL, including guidelines on what constitutes

PREPARING FOR CANADA'S NEW ANTI-SPAM LEGISLATION CONTINUED...

an appropriate unsubscribe mechanism. For example, the CRTC has approved the use of a link in an email that directs the recipient to a web page where he or she can easily unsubscribe. The CRTC has also approved the use of a mechanism by which individuals are able to unsubscribe be virtue of a reply message indicating an intention to do so. A message which allows a user to unsubscribe be replying "STOP" or "Unsubscribe" will also satisfy the requirement of CASL.

CONSENT REQUIREMENTS

For CEMs that are subject to CASL-regulation, CASL will generally require either an express or implied consent to the sending of the CEM, unless one of several limited exceptions apply.

EXPRESS CONSENT

CASL establishes a default rule that senders of CEMs obtain express consent from the recipient of the CEMs. Where express consent is required, CASL also specifies certain information that must be clearly set out in the mechanism by which consent is sought. For instance, a company seeking consent must clearly set out the specific purposes for which the consent is sought as well as the name and address of the company (or person) seeking consent.

The CRTC Regulations contain further details on the information to be included in a request for consent. For example, the consent mechanism must clearly state that the person whose consent is sought can withdraw their consent at any time.

An express consent may be obtained either orally or in writing. Clearly, it will be easier to demonstrate express consent where the consent is in written form. With respect to oral consents, organizations will need to establish mechanisms to effectively record oral consents. The CRTC guidelines suggest that an oral consent could be demonstrated by verifying the consent through an independent third party or by producing a complete and unedited recording of the consent. However, the CRTC guidelines do not preclude other means of demonstrating valid oral consents.

Of particular importance for organizations is the CRTC guideline on the use of "toggling" as a means of obtaining express consent. In this context, "toggling" is a form of an "opt-out" mechanism by which a recipient is treated as having consented to receiving the CEM unless he or she takes active steps to signal non-consent. Under the CRTC guidelines, consent must be actively given, which means that "opt-out" consent systems will not be valid under CASL. If this approach is ultimately upheld, it would be a marked departure from the Personal Information Protection and Electronic Documents Act, which allows for opt-out consents to be used in some circumstances.

IMPLIED CONSENT

CASL also permits consent to be implied in a number of limited circumstances. This would have the significant benefit of avoiding the need to fulfil the more onerous express consent rules outlined in the previous section. Those circumstances include:

- where the sender and the recipient are in an existing business or non-business relationship, but only where there is commercial activity within the previous two years;
- where a person has conspicuously published an electronic address, has not expressed a wish not to receive unsolicited CEMs, and the CEM is relevant to his or her business; or
- where a person has disclosed his or her electronic address to the sender of the CEM without expressing a wish not to receive unsolicited CEMs, and the CEM is relevant to his or her business.

ALL IN ONE.
ONE FOR ALL.

Entity Management & Corporate Compliance Solution from Cyberbahn and Marque d'or

Tracking multiple entities across multiple jurisdictions? Now you can manage all your corporate records with a single solution. We take all the tasks involved in entity management and combine them into one streamlined solution that follows your workflow. From registering a business, creating shareholder agreements, and maintaining a minute book to tracking changes and filing annual reports – we can do it all for you. Complete compliance is just a phone call away.

Comply with confidence.
Call 1-800-267-0183 (in Quebec 1-800-668-0668)
www.cyberbahn.com | www.marquedor.com

The limitation for "business relationships" to those with commercial activity within the previous two years is likely to significantly impact the marketing activities of many organizations that may send CEMs to a wide range of existing clients, former clients, prospective clients and other persons. Unless the stringent restrictions in the implied consent rules can be met, express consent must be sought.

EXCEPTIONS TO THE CONSENT REQUIREMENT

In addition to those situations were consent can be implied, CASL provides a number of exceptions to the consent rule altogether. In these situations, organizations will not be required to obtain consent to send CEMs, although the requirements on form and content (including, for example, the need for an unsubscribe mechanism), as outlined above, will continue to apply. The CASL consent requirement for the sending of CEMs will not apply where the CEM is sent solely for one of the following purposes:

- to provide a quote or estimate where requested by the recipient;
- to facilitate or confirm a commercial transaction that has been completed;
- to provide warranty information, product recall information or safety or security information about a product that the recipient has used or purchased;
- to provide notification of factual information the ongoing use, purchase or subscription of a product, subscription, membership or similar relationship;
- to provide information directly related to an employment relationship or related benefit plan; or
- to deliver a product, goods or service, including updates and upgrades, that the recipient is entitled to receive pursuant to a completed transaction.

In addition, the recently released draft Department of Industry regulations would establish another exception to the consent requirement for certain third party referral arrangements.

ENFORCEMENT AND PENALTIES

The anti-spam provisions of CASL will be enforced by the CRTC, which is given broad powers under the statute, including the ability to designate enforcement officers to ensure compliance and investigate allegations or suspicions of misconduct. CASL also provides for severe penalties for non-compliance. The maximum penalty per violation is $1 million for an individual and $10 million for a corporation.

A unique aspect of CASL is the creation of a private cause of action for individuals alleging a violation of the Act. This means that an individual can rely on an unsolicited CEM as the foundation for a civil action. Given the quantity of CEMs that may be sent by a single sender, there is a very real possibility of class actions being commenced under CASL.

PREPARING FOR CASL

Considering the broad application and strict penalties imposed by CASL, all organizations will need to assess the extent to which they engage in the sending of commercial electronic messages as part of their marketing and business strategies, and thus the extent to which they may be exposed to CASL regulation.

At this time, it appears that CASL will come into force at some point later in 2013. Importantly, CASL will provide for a three-year transitional period from the date CASL is proclaimed in force during which time organizations will have deemed implied consent to send CEMs to any persons with whom they have an existing business or non-business relationship that includes the communications of CEMs. This deemed implied consent will exist and can be relied upon unless it is withdrawn. It will be important for organizations to obtain any necessary express consents during this time period.

Even with this transition period, there is much work to do to ensure compliance with CASL, and organizations and businesses should be taking the following steps now:

- Review your organization's marketing, advertising and external communication practices to determine to what extent you are sending CEMs that fall within CASL regulation.
- Consider whether consent can be implied based on an existing business or non-business relationship as defined in CASL.
- Develop a means for obtaining and appropriately recording express consents.
- Develop a system to reliably record express consents and to track any changes to consents that have been obtained.
- Similarly, develop a system to track the existence and continued validity of any implied consents being relied upon.
- Develop policy to ensure CEMs contain theprescribed information, including a valid unsubscribe mechanism.
- Ensure processes are in place to deal with unsubscribe mechanism in a timely manner.

For more information about CASL, how it may affect your business and how to prepare for its implementation, please contact Joseph Cohen-Lyons at 416.864.7213, Daniel J. Michaluk at 416.864.7253 or Paul E. Broad at 519.931.5604.

Tell us about your own or other members' interests and accomplishments for publication in the newsletter

Email

New Members

First Name	Last Name	Firm Name	Title
Ruby	Dhindsa	Norton Rose Canada LLP	Human Recources Generalist
Esther	Dressler	Green and Spiegel, LLP	Office Manager
Earllyn	D'Souza	Lerners LLP	IT Team Lead
Samantha	Ferens	Shearman& Sterling LLP	Office Manager
Karen	Fisher	Fasken Martineau DuMoulin LLP	Manager, Collections
Marc	Gignac	Torys LLP	Senior Manager, Facility and Client Services
Tania	Gort	David Barristers Professional Corporation	Office Manager
Cris	Lam	Benmor Family Law Group	Office Manager
Kimberly	Sheldrake-Head	Torys LLP	Manager, Human Resources & Associate Relations
Wei	Su	Mathews, Dinsdale & Clark LLP	Director, Finance & Administration
John	Zettler	Stikeman Elliott LLP	Director, Human Resources

Retired

First Name	Last Name	Firm Name
Fred	Lerner	Howie, Sacks & Henry LLP

Life Member

First Name	Last Name	Firm Name
Theresia	Skoberne	Mathews, Dinsdale & Clark LLP

TLOMA thanks **Iron Mountain** for providing storage

AD SIZE	WIDTH BY HEIGHT	COST
1 Page	21.6cm W x 27.9cm V / 8.5"W x 11"V	$800
1/2 Page Horizontal	21.6cm W x 13.9cm V / 8.5"W x 5.5"V	$450
1/2 Page Vertical	13.9cm W x 21.6cm V / 5.5"W x 8.5"V	$450
1/3 Page Vertical	5.9cm W x 27.9cm V / 2.33"W x 11"V	$275
1/3 Page Square	12.1cm W x 12.1cm V / 4.75"W x 4.75"V	$275
1/6 Page Vertical	6.3cm W x 12.1cm V / 2.5"W x 4.75"V	$150
1/6 Page Horizontal	12.1cm W x 6.3cm V / 4.75"W x 2.5"V	$150

All ads include links to vendor website or specific promotional page

Platinum Sponsors	(2012 Conference)	100% discount*
Gold Sponsors	(2012 Conference)	50% discount*
Silver Sponsors	(2012 Conference)	25% discount*

10% discount on 3 or more consecutive issues per annum
15% discount on 6 or more consecutive issues per annum
*Cannot be combined with any other discount offers
Placement of ad at the discretion of TLOMA

Contact Us

Issue	Due Date
APRIL 2013	APRIL 9, 2013
MAY/JUNE 2013	MAY 14, 2013
AUGUST 2013 (CONFERENCE/BUSINESS PARTNER EDITION)	AUGUST 16, 2013
SEPTEMBER/OCTOBER 2013	SEPTEMBER 9, 2013
NOVEMBER 2013	OCTOBER 28, 2013
DECEMBER 2013/JANUARY 2014	DECEMBER 4, 2013

2013 TLOMA Board of Directors

President
Janice Rooney
Bus: 416.863.4527 Fax: 416.361.2387
Email: Janice.rooney@fmc-law.com

Past President
Karen Gerhardt
Bus: 416.622.0003 x250 Fax: 416.622.0004
Email: kgerhardt@zaylaw.com

Vice President
Karen Schrempf
Bus: 416.941.8823 Fax: 416.941.8852
Email: kschrempf@foglers.com

Secretary
Janet Baker
Bus: 416.840.6697 Fax: 416.593.7760
Email: jbaker@beardwinter.com

Treasurer/Finance SIG
Cathy Byrnes
Bus: 416.361.2360 Fax: 416.863.4592
Email: cathy.byrnes@fmc-law.com

Facilities SIG
Cynthia Perrone
Bus: 416.597.5927 Fax: 416.979.1234
Email: cperrone@goodmans.ca

Human Resources SIG
Nancy Shaw
Bus: 416.597.5144 Fax: 416.979.1234
Email: nshaw@goodmans.ca

Technology SIG
Edward Asmar
Bus: 416.369.4165 Fax: 416.864.9223
Email: easmar@mindengross.com

Marketing SIG
Susan Carnevale
Bus: 416.864.7298 Fax: 416.362.9680
Email: susan@hicksmorley.com

To be removed from the TLOMA Today e-mail distribution list, please send an e-mail to our Director of Administration by clicking on the link below:

Unsubscribe

Disclaimer
The views expressed in newsletter articles are those of the authors and do not necessarily represent the views of The Law Office Management Association (TLOMA) or the editors of TLOMA Today. It is the purpose of this periodical to share a variety of viewpoints from our colleagues and suppliers. Each author holds copyright to their respective article and reproduction is not permitted without the express consent of the author. By providing links to other websites in TLOMA Today, it does not signify that we endorse these websites or their content or their behaviour on your computer. Any external links are provided solely for your convenience.

2013 Conference Committee

Mary Lavis-Todd
Chair
Bus: 416.367.1608 Fax: 416.367.8821
Email: mlavis@hughesamys.com

Deborah Davids
Vice-Chair
Bus: 416.595.7948 Fax: 416.595.8695
Email: ddavids@millerthomson.com

Roz Chasler
Past Chair
Bus: 416.216.1884 Fax: 416.216.3930
Email: roz.chasler@nortonrose.com

Roger Rosemin
Business Partners Liaison
Bus: 416.218.1168 Fax: 416.218.1852
Email: roger@chaitons.com

Jenny Telesford
Hotel Liaison
Bus: 416.645.8012 Fax: 416.646.1000
Email: jtelesford@reislerfranklin.com

Jenny Tavares
Marketing Liaison
Bus: 416.865.7519 Fax: 416.865.7380
Email: jtavares@torys.com

Bernard Quilty
Networking Events Liaison
Bus: 416.941.5407 Fax: 416.369.5201
Email: bquilty@davis.ca

Joanne Pinellis
Speaker Liaison
Bus: 416.777.5087 Fax: 416.369.7261
Email: pinellisj@bennettjones.com

Dianne Quinlan
Conference Resource Volunteer
Bus: 416.367.6781 Fax: 416.863.4592
Email: dianne.quinlan@fmc-law.com

Jennifer Norman
Conference Resource Volunteer
Bus: 416.941.8869 Fax: 416.941.8852
Email: jnorman@foglers.com

Lonnie Wellman
Co-Speaker Liaison
Bus: 416.943.0288 Fax: 416.943.0289
Email: lwellman1@kpmglaw.ca