

February 2015

**TLOMATODAY**  
A publication of The Law Office Management Association

## UPCOMING EVENTS



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- **Enhancing Resilience & Well Being**  
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October 21 to 24, 2015

**TLOMATODAY**  
A publication of The Law Office Management Association

**Editor:** Janet Baker  
**Advertising:** Liz Barrington

### President's Message

As we enter into the new year it is a time of reflection and establishing new goals. Some of those new goals are set upon us and others we set upon ourselves...[READ MORE](#)

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## PRESIDENT'S MESSAGE

By: Paul Page

As we enter into the new year it is a time of reflection and establishing new goals. Some of those new goals are set upon us and others we set upon ourselves. Those set upon us are sometimes daunting and even seem unachievable, yet those we set for ourselves are often equally daunting though when establishing them we saw promise.

As I look back at TLOMA in 2014 I see so many goals achieved and others that were much larger than we thought they were. We have established our new brand and made great strides in developing the website to bring greater value to our members. 2015 will see the completion of the new Website Forum to replace the Listserve. The forum will carry on the ability to ask questions to all members, but further allow all members to review the replies and even look at past queries and replies.

We are also working to increase membership through two initiatives: Bringing greater value to members so more will come, and offer up membership to lawyers in small firms who do not have managers like ourselves.

The team of volunteer members who have been actively working on these initiatives is enormous. And although we sometimes suffer from too many cooks in the kitchen, I am always proud to be a part of such a talented group of people whom I call my colleagues and friends. My thanks and gratitude to every volunteer!

Check our ever evolving website and see just how many people are working to bring value to your career through the Board, Conference Committee, Marketing Committee, Compensation Committee, and more, like our Mentorship Program.

I have said it many times that the value of networking within TLOMA is the most valuable resource you can mine. The knowledge and support that is gained through the relationships and friendships you establish last throughout your career and every stage of your growth. One of the best ways to network within TLOMA is through volunteering, because you have so many opportunities to meet so many of your peers. If you are interested in volunteering (we always need volunteers) please contact our Volunteer Coordinator Louise McNeely. This is a goal I promise you won't regret!

During my years with TLOMA I have noted that we often see some of the same faces on the Board or Conference Committees. At first glance it appeared to be an elite group where other members could not join. But I quickly learned that it was the result of two primary reasons: Those who returned actually enjoyed their roles and wanted to give back to TLOMA. The second reason is members were too afraid to put their names in the hat and volunteer which made it difficult to find new representatives to replace the familiar faces.

In recent years we have seen some "new blood" offer their talents, and it is changing the face of TLOMA and brings a new voice to the table of ideas to bring greater value. But that voice should never be confined to a boardroom or committee. That voice should be from all members, and I encourage you to voice your thoughts and provide your feedback about how we are doing and what we can do to make TLOMA the association that you recommend to your peers because of the value it brings you.

I have had the privilege of working with Karen Schrempf as our 2014 President. Karen has been a mentor with her sage advice and great wit and humour. She has made the role look effortless, as I struggled to keep up as Vice President. Karen's talents cast a long shadow and I am so happy to have her beside me on the Board as Past President this year.

Then there is Sandy Hatcher-Mayer coming in as Vice President and she is already at my heels looking to take charge of her new role.

I have had the pleasure of working with Sandy through TLOMA in the past and welcome her energy and drive which will only compliment the team.

As always, we cannot forget our Director of Administration, Liz Barrington who is the glue that binds us all. I cannot count how many ways Liz has helped/saved me in my role as Treasurer and Vice President. I cannot thank her enough! However, we have finally been able to help Liz by bringing in Karen Gerhardt as an Administrative Assistant to assist with the ever increasing workload the role has demanded. Karen Gerhardt comes with a breadth of TLOMA knowledge and history through her roles as TLOMA President, and Chair of the Conference Committee and much more, thus she was able to hit the ground running in her new role.

I am truly fortunate and thankful to be surrounded by such dedicated and talented people in my role as President this year. But I also have a broad network of TLOMA members that I am in touch with at various times when I am fleshing out ideas that I want to bring to the Board or if I need some answers for a solution in my role as Chief Administrative Officer at Harris, Sheaffer LLP. Then I have the Listserve for survey type questions to find the best solution to a problem other firms have already tackled successfully. Then there are the Business Partners without whom we could never host such an incredible educational conference each year. I have garnered so many long lasting relationships with vendors over the years, and I could not perform my roles so successfully without these relationships.

Make the most of what TLOMA has to offer and make it your goal to get involved and build your network.

**Paul Page**

2015 TLOMA President

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By: Charles Abraham, C.A.

## APRIL 2015 - CREDIT CARD RATE REDUCTIONS FOR MERCHANTS - WILL YOU BENEFIT?

By now you have likely heard that Visa and MasterCard have announced rate reductions for merchants, commencing in April 2015. The announcement has been met with much fanfare but as you might expect, getting the most of this pricing change is not quite as simple as you would hope. Here's what you need to know.

There are three predominate pricing models that are employed in Canada today:

1. Tiered (qualified, mid-qualified and non-qualified);
2. Interchange differential; and
3. Interchange plus.

In simplistic terms, interchange is one of the costs the organization that enabled your merchant account (known as an acquirer) is charged when you process a credit card transaction. How your acquirer recovers that cost via its pricing model (detailed in your contract) will determine whether or not you will benefit from the impending interchange reductions.

### **Tiered**

In a tiered based pricing model, your acquirer will group your transaction into one of three buckets detailed above. The benefit to this model is there is more predictability for the merchant as to what its costs will be. The downside is that to manage this predictability, the acquirer often has to add

a significant cushion to its expected margin to deal with potential cost fluctuation which can occur in a change of card mix. More importantly, now that rates are reducing, this pricing model does not employ a guaranteed mechanism to pass these benefits through to the merchant.

### **Interchange Differential**

Interchange differential provides the merchant with what is known as a base rate for certain qualified transactions. When the transactions do not qualify, an interchange differential adjustment is made (at times greater than 1%) along with a non-qualifying transaction cost that typically ranges from 0.25% to 0.65%. With an interchange differential pricing model, one would expect any rate reduction to automatically pass through but this might not be the case if your base rate exceeds the rate provided in the new interchange guidelines.

### **Interchange Plus**

By far the simplest method of pricing, but one which requires study on the part of the merchant is interchange plus. This pricing model passes interchange costs through to the merchant with an added mark-up typically range from 0.25% to 0.50%. If your contract with your acquirer provides for this, then you can be rest assured that you will benefit from whatever rate reductions would be available to you given your credit card processing mix.

### **Managing Your Credit Card Transactions**

Driving the lowest costs available is not only a matter of the pricing model detailed in your contract with your acquirer but is also a function of the solution you use to authorize and settle your transactions. Tailoring this interface into the Visa and MasterCard networks involves an assessment of:

1. Human resources;
2. Capital deployment;
3. Cash-flow;
4. Customer interface; and
5. Workflow.

Your acquirer should take the time to work with you to analyze your transactions and to make recommendations on how you can build

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### **Summary**

In summary, driving the benefits from the new interchange rates is your responsibility. Take the time to understand your pricing model as well as your interface into the Visa and MasterCard networks. By understanding these components and building a good working relationship with your acquirer, you can be rest assured that you have maximized profitability for your company.

*Charles Abraham is an alumnus of St. Francis Xavier University, a Chartered Accountant and President of Oak Merchant Solutions Inc. Charles has served on numerous Boards and is a past Advisory Committee member to Elavon. He has been enabling credit and debit card payments for merchants for 15 years. Oak Merchant Solutions ([www.oakmerchantsolutions.com](http://www.oakmerchantsolutions.com)) is a registered MSP/ISO of the Canadian branch of U.S. Bank National Association and Elavon. Charles can be reached at (855)644-1965 or [cpa@oakmerchantsolutions.com](mailto:cpa@oakmerchantsolutions.com).*

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## 2015 TLOMA CONFERENCE ANNOUNCING KEYNOTE SPEAKERS!



**OPENING KEYNOTE SPEAKER  
JON MONTGOMERY**

**Dreaming Big: Living Bigger**

While Jon always wanted to be a Canadian National Team athlete, he didn't know which sport it would be in! Keeping his eyes wide open, living outside his comfort zone, trying new things and accepting the challenges that presented themselves enabled him to find his passion and his opportunity to realize his dreams.

Jon's story will inspire others to go after what they are looking for, no matter how daunting a task it may at first seem.



**CLOSING KEYNOTE SPEAKERS  
TIM AND KRIS O'SHEA**

**Change 180: Dealing with Change  
through Humour**

Tim and Kris O'Shea are not your average motivational speakers. And their session on handling the ups and downs of the fast-paced constantly changing world promises to be unlike any you've ever seen—and one you're unlikely to forget.

Described as "Saturday Night Live for Business," The O'Sheas will take you on a humorous and informative journey through the ups and downs of dealing with change. Through motivational humour this session will take a lighthearted look at a sometimes heavy topic.

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By: Jackie Porter, CFP

## PENSIONS: LUMP SUM OR MONTHLY PAYMENTS?

Retiring employees or employees who otherwise leave their jobs are often faced with a tough decision to make regarding their employee pensions. In many instances, companies with defined benefit plans will offer their employees the choice between taking their pension in a lump sum or taking the pension in the form of a monthly payment.

### The Decision

When faced with the decision to take the guaranteed monthly pension payment or take the commuted value of your pension – you must look at the quantitative and qualitative factors impacting this decision.

The monthly defined benefit pension option is fairly straight forward. You are guaranteed a pension payment until death with the option of a survivor benefit and potential indexing to inflation. The lump sum option is a little more difficult to understand. Choosing this option means that the guaranteed monthly pension is forfeited. The intent of the lump sum option is to give you what is known as the present value (or commuted value) of the monthly pension amounts that would otherwise be received. The calculation, which is usually made by an actuary, makes assumptions about life expectancy and inflation and uses a discount factor to determine what the lump sum equivalent should be. The commuted value is deposited to a Locked-in plan with regulated payments based on the government prescribed amount. The value of this payment can fluctuate as it is based on the market value of the plan on December 31 of the previous year, as opposed to the pension payment which will remain the same or increase for the duration.

### Quantitative Analysis

The quantitative analysis involves two factors – the interest rate environment when receiving the commuted value and the difference between the payments from the Locked-in Plan vs the pension payment.

Interest rates at the time you take the commuted value can have an impact on the amount you receive. It has been suggested that taking a commuted value in a low interest rate environment is better than when interest rates are high. The payout will be greater given that part of the formula calculation in the amount is the discount factor.

A critical factor in making this decision is also to ensure that the Locked-in Plan makes a payment equal to or more than the guaranteed payment provided by the defined pension plan.

### Qualitative Considerations

Of equal importance are the qualitative factors that will impact your final decision; such as:

### Personal Health

If you have a shortened life expectancy – given personal health issues or family history of poor health you may want to consider taking the lump sum. Therefore, your beneficiary will inherit the full value of your pension.

### Health of Pension Plan

In addition to your own health, you also need to check the financial health of your company's pension plan. Your pension is likely to get affected if your company or its pension is in trouble. If there is a risk to your pension payments in the future, it may be wise to take the lump sum payment.

### Cash Flow Flexibility

Taking a lump sum payment gives you the flexibility to make large withdrawals in case of emergency where a pension plan does not.

### Market Risk

When you transfer your funds into a Locked-in plan or Registered Plan in most cases you will invest the funds in the market in order to achieve a payment equal to your

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## PENSIONS: LUMP SUM OR MONTHLY PAYMENTS? Continued..

pension payment. In doing so your payment will fluctuate based on the current value of your plan calculated on December 31 of the previous year.

### Indexing to Inflation

It is important to know if your pension payments are indexed — meaning they increase with inflation year over year — keeping pace with the cost of living. If they don't that is a good reason to take the lump sum payment.

### Other Benefits

If you decide to take a lump sum payment ensure that there is not a loss of other health benefit coverage medical/dental that would be offered by staying with the pension plan.

### Conclusion

The decision to take the lump sum value of your pension or the monthly payments can impact your financial security for the rest of your life. It is important to take the time to consider all the important variables, such as rates of return, life expectancy and personal estate planning issues.

*Jackie Porter has been in the financial industry for 18 years serving 400 families and businesses in the Greater Toronto Area. Her practice focuses on investment planning, cash flow management and tax planning. In her role as a certified financial planner, her mission is to help her clients to become and remain financially independent.*

*A regular contributor to Woman magazine, Jackie was also on Senator Vivienne Poy's Task Force for Young Entrepreneurs back in 2001. In February of 2009, Jackie was interviewed on CBC Newsworld and Sun News in 2013. Jackie currently serves on the Board of directors for Advocis Toronto and served for 2 years on the Board for Advocis Peel Halton, an organization that regulates financial planners. She also is a featured speaker and advocate for numerous corporate, non profit and charitable organizations. Jackie also acts as a consultant to the TDSB on the subject of financial literacy in the school system. Carte Wealth Management, 905-238-3535 x234 (phone), 905-238-8197 (fax), [askjackie@cartewm.com](mailto:askjackie@cartewm.com), <http://askjackie.ca> "When in Doubt...Ask Jackie!"*



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By: Jane Sleeth OPC Inc and  
Cheryl Giraudy Architect, MSc. Wayfinding

## NEW ACCESSIBILITY AMENDMENTS TO ONTARIO'S BUILDING CODE

### CRITICAL REMINDER FOR TLOMA FACILITY MANAGERS, ADMINISTRATORS & HR MANAGERS

*Is your Law Firm compliant with the CSS  
& IASR for the AODA in Ontario including  
design of Public Spaces?*

New Accessibility Amendments to Ontario's  
Building Code

On December 27, 2013, Ontario Regulation  
368/13 was filed to amend the new 2012  
Building Code, O.Reg. 332/12.

**The effective date of the amendment  
was January 1, 2015!!**

The amended requirements will substantially  
enhance accessibility in newly constructed  
buildings and existing buildings that are to  
be extensively renovated. These amendments  
maintain Ontario's leadership role in  
requirements for barrier-free design & full  
accessibility by 2015.

In 2005, the Ontario government committed  
to the development of five accessibility  
standards under the Accessibility for  
Ontarians with Disabilities Act. These

amendments to the Building Code work  
together with the Design of Public Spaces  
standard, introduced in 2012, to finalize the  
government's commitment to an accessibility  
standard for the built environment.

As many of you know from attending OPC's  
previous seminars, accessibility standards are  
already in regulation under the Accessibility  
for Ontarians with Disabilities Act: Customer  
Service, Information and Communications,  
Employment, Transportation, and Design  
of Public Spaces. For more information  
on Accessibility Standards, please visit  
<http://www.ontario.ca/AccessOn>.

The new requirements apply to most new  
construction and extensive renovations.  
Existing buildings, where no work is planned,  
are not affected by these new requirements.

**Amended requirements cover a range  
of areas, including but not limited to:**

Requirements for all smoke alarms in all  
buildings, including houses, to include a visual  
component

## NEW ACCESSIBILITY AMENDMENTS TO ONTARIO'S BUILDING CODE Continued..

Requirements for an elevator or other barrier-free access to be provided between storeys in most buildings, with some exemptions for small residential and business occupancy buildings

Requirements for power door operators to be provided at entrances to a wider range of buildings, and at entrances to barrier-free washrooms.

Updated requirements for barrier-free washrooms AND universal washrooms

Updated requirements for accessible and adaptable seating spaces in public assembly buildings such as theatres & lecture halls

For further reference the text of the amending regulation is available on E-Laws: Ontario Regulation 368/13 - Amendment to Building Code Accessibility Requirements.

Know if your built environment and public spaces in and around your law firm premises requires a Built Environment Audit measured against the new OBC ABES Jan 2015 and in some cases over time the National Build Code or the CSA Built Environment Standards. Our lead architect at OPC Inc who sits on the OHR Tribunals notes a large increase in the number of cases filed related to a lack of accommodation for disabilities. To avoid these potential risks as well as penalties by the Accessibility Directorate of Ontario we recommend strong and real action to ensure compliance on the part of your law firms in 2015 re the IASR and the Ontario Build Code.

*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*



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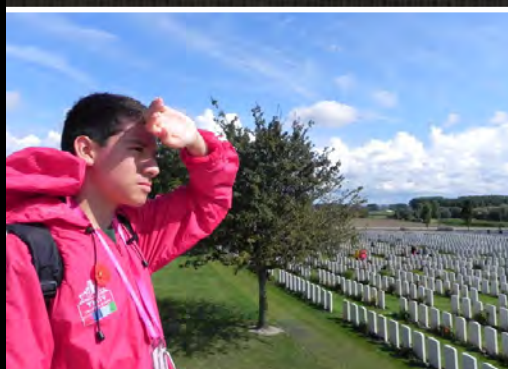
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By: Yolanda Billinkoff

## BENEFITS BEYOND SANDWICHES: THE CASE SUPPORTING PREVENTIVE HEALTH BENEFITS FOR LAWYERS

The business of law revolves around one of our most valuable resources: time. It's why firms provide lunches and cater dinners. Premium office space is rented to maximize it. Billable hours in court and with clients are hours well spent. Some lawyers even organize their workday in six-minute increments. That's how much time is valued.

But I urge you to take a look at the firm's other valuable resource: your lawyers' health. A lawyer's time is inextricably linked to his or her health. A partner's surprise cancer diagnosis or an associate's heart attack could sideline them for months. An unplanned early departure drains the firm of intellectual capital and shrinks team morale. We all know that burnout and early leaves happen – often with impacts long felt internally and on the client side. Yet in many cases, that surprise factor and the consequential need to catch-up can be avoided with preventive medicine. Our Medical Director Dr. James Aw likes to call his patients' bodies and minds "the machine". Like any valued engine or a vibrant garden, our machines need consistent and regular care. And when a lawyer doesn't have their machines in check, professional capacity and time at work can diminish significantly.

Even with this common knowledge, lawyers frequently prioritize a client's needs ahead of their own. Dr. Aw has seen lawyers for over



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20 years and credits their incredible resilience for allowing them to perform exceptionally well under pressure for longer than most. He says they "take it on the chin" for years. But that imbalanced lifestyle has consequences. Unplanned disability, time away or early departures will impact a firm's bottom line and return on investment.

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As Statistics Canada last reported, cancer, heart disease, and stroke are the leading causes of death. The Canadian Cancer Society estimates 2 out of 5 Canadians are expected to develop cancer during their lifetimes. The incidence is higher among men.

Similar trends exist for diabetes, and other chronic conditions.

Your lawyers are not immune to these trends. Strong firms know this and work towards mitigating health risks. Protecting your lawyers' time and health – your human resources – is critical.

Personalized regular check-ins help lawyers diminish the chances of being unexpectedly sidelined by illness. Our clients like how preventive care gives them advance notice when transitions are necessary. If your lawyers don't have a private health program, when are they meant to prioritize the maintenance of their machines? Between 7 p.m. and 9 p.m.? We all know that's an unreasonable expectation.

Time-pressed individuals like your lawyers expect medical-service providers to be just as time-sensitive and professional as they are. That's why many firms choose private health assessments for their partners and associates.

**BENEFITS BEYOND SANDWICHES:  
THE CASE SUPPORTING PREVENTIVE  
HEALTH BENEFITS FOR LAWYERS  
Continued..**

The corporate program ensures lawyers that their health is valued by the firm. And when health conditions arise – and they inevitably do – preventive programs get ahead of diagnoses.

Preventive medicine not only saves lives, it saves valuable time. I'd also argue that providing superior health benefits attract and retain the best minds on the street. The cost is not much more than a year of catered lunch, while the conveyed message about your firm's culture is clear to desired talent.

There is no better way to demonstrate that a firm values healthcare then implementing a comprehensive private health program. Almost all large firms have private health programs. If your firm doesn't, are you mitigating risk as well as you could be? Are you demonstrating to your lawyers that health matters?

In 2012, 70% of Canadians felt there should be a greater investment in disease prevention. And in 2011, 60% of employees felt their employer has some responsibility in employee health. Where does your firm sit on this spectrum?

Lawyers can best plan, prepare and practice law when they are at their optimal health. The wisest choice for firms focused on the bottom line starts with a health risk assessment, followed by year-round customized care. I encourage you to consider this next time you enjoy a firm-sponsored sandwich.



By: Claudio Nespeca

## **WHEN IT COMES TO BUSINESS TELECOMMUNICATIONS, ALL OFFICE BUILDINGS ARE NOT CREATED EQUALLY**

### **Why fiber optics and VOIP need to factor into your next move**

When businesses look into new office space, reducing operational costs is often top of mind. Office leases and utilities, along with payroll, are among the largest “fixed” costs for the average professional firm. Close behind is the “bundle” of technologies used in day-to-day operations, most of which are data-driven applications ranging from specialized software to common voicemail features. Until recently, technology didn't factor into the office space equation. But with the increasing need for advanced data and telephony capabilities, choosing an office building with the right network infrastructure can make or break the potential for performance and savings.

### **The Shift in Network Technology**

It used to be the case that every building had the same or very similar network options -- DSL or cable. Two major shifts in

telecommunications have made it essential to know more about an office building's existing network.

The first is the increasing popularity of fiber optic networks -- data networks that transmit at superior rates and more reliable than traditional copper cables. The second is the emergence of Voice over Internet Protocol (VoIP), a now popular phone technology that allows audio phone calls to travel over data networks instead of traditional phone lines. The two technologies offer a variety of benefits to the business world -- including affordable long-distance rates, integrated communications and fast, consistent connectivity -- making them near ubiquitous among modern companies.

These two shifts in the telecommunications industry have made it very difficult for modern businesses to deploy enterprise-level telecommunications at an affordable price using traditional networks. Buildings “wired” with outdated networks simply can't offer tenants the same level of performance or cost-savings that are created with fiber optic technology.

### **How a Building's Network Influences Operational Costs**

Choosing the right office building and network infrastructure starts with understanding your business's needs. This includes considering your data usage and annual costs as well as your telephone usage and important phone features. With these in mind you can assess which buildings have the right network for your business.

For firms that require advanced Internet and telephony -- high bandwidth and overall

*Yolanda Billinkoff is the vice president of sales and corporate accounts at Medcan, Canada's largest private preventive health provider since 1987. She can be reached at YolandaBillinkoff@medcan.com, at the office at 416.350.3618 or on her mobile at 416.662.6674.*



**WHEN IT COMES TO BUSINESS  
TELECOMMUNICATIONS, ALL OFFICE  
BUILDINGS ARE NOT CREATED EQUALLY  
Continued..**

reliability -- buildings provisioned by a reputable fiber-optic service provider are the only option. Without a pre-existing fiber network, the cost of improving the existing technology would be passed down to the company. In the best-case scenario, the tenant business would take on a high monthly premium that covers both the installation and service charge.

Buildings with multiple fiber-optic providers will offer the best value for the average business. Competition between specialized telecommunications companies makes for lower rates and improved customer service, especially when compared with offices wired by a single incumbent service provider. Older buildings with a longstanding, and often complacent, service provider are more likely to have outdated technology.

Choosing a new space solely for the affordable lease can leave a company with fewer options and higher costs when it comes to telecom. Businesses that want to stay open to the potential for business-grade Internet and telecommunications can mitigate the risks of an older network by leasing in properly developed buildings.

#### **Evaluating a Building's Network**

There are a handful of straightforward questions to ask property managers to find out what network environment to expect. Just as you'd ask about utilities and other fees, ask about the network options:

*Are they outfitted for multiple providers?*

The providers with which a property management firm works can affect the value of their space. Innovative management will engage leading business services and ensure that their tenants have access to the best the market can offer. Be sure to find out what the property managers have planned for their tenants.

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Competition and type of network are both key.

*Are they on a traditional telephony network or fiber?*

If other costs are too hard to pass up, be sure there is at least one fiber service provider. This will save overhead costs down the road if better telecom becomes part of improving operations. Access to fiber will also improve VoIP service performance and can potentially be bundled with Internet rates for certain providers.

*Can the building be lit by another fiber optic provider?*

Sometimes property managers won't allow another service provider into the building depending on their relationship with existing vendors or issues with installing the fiber cables. In this case, the cost of doing business at this location goes beyond overhead and into limiting the tools available to enhancing business communications.

#### **Taking Telecommunications Into Account**

Telephony and Internet connectivity have become instrumental to business success. By the same token, they've also become growing expenses. With a few questions for your current or prospective service provider and property managers, the costs can be reduced and the technology improved during an office transition. Once a business understands its own telecommunication and budgetary priorities, it can find an office space that meets them.

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By: Heather Suttie

## LIVING IN INTERESTING TIMES

*Law firms that ignore marketing in favour of trendier business concepts are going the way of the dodo*

"May you live in interesting times" is not a blessing. It's a curse in which "interesting" is a euphemism for "all hell breaking loose." The legal industry is living in interesting times, and the environment, client expectations and the traditional law firm structure are all changing by the minute. For a change agent, these are invigorating times. For those who abhor change, these times are a curse.

One noticeable change that has been taking hold of late is the notion among some firms that leaping headlong into business development without ensuring that a strong marketing platform is in place will be a panacea for restoring revenues to their former glory. This trend has been on the upswing over the past few years and has accelerated recently. My guess is that much of this is due to the less-than-robust economic climate that the firms have endured over the past few years, as well as escalating battles on a couple of key fronts.

The biggest of these involves capturing or keeping a large slice of a decreasing legal market pie and fighting to recoup losses and see a more positive balance sheet at this year's financial mid-point, which should be right about now.

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### LOOK BEFORE YOU LEAP

"Look before you leap" has always been sage advice and it still is when examining whether you're ready to advance into business development mode. Many firms that believe they are ready to jump in with both feet would be well advised to remember that marketing is foundational for business development success. This is because, without having a well articulated set of distinctive traits and knowing where you stand relative to your competition, any foray into business development can be an unsupported risk.

### HOMOGENOUS LEGAL MARKET

For years, the conventional thinking was that conservative business practices will keep you safe and solvent. This is wrong. Being "one of many" doesn't work. Consider Heenan Blaikie LLP, which was one of a herd of large-size, national firms that failed in spectacular fashion earlier this year.

During its best times, there was nothing

particularly distinctive that the firm conspicuously laid claim to as its unique set of traits and selling proposition. Heenan Blaikie could have been any one of a number of firms whose hallmarks are on par with each other in terms of head-down, mouth-shut behavior, and whose market identity and corporate colours may as well be beige-and-grey so as to be as homogenous as milk and as boring as porridge.

### CART BEFORE THE HORSE

Firms that are putting emphasis on business development first and marketing second are getting ahead of themselves. There are even a few firms considering reversing their internal team's name from "Marketing and Business Development" to "Business Development and Marketing" or dropping the "marketing" moniker completely.

Ignore marketing at your peril. Without a strong marketing platform that includes the basics of a well-defined and articulated brand (which has precious little to do with a logo),

targeted markets that align with the firm's strengths (which has nothing to do with favouritism), and a website and other social media tailored to support and backstop these efforts, you face serious risk of building business-development processes on shifting sand and being sorely disappointed when those processes fail to achieve solid financial returns.

### MARKETING, DEVELOPMENT, SALES

In a nutshell, marketing is about executing on strategies that ensure you are known for unique traits that set you apart from the competition; business development is about nurturing business relationships; and sales is the result of carefully cultivated business relationships that convert into mutually beneficial business opportunities for both the client and the firm. This is why the lead-in to the sales pipeline will always be marketing, followed by business development, followed by sales.

Sales is the way of the future for firms that want to achieve financial success, and the time for reinvention of the law firm model is now. Actually, the time was many yesterdays ago, but since law firms tend to change more slowly than the earth's tectonic plates, now will have to do.

As Charles Darwin prophetically said, "It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is most adaptable to change." It's a tough world out there, and in the legal world, it's getting tougher. Get going or get out of the way.

*Heather Suttie is a legal marketing and business development consultant. She works with a range of firms: global, national, mid-size and boutique. Reach her at (416) 964-9607, [heather@heathersuttie.ca](mailto:heather@heathersuttie.ca) or [www.heathersuttie.ca](http://www.heathersuttie.ca).*

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