

# LAWPRO®

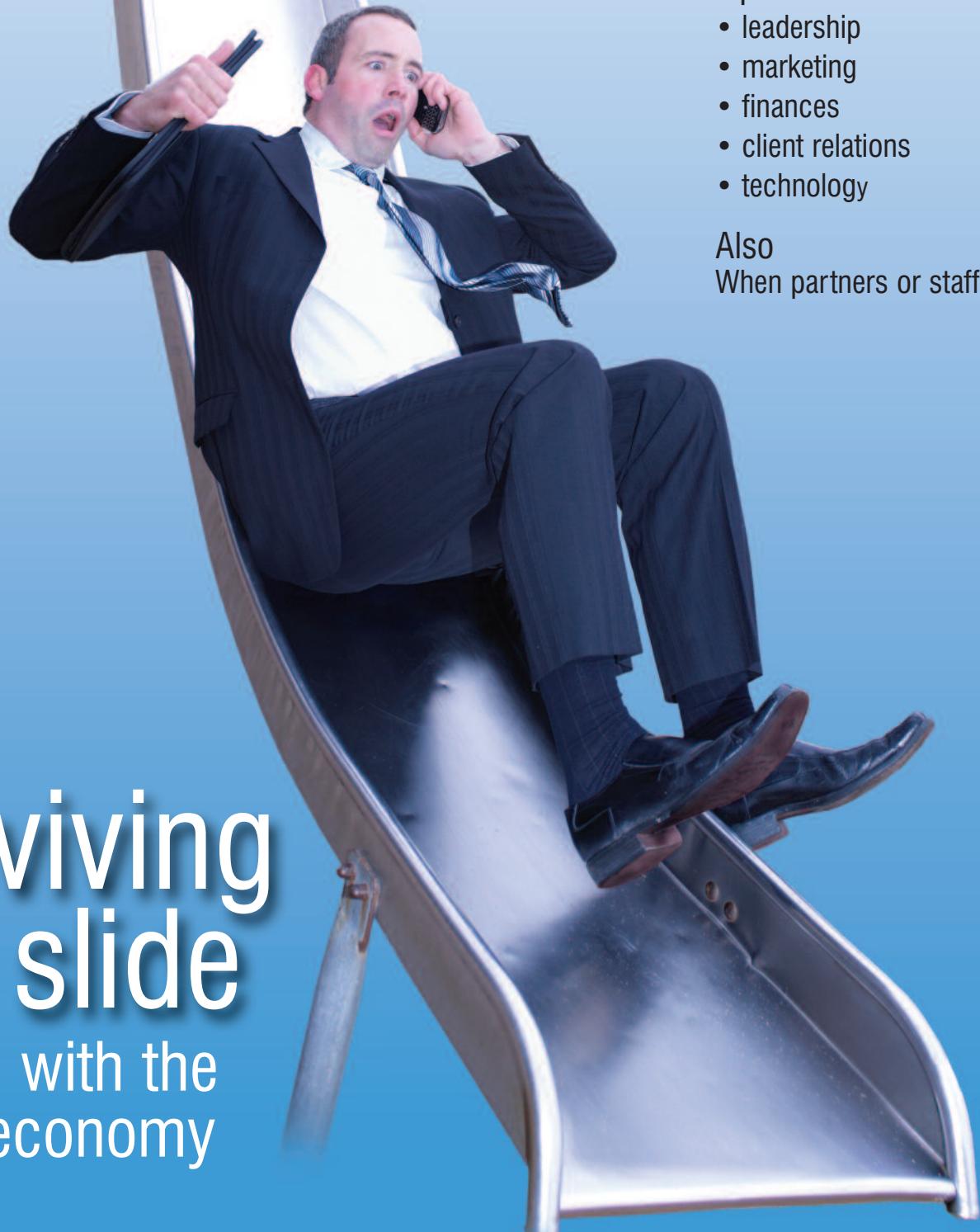
Tips on:

- leadership
- marketing
- finances
- client relations
- technology

Also

When partners or staff steal

surviving  
the slide  
dealing with the  
tough economy





# Needed: great lawyer leaders

While reviewing the content for this LAWPRO magazine, I was struck by how much the two themes in this issue reflect the two key (and to some extent, contradictory) aspects of being a successful lawyer.

On the one hand, we are trained to be objective, fact-oriented, clinical, even a bit cold-hearted. That's the skill-set that will stand you in good stead if you suspect one of your staff members is stealing from the firm – a reality we are seeing all too often in the LAWPRO claims portfolio. David Debenham's excellent article on why firm members commit fraud and how to deal with the fraud and the fraudster is recommended reading.

But we also know that being connected, empathetic, communicative – personally and professionally – are just as, if not more, important to being successful. The feature article on the following pages of this magazine drives home the need to be even more inclined to communicate and share information, if your firm is to "survive the slide."

For many, reconciling the two traits – building strong relationships founded on good communication, trust and empathy while at the same time being the objective, analytical observer and advisor – is a struggle.

But dig a bit deeper and you realize that there's really no dichotomy here. Whether we're talking about facts or feelings, we're really talking about being an engaged, involved, knowledgeable leader in touch with all that is happening in his or her law practice – from keeping on top of receivables to modeling behaviour by involving firm staff in problem-solving during the current economic downturn. And in these tough times, great lawyer leaders who are both "hard-nosed" and emotionally intelligent in the right doses at the right time are needed more than ever.

In this vein, the panelists in the "Surviving the slide" feature article suggest that now is the time for leaders

to share economic realities with their staff – to the extent possible without compromising firm and client confidentiality. I personally am a strong advocate of empowering people with information, and want to reassure you that LAWPRO's financial situation – although affected by today's economic woes – remains solid and secure.

Like everyone else, LAWPRO had reaped the benefit of a rising stock market. Solid investment income in the past few years contributed to stability in insurance premiums. At \$2,300 per lawyer in 2008 and \$2,450 in 2009, lawyers' insurance premiums are the lowest they have been in the last 14 years.

And like everyone else, both our capital position and our investment returns have been adversely affected by falling markets. This reality, coupled with a difficult claims portfolio, will present pricing challenges in the coming year. But the prudence and foresight of our company's Board and management over the past 14 years leave us well-positioned to ride out the storm. We have only a small exposure in the equities markets, our equities manager outperformed its overall benchmark for the third quarter, and we continue to exceed the main target measurement set for us by our regulators. That's not to say that 2009 and beyond will be smooth sailing. But given the foundation set by my predecessors, and the commitment and expertise of our employees and Board members, I am confident that LAWPRO will continue to fulfill its mandate of providing cost-effective, customer-focused insurance programs and services.

On that optimistic note, I wish you and yours the very best for 2009, and may the new year present fewer challenges for us all than the one we have left behind.

A handwritten signature in blue ink that reads "Kathleen A. Waters".

Kathleen A. Waters  
President & CEO

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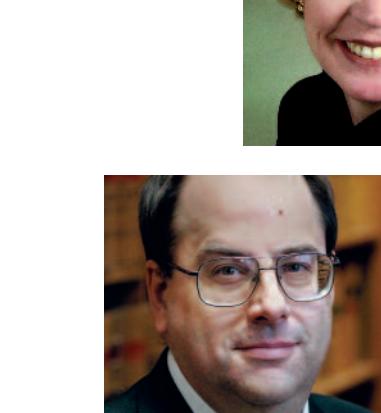
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# Surviving the slide: What firms should (and shouldn't) do to ride out the economic storm

*The debate over whether Canada is or will head into a recession is really moot. It is clear the economy is slowing down significantly, and as surely as night follows day, clients will feel the squeeze, and in turn, lawyers will feel their clients' pain. To help Ontario lawyers and law firms get through trying times, LAWPRO Magazine convened a panel of experts on law firm management and operations. They provide insights on leadership issues and strategy in difficult times, dealing with marketing and client relationships, managing law firm finances, and tackling technology. Their responses are thought-provoking and eye-opening. They will help you get beyond the usual (and wrong) responses to an economic crunch: protecting the partners, firing associates and staff, slashing the marketing budget and looking for a merger partner.*

*Profiles of panelists Ed Flitton, Karen MacKay, Gerry Riskin, and Merrilyn Tarlton are included on the following pages. The panel was moderated by Dan Pinnington, director of LAWPRO's practicePRO program.*

*Read on to learn what you and your firm must do to survive the slide.*

*Due to space limitations, this is a condensed version of a roundtable discussion. The full version is available at [www.practicepro.ca/lawpromag](http://www.practicepro.ca/lawpromag).*

## Leadership

**What do the best law firm leaders do in tough times? Do they do things differently? Should they be thinking about mergers?**

### Gerry

Number one is to manage the expectations of the folks inside the firm – including managing the expectations of partners in terms of what they're going to earn. Candid discussions on an ongoing basis are a must to prevent ending up with a number of surprised or disappointed partners who may trigger an event you don't want.

Second, data has to get managed with much greater frequency. In ordinary times it's okay to look at various things – like WIP, receivables and cash flow – from time to time, but in these times one eyeball has to be on the data at all times.

Third, it's really important to watch the trend lines to see what's going on. For example, are lawyers being laid off at other firms? If so, you want to know that real-time because again that trickles back to managing the expectations of your own people in terms of what's going on in this profession.

### Merrilyn

To quote my favorite leadership philosopher, Ford Prefect from *Hitchhiker's Guide to the Galaxy*, "Don't panic!" And because the leader always sets the tone, this message has to come first from the managing partner's office.

It's also a leader's responsibility to keep the long view ... You can quickly destroy a law firm by focusing too much on the short-term solutions at the expense of your firm's future – out west we say "Don't eat the seed corn."

### Ed

One of the most important jobs for a leader in tough times is communicating reassurance. Us older folk have been through these cycles, we know better times will return. But younger partners, associates and staff, may think that if the firm isn't doing well, it's the problem of the firm. The leader needs to convey that this is reflective of the economy, that we've been through and recovered from this before, that things are going to be okay. I think it's critical to get that point across repeatedly.

### Karen

I particularly like a Warren Buffet quote that puts these economic times in perspective. He said that beside every bubble is a pin

waiting to teach the next generation. This recession will teach us a lot about leadership. A leader can and should certainly put things in perspective and provide some context. Tell them what's going to happen, why it's going to happen, how you're going to do it and when. And as Merrilyn said, take the long-term perspective and remember, what you do in the short term could impact your reputation for a very, very long time.

### More reading

Here are some books on leading your firm through tough times, which are available from the practicePRO lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)).

1. *The Lawyer's Guide to Buying, Selling, Merging and Closing a Law Practice*. Sarina A. Butler & Richard G. Paszkiet, published 2007.
2. *The Lawyer's Guide to Strategic Planning: Defining, Setting, and Achieving your Firm's Goals*. Thomas C. Grella and Michael L. Hudkins, published 2004, 230 pages with CD-ROM.
3. *Managing Partner 101: A Guide to Successful Law Firm Leadership* 2<sup>nd</sup> Edition, Lawrence G. Green, published 2001, 152 pages.
4. *Anatomy of a Law Firm Merger: How to Make or Break the Deal* 3<sup>rd</sup> Edition. Hildebrand International, published 2004, 208 pages with CD-ROM.

## Human capital

**One of the usual responses in tough times is to lay off associates and/or staff. What do you do about your superstars, your new associates, your underperformers?**

### Ed

The biggest mistake you can make is to either stop hiring associates or, worse yet, ask those who are coming to come later in the year, as some are doing now. That – and laying off associates – has a terrible impact on one's reputation at law schools ... and also means that you can lose some of your future in the firm. You don't want to find yourself in five years with no mid-level associates.

At the same time, this is a good time to weed out underperformers because some of their protectors, the partners who are protecting unproductive favourites, can be convinced now that this is the right time to do it.

An economic downturn is an opportunity ... where practices can be developed to respond to the substantial changes that are going on in our economy ... to take people who may be talented, ambitious and energetic but just in the wrong place for what's



*"The biggest mistake you can make is to either stop hiring associates or, worse yet, ask those who are coming to come later in the year, as some are doing now. That – and laying off associates – has a terrible impact on one's reputation at law schools ... and also means that you can lose some of your future in the firm."*

**Edward H. Flitton** the former Managing Partner of Holland & Hart LLP, a leading Denver-based law firm, and now acts in an Of Counsel capacity to the firm. He is a member of the Council of the Law Practice Management Section of the American Bar Association, serves as the Section's Chair of Finance and is a member of the Editorial Board of *Law Practice Magazine*. Ed is a Fellow and currently President of the College of Law Practice Management. Ed can be reached at [EFlitton@hollandhart.com](mailto:EFlitton@hollandhart.com).

happening and move them over to some of these new opportunities.

#### **Gerry**

Shame on the leader who has left it until now to cut underperformers. You're now releasing people into a far more dangerous environment and hurting them a lot more. One of the lessons here is to not wait for this kind of environment to start doing what you need to do on an ongoing basis.

In terms of the associates, I think if we don't have enough work for them, then spend the time training them. Help them learn how to develop business or enhance their client relations. In other words, make them better.

This is a time when the pie is shrinking (and) every partner comes out of the woodwork with 300 pieces of evidence or a rationale as to why they should do better, especially relative to the others. This is a time for a leader to have enough courage to protect the superstars from getting gobbled up by rank and file who just are too uncomfortable with how this is affecting them, and therefore start to rationalize that the superstars aren't really superstars.

#### **Karen**

To build on what Gerry said, I think that this is a time to be creative on two fronts. Be creative with your clients because clients are dealing with the same economic issues. Can you retain great

talent in your firm over the long haul by partnering with your clients and doing secondments? Perhaps you share the costs, perhaps not, but this is one way to get through this economic downturn and retain and train your talent. So I think that's a huge opportunity to do something different.

It's also a time to be creative about the law firm model of the billable hour. If we listen to the thinkers on how the law firm of the future needs to be shaped, the work perhaps needs to be more standardized (and) systematized using technology.

This is perhaps a time to have really good people in your firm working on your business, not just in your business – look at how you do your work and see about doing it differently. Tear apart files that you've completed and look at ways to do it faster, better with more technology, higher quality and cheaper resources.

## **Employee relations, engagement and morale**

### **How do you keep your firm staff engaged and motivated?**

#### **Gerry**

You involve them a lot and you have to be very clear about what you're doing. We've learned from previous recessions that uncertainty is a killer. Be really clear as to how you're managing (and) making decisions and let them know that if they're at risk they'll know about it, and if they're not at risk they'll also know that.

The other issue is not to hide bad news. These are adults, they're smart and they know what's going on in the world: Bad news has to be delivered. If they don't already know it, it will leak out, so I think it's time for candour.

#### **Merrilyn**

One of the things that we know about successful organizations is that every individual at every level is motivated by the organization's goals. But when any kind of significant change or threat occurs, everyone's individual motive base switches to their own interest. So rather than focusing on helping the firm achieve its goals, we find secretaries, partners and even messengers working on their resumes, talking with headhunters and wasting a lot of time.

So I think it's very important to involve everyone in the firm in solving the problems, and you can't solve a problem unless you have information about what the problem is ... You're not going to turn over all of the financials to all of the staff; but you need to provide them with some kind of a basic benchmark to understand how we're doing and when we're doing better or when things are getting worse. You also have to provide that kind of information to challenge them to do effective problem-solving.

Firms that have a strong culture founded on a certain set of values (must not) lose sight of those values. Too often in this type of crisis an organization will unwittingly step away from its core

values. And one of the things that employees in the organization will be watching for is whether or not the values that you've talked about for so long suddenly turn into merely words and not actions.

I also strongly recommend that leadership make certain that they include people issues – yes, feeling issues – in any discussion prior to making a decision. By their very nature, law firms have an overabundance of fact-based decision makers who decide based on "what makes sense" or what is "right"; but in crisis it's absolutely critical that decisions take into account how they affect people and how people will respond. In some firms where they are savvy about this sort of thing, they go so far as to invite different decision makers into the room to speak on behalf of how this is going to make people feel and how that should influence the decision.

## Client relationships

**How do you get closer to existing clients and figure out what they really want and need? Are there opportunities out there in this kind of market?**

### Merrilyn

The first thing you do is view the world through your clients' eyes: Sit down one-on-one, side-by-side and take a look at their challenges and determine if you can help them save money or be more efficient ... Look at whether or not you might place younger, under-used lawyers in your clients' offices at a significant reduction in fee in order to continue to provide training for that associate as well as to build bonds between the firm and that client.

Another suggestion – and this gets a bit into firm finances – is to be creative about rates. I don't think lowering your rates is the right thing to do, but I do think you should be watching those organizations that you would like to be your clients, and determine whether or not they can be approached with a more competitive package. And I don't propose that that's necessarily a lower hourly rate. I suggest that it's some better way of resolving their issues than is currently being implemented by a competitor law firm, a different way to package services, a proposition that allows for cost savings based on a certain quantity of work for your firm.

### Karen

Secondments or creative partnering with clients don't have to involve young lawyers only. If we could take the entrepreneurial client base that many firms serve (and as we know from statistics, entrepreneurs are overwhelmingly younger) and combine that with law firms' succession planning and aging partnership issues, there may be a real opportunity for older lawyers to add wisdom. They've just lost a big chunk of their portfolio, so

freedom 65 is now freedom 85. They need income too. I think there's a real creative opportunity here for older partners and older lawyers to add wisdom to young entrepreneurial businesses.

### Gerry

Talk with clients, get them in to do reverse seminars about their businesses and meet with them one on one to explore how we can help them.

I recommend having the appropriate team within the firm propose an actual conference or session with key clients on the topic of recession planning. Make it an interactive topic where client and law firm try to figure out how they can interactively help each other given the nature of the challenges they face.

We also need to think in terms of opportunities. I know of one firm that is ratcheting up its real estate capability at a time when there is no real estate work. They believe that now is the time to attract talent like never before. They're also seeing it as a client relationship and marketing opportunity. For example, we're now seeing a trend toward re-negotiating leases. We also know that real estate attorneys can help with workouts that involve a lot of real estate components.



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**Karen MacKay** is the President of Phoenix Legal Inc. and a recognized expert in management of professional talent in law firms including retention, evaluation, development and succession planning. She contributes to numerous legal publication in Canada, the U.S. and abroad, is a member of the Practice Management section of the American Bar Association and a member of the Editorial Board of *Law Practice Magazine*. She previously headed up the Canadian legal practice of a major human capital management consulting firm, and served as Chief Operating Officer of a large Canadian law firm. She can be reached at [kmackay@phoenix-legal.com](mailto:kmackay@phoenix-legal.com).

### **More reading**

For more tips on better client relations, try these books from the practicePRO lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)).

1. *How to Get and Keep Good Clients* 2<sup>nd</sup> Edition. Jay Foonberg, published 1994, 600 pages.
2. *Women Rainmakers' Best Marketing Tips*. Theda C. Snyder, published 2003, 142 pages.
3. *The Successful Lawyer: Powerful Strategies for Transforming Your Practice*. Gerald A. Riskin, published 2005, 256 pages or 6 audio CDs.

## **Marketing**

**The usual response is to slash marketing efforts and expenditures. Do you do more, less, change your efforts, cross-sell?**

### **Gerry**

Yes, you do more marketing, but you focus more on the existing clients. Firms generally are reluctant to talk to clients in bad



*"... be very clear about what you're doing ... how you're managing (and) making decisions and let (staff) know that if they're at risk they'll know about it, and if they're not at risk they'll also know that ... Don't hide bad news. These are adults, they're smart and they know what's going on in the world: Bad news has to be delivered. If they don't already know it, it will leak out, so I think it's time for candour."*

**Gerry Riskin** is a partner and co-founder of Edge International, a leading consulting firm for the global legal community. A lawyer and management consultant, Gerry is also author or co-author of several best-selling books (*The Successful Lawyer; Herding Cats and beyond KNOWING*) and creator of acclaimed video productions *PracticeCoach®* and *Rainmaking®*. He has served on the Conference Board of Canada and is a Fellow of The College of Law in London and a Visiting Professor at the University of Pretoria in South Africa. He can be reached at [riskin@edge.ai](mailto:riskin@edge.ai) or through his blog at [www.gerryriskin.com](http://www.gerryriskin.com).

times ... They assume the last thing the client wants to do is talk about its difficulties. Get over that and call and say: "Hey, how are things going? What's going on?" It's a time to get close to these people.

### **Karen**

It's not the time to be extravagant. You risk offending both your partners because you don't have the money and your clients because they know they'll pay for it. Change your focus to one-on-one. Pick up the phone and call your clients, go and visit them on your way into the office ... but make sure they know that the visit is off the timesheet.

### **Ed**

A partner whose work is down (can either) keep work that he would normally delegate to associates ... (or) take that same time and spend it talking to his clients and engaging in other marketing efforts.

... I think it's up to the leadership of the firm to convince the partners of the firm that they need to keep sending that work down to the associates, to keep the associates engaged and learning ... And that gets down to compensation. To really make this effective, those partners need to be convinced that if they do that, they will not get hurt at compensation time.

### **Merrilyn**

Invest your free time ... (by) laying the basic groundwork ... putting the pieces in place to make (yourself) "famous."

This has to do with identifying organizations that you can become involved with to demonstrate your competence, finding places where you can publish (or) speak, identifying groups that you will become an involved member of like boards of organizations, trade associations, community organizations .... When things get busy again it's a matter of ticking off the things on your calendar rather than starting from ground zero.

### **More reading**

Smart marketing doesn't have to be expensive. These three books are full of strategies to get your firm's message out to potential clients. You'll find them at the practicePRO lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)).

1. *The Lawyer's Guide to Effective Business Development*, William J. Flaberry Jr, published 2007, 150 pages.
2. *The Lawyer's Guide to Marketing Your Practice* 2<sup>nd</sup> Edition. Edited by James A. Durham & Deborah McMurray, published 2003, 328 pages with CD-ROM.
3. *Personal Marketing and Selling Skills*. Catherine A. MacDonough and Beth M. Cuzzone, published 2007, 146 pages.

## Finances

**How do firms respond to clients' economic constraints? Is this the time to decrease fees or increase billing rates, or look at alternative billing options?**

### Ed

This is not the time to decrease billing rates or even freeze them across the board ... because you can't catch up.

Instead, now is the time to prioritize your clients. Recognize the clients that you want to keep and help, and make some deals with them either about billing rates or about how they're going to pay their bill, giving them some time. Look at the clients who are key to the firm and being the most adversely impacted by the recession, but also look like the ones that will come through. There should be deliberate efforts to communicate with them and help them survive. I would be willing to cut some special deals with them, like freezing your rates for a year.

### Gerry

The linear reaction when we find out clients want to decrease their legal spend is to think we need to lower our hourly rate by whatever the percentage is that clients are trying to reduce their legal fees.

The creative option – which is too rarely exploited – is to sit down with a client and say "Look, let's look at your big picture. Let's look at how you allocate your legal spend and what you get for it and let's at least try to help you reduce that legal spend, not necessarily by cutting rates across the board but maybe by doing things differently or prioritizing work differently or whatever."

### More reading

Try these books for ideas on better managing your firm's finances and bringing in new revenue. Borrow them from (for free!) from the practicePRO lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)).

1. *The Lawyer's Guide to Increasing Revenue: Unlocking the Profit Potential in Your Firm*. Arthur G. Greene, published 2004, 180 pages with CD-ROM.
2. *Results-Oriented Financial Management: A Step by Step Guide to Law Firm Profitability* 2<sup>nd</sup> Edition. John G. Iezzi CPA, published 2003, 272 pages with CD-ROM.
3. *Winning Alternatives to the Billable Hour: Strategies that Work*. Mark A. Robertson & James A. Calloway, published 2003, 175 pages with CD-ROM.
4. *Compensation Plans for Law Firms* 4<sup>th</sup> Edition. Edited by James D. Cotterman. Published 2004, 192 pages.



*"This is a time to unleash your firm's creativity. Don't mess around now ... really apply your best minds to ways you can use technology to create better and less expensive solutions to your clients' problems ... Now... when the economic pressure is on your clients and you have time-keepers with time on their hands ... invest in your future."*

**Merrilyn Astin Tarlton:** A recognized advocate for innovation in the business of practising law, Merrilyn has been consulting with law firms and lawyers for over twenty years. She frequently speaks and writes on leadership, innovation, management, marketing and the peculiar world of the legal profession. She served as Editor-in-chief of the American Bar Association's *Law Practice* magazine for nine years, is past-President of the international College of *Law Practice Management* and was inducted in the first class of the Legal Marketing Association's Hall of Fame in 2006. She blogs at [www.astintarlton.typepad.com](http://www.astintarlton.typepad.com).

## Firm compensation

**It's the biggest expense at every firm – so what do we do about the shrinking pie? Is this a time for new compensation approaches?**

### Merrilyn

I don't think that this is a good time to explore new compensation approaches or formulas, because you already have everyone so off the nest and so upset about everything else that is changing. I would keep at least this one thing constant.

But firms that have been hanging tight to the utmost objective method of compensation designation (may) have to apply greater subjectivity now that things are a little bit tighter. In other words, while it's been easy to let the formula make the decision for you in compensation for partners, it may be that you're going to have to make more difficult decisions based on subjective information, as well.

### Ed

The job of management is to convince partners that it is in their best interests that the long-term best interest of the firm is going to be the gauge against which are evaluated the economic decisions that are made in the short term.

So laying off associates who are good associates, deferring important decisions about technology, eliminating marketing because it is a luxury, taking some of these other steps that impact morale are just not in the long-term interest of the firm.... Partners are just going to have to get used to making a little less money. They're also going to make more money when the going is good and the big fees come in. That's a message that it's up to leadership to convey to the partners.

### Gerry

It may also be necessary to make some changes to other costs and compensation so that the partners could have at least a reasonable compensation. There are lawyers who may have been used to living on more than they earn because they were consistently getting an increase. They are going to have some very specific problems. It may be part of management's responsibility to communicate with those people and find out how this



## Surviving the slide: Your “to do” list

### 1. LEAD & MANAGE

Leadership and management are critical and more important than ever. They are different. Know the differences but remember both are required, particularly in this slide.

### 2. MANAGE EXPECTATIONS – INCLUDING MANAGEMENT'S

Keep surprises to a minimum. Demonstrate strong leadership. Share good news and bad to earn firm staff trust.

### 3. TAKE THE PULSE – OFTEN

Monitor, measure, watch what's happening internally and externally. Touch clients often.

### 4. MANAGE YOUR REPUTATION CAREFULLY

Today's action is tomorrow's reputation: Think long-term.

### 5. KNOW AND LIVE YOUR VALUES

Your values determine your behaviour, collective behaviour determines culture. Get clarity around that and have your values as a firm and as a leader drive your decisions.

### 6. TOUCH CLIENTS CREATIVELY

The best business development types think in terms of high touch. Share a beverage with a client. Or pick up the phone. If you can't do either, write a personal note. E-mail is the last resort.

### 7. COLLABORATE

Web. 2.0 technologies offer exciting new ways to interact, collaborate and share knowledge with your clients and among members of your team.

### 8. INNOVATE

Looking back at precedents doesn't help you here. Look forward and be a leader on change and innovation. Use the fear to make change happen.

### 9. LEARN

Be open to new ideas and perspectives – you should be learning something new every day.

### 10. KEEP IT FUN

Focus on what's great about your firm, your goals, your determination. Believe that you're going to get through this (you have before) and spread that positive outlook around.

### ABOVE ALL: DON'T PANIC!!!!

As those who are a tad older will remember, downturns have happened before (and they will happen again). Don't panic, we will all get through. Approach this as an opportunity to evolve and improve.

recession is going to impact them and find imaginative ways to cushion that individual from really severe personal problems.

## Operations: costs, expenses, budgets

**What do you do to control expenses and/or cut costs?**

**What do you do differently?**

### Merrilyn

Don't nickel and dime the budget, rather take an overall strategic approach to it. If significant investments going forward need to be eliminated or delayed, do that. But don't go in and make these silly cuts (like eliminating cheese in sandwiches at client meetings as one firm did) that make you look foolish and get in the way of any kind of confidence or trust that the rest of the firm will have in your ability to lead through these difficult times.

### Gerry

I'm obsessed with frequency during times like this because I think the normal early warning systems aren't early enough. Firm leaders need to have their hands on the pulse of what's going on far more frequently. Reports that were generated monthly get generated weekly, and some daily. For example, on the issue of collections, I'd want to know the receivables of the firm day by day, and I'd want to know person by person – because it's not just the discipline of the lawyers in the firm that are going to lead to problems, it's going to be problems that the clients are experiencing themselves. And so you need to know about that and attack that early so you know what is going on and what are the right answers.

### Edward

If firms are going to be deferring things, they need to think about what do they do if next year is just as bad as this year, as it may well be. And I think that says sometimes deferrals may not work or you may be thinking of other things you need to defer next year to offset that. It can really get you out of whack if you're not thinking long-term.

## Technology

**How do you make good decisions about technology issues and costs when money is tight?**

### Gerry

We can postpone conveniences – but we cannot postpone quality. And we should make these decisions as if an actual client is ... sitting around the table with us and we were thinking about what to do about these decisions. What would they say? I have a hunch they'd say, "We're going to be pretty upset if you defer or eliminate anything that adversely impacts the quality of

what you give us and the efficiency with which you can deliver it to us."

### Karen

In many firms you have one person, the tech person, who is running all that and making those decisions – and it's an area where there can be tremendous waste. This may be a time when you want somebody on the outside to look at your technology and look at what you're spending to see where you can save money. But it may not be the person that's inside the firm who can do that. So it may be a little bit of "spend a bit of money in order to save money."

### Merrilyn

This is a time to unleash your firm's creativity. Don't mess around now ... really apply your best minds to ways you can use technology to create better and less expensive solutions to your clients' problems. Productize and package services. Unbundle them. Deliver services electronically. Use technology to remove the boundary between you and your clients. Now ... when the economic pressure is on your clients and you have time-keepers ... invest in your future.

***Editors note: For an in-depth review of technologies you should be using to improve client services and your bottom line, see page 12.***

### More reading

These books are a great start to learning how you can put technology to work for your firm. All are available from the practicePRO lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)).

1. *The Lawyer's Guide to Adobe Acrobat* 3<sup>rd</sup> Edition. David L. Masters, published 2008, 284 pages.
2. *The Lawyer's Guide to Collaboration Tools and Technologies*. Dennis Kennedy and Tom Michell, published 2008, 314 pages.
3. *The Lawyer's Guide to Marketing on the Internet* 3<sup>rd</sup> Edition. Gregory H. Siskind, Deborah McMurray & Richard P. Klau, published 2007, 192 pages.
4. *Internet for Lawyers: How to Use the Internet for Legal & Investigative Research – A Guide for Legal Professionals* 8<sup>th</sup> Edition. Carole E. Levitt & Mark E. Rosch, published 2006, 205 pages.

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*Due to space limitations, this is a condensed version of a roundtable discussion. The full version is available at [www.practicepro.ca/lawpromag](http://www.practicepro.ca/lawpromag).*

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# Building a better clientele:

## How to improve your client base in tough times

*The impact of poor client selection and sloppy client service will be magnified in trying economic times. In response, you want to proactively take steps to build and retain a better clientele. Here are some pointers to help you meet that goal.*

**1. Get a retainer up front:** The best way to ensure that you get paid in full at the end of a matter is to obtain a retainer at the matter's start. After you and your client reach a consensus on what work you need to do, how long it will take and how much it will cost, collect a retainer that's sufficient to cover the contemplated initial work. And don't neglect to confirm in a written retainer agreement or engagement letter what work you are to do, the initial retainer, and your expectations for payment of accounts and retainer replenishment.

### Tip:

*Getting a retainer is also an excellent way to scare off fraudsters as they rarely wish to provide retainers, in LawPRO's experience.*

**2. Replenish your retainers:** Many lawyers who do an adequate job on collecting initial retainers fall down here. Before (emphasis on *before*) you completely exhaust the initial retainer, send an account to the client and request a further retainer. Don't do more work until you have sufficient funds to carry out that work. Use your accounting software's reporting features to actively monitor the sufficiency of retainers on a matter-by-matter basis.

**3. Say good-bye to your most demanding client:** In some lawyer-client relationships, there comes a time when the client no longer has confidence in the lawyer's advice or strategy. Or perhaps the client is taking up too much lawyer and staff time (most of which is not billable) and thereby taking too big a bite

out of profitability. That's the time to suggest that the client find another lawyer. If you are transferring an active file, take care: You must comply with the ethics rules, ensure that the client is not disadvantaged, and make certain that all material needed to allow the client to move forward with the matter is released (even if the client owes you money).

**4. Don't take any client that walks through the door:** Especially when you're not busy and have extra capacity to do work, it is so tempting to accept every client who wants to retain you. But beware: Don't take on clients who can't pay retainers, will be difficult (see number 9), or will require you to work outside your usual practice area. As a "dabbler" you will be less efficient and effective in your services – and more prone to a malpractice claim or Law Society complaint.

**5. Remember to keep developing business:** When money gets tight, marketing expenses are often one of the first to be cut. This is short-term gain for long-term pain. You should spend some time each week developing potential sources of business, even if you don't have a lot of money to spend. And you should also have a written plan that includes specific goals for developing new business. Don't be scared off – your plan doesn't need to be lengthy or complex or involve expensive initiatives. There are many inexpensive or free activities you can undertake, such as the following:

- Each week take at least one referral source or one potential client to lunch (or even just for coffee).
- Send a handwritten thank-you note to anyone who refers a client to you and to anyone who does something beyond the call of duty for you.

- Attend a civic, spiritual, community or industry group meeting.
- When people you know receive some good press, send a copy of the newspaper article along with a congratulatory note to them (doing this by e-mail is fast and free).
- Schedule a public speaking engagement, and let your clients and prospects know about it in advance.
- Attend a CLE program and sit with some lawyers who you don't know that well, or do some volunteer work for the CBA, OBA or your local bar association.

## **Tip:**

*A simple and low cost marketing plan for an individual lawyer can be found at page 21 in the Managing a better professional services firm booklet ([www.practicepro.ca/servicebooklet](http://www.practicepro.ca/servicebooklet)).*

**6. Strengthen connections with existing clients:** It is well-known that most new business comes from existing clients, so building stronger connections with them is clearly worth the effort. As with new prospects, there are many inexpensive or free things you can do to grow the relationship.

For example, call clients just to say hello and check how things are going – and don't bill them for the call. Send your clients copies of newspaper or magazine articles that they might find interesting. How about sending a handwritten note of appreciation to every client whose file you close, including an outline of your other practice areas and a client satisfaction survey?

**7. Work harder to keep your best clients happy:** Who are your major clients? Who are your most profitable clients? Do some research to get to know more about them and their industry or business area. Ask to take a tour of their facilities. Then schedule a meeting with them – off the clock – and use you this knowledge to talk about longer-term strategy and goals and how you might help this client reach its particular goals. At a minimum, do this once per year on an ongoing basis. These meetings should also help you connect with other employees of a client company and build a stronger and longer-term strategic relationship with the client as a result. Don't be afraid to cross-sell other services you can provide.

**8. Choose new clients for the longer term:** In good times and bad, as your practice grows and evolves you will want to be more selective with respect to the clients you take on, as well as the ones you want to keep. Demanding clients are a fact of life for most lawyers. Some will be unhappy with the progress of the case, no matter how hard you have worked or how good the

results are. Some may ignore your advice. Others will treat you and your staff badly. Difficult clients are also a concern because they are more likely to do the three things that distress lawyers most: (1) not pay the bill, (2) complain to the bar or law society about the lawyer, or (3) bring a malpractice claim against the lawyer. Do you need any of those things in your law practice?

There is no time like the present to start focusing on building the kind of clientele that will bring you satisfaction in your legal career. How do you cull the bad from the good? Read on ...

**9. Know how to recognize the difficult client:** It doesn't take long for most lawyers to learn to recognize the difficult client. Often it's obvious in the first interview—and sometimes even in the phone call setting up that interview. Asking the following questions will help raise your awareness of the danger points:

- "Am I the first lawyer dealing with this particular problem for you?"
- "How many lawyers have you consulted or retained about this problem?"
- "Why did you leave your previous lawyer(s)?"
- "Who were your previous lawyers?"
- "Can I talk to your previous lawyers?"
- "What stage is this problem at?"

Throughout the interview, keep your ears attuned to signs that the client has unreasonable or unrealistic expectations about the time, results or costs involved in resolving a matter. Learn to listen to and trust your instincts. If the warning bells go off and you sense a problem client, think very hard about accepting a retainer from him or her.

## **Tip:**

*For more help on recognizing and dealing with difficult clients, go to [www.practicepro.ca/difficultclients](http://www.practicepro.ca/difficultclients) to see an article and retainer precedents Justice Carole Curtis wrote when she was in private practice.*

**10. Read numbers 1 and 2 again** – and remember there are no exceptions to them: In trying economic times, getting and replenishing a retainer is critical to making sure you are paid at the end of the day. Don't forget that your pocketbook will ultimately be hit by any financial pressures that your clients' pocketbooks feel, so do what you can to protect yourself up front.

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# Technology

## in trying times

*To innovate or not innovate? When times get tough, firms often succumb to economic pressures and ignore technology issues when they should be doing just the opposite. Some are just trying to save a buck. But often firms put technology issues on the back burner because the decision makers don't understand technology and its potential to increase firm profitability.*

*So the question is not whether you can afford to innovate with technology – it's whether you can you afford not to. Technology is (or at least should be) an integral part of the operations of every firm and individual law practice – and with the broader use of remote and web-based technologies it will become even more fundamental.*

### Technology ROI

So, if technology innovation is an imperative, how do you select and implement the right legal technologies when money is tight? Start by considering costs and return on investment (ROI), and what the technology will accomplish for you.

First analyze what return (ROI) you will derive from the investment using this simple three step analysis:

1. **Can you afford the investment?** If an innovation compromises your ability to keep your doors open, walk away – no matter how revolutionary or game-changing the innovation may be. If you can afford it, ask yourself:
2. **Is the investment going to make you and your firm more profitable?** Increasing profitability means either increasing your revenues or decreasing your costs. Your technological innovation needs to do one or the other (ideally, both). If you can't demonstrate how a new iPhone will increase your revenues or decrease your costs, you don't need it. Walk away. If it will make your more profitable, consider:
3. **Is the investment going to facilitate greater lawyer/client communication and intimacy, and improve the service you deliver to clients?** Keeping your best clients close and getting them even closer is mission critical. If the technology won't accomplish this, consider spending your money elsewhere. But remember, over the long haul, investing to improve the service you deliver to your clients is almost always money well-spent. It may not make a difference in next quarter's revenues, but over time your satisfied clients are your most cost-effective marketing. Investing for their benefit pays dividends, even if it doesn't show up on balance sheets.

**What do you postpone?** Gadgets that are mere conveniences or fun toys are a waste of money that could be better spent elsewhere (be prepared for differences of opinion here as different people will analyze necessity and "need to have" in very different ways). Anything involving a big capital expenditure (e.g. setting up a

co-location facility) can be postponed, but be careful here; you can't delay capital expenditures forever, and it may be even harder to pay for them next year than it is now.

### Specific technologies to consider

So, with a bigger picture perspective in place, what are some of the specific technologies you should consider to facilitate better client service and greater profitability in tight economic times?

#### DO MORE WITH WHAT YOU ALREADY HAVE

Most law office staff are using only some of the features in the software that they already have. Now is the time to spend a bit of time and money on technology training to get more return on your existing technology investment.

When it comes to training, remember that different people have different learning styles. For those who prefer a structured learning environment, community colleges have reasonably priced courses on many widely used software programs. Those who prefer self-study can learn from a book or multi-media tool such as those offered by **Keystone Learning Systems** ([www.keystonelearning.com](http://www.keystonelearning.com)). These tools provide training sessions right on the computers in your office and are very affordable. For example, a set of three DVDs for Microsoft Word 2007 covering beginner, intermediate and advanced levels costs US\$159 for a single user license, and US\$459 for a licence that lets multiple people use the product.

For WordPerfect users and others who are struggling with Word, *Microsoft Word for Law Firms* by Donna Payne is great book for learning both the basic and more advanced features of Word.

If you have a tech-savvy person in your office, encourage and reward him or her for helping to increase the technology skill and comfort level of the rest of the people in the firm.

## **AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE**

Tempting as it may be to cut IS expenses and staff in tough times, it's a huge mistake to do so. By failing to keep anti-virus, anti-spyware and system patches up-to-date, a firm is exposing itself to catastrophic and costly systems failures.

Don't skimp when you are replacing hardware. When you consider the time required to configure a new laptop, buying the cheap no-name laptop that lasts for 12 months doesn't really save you anything when the slightly more expensive brand-name laptop will last three years.

Remember that hardware costs continue to decline and there are false economies when you overspend on fixing older hardware when cheaper new hardware will do. You can save several hundred dollars on a desktop or laptop that is three or four steps behind the latest and greatest, and a less powerful computer will be satisfactory for many of the people in your office.

## **VIRTUAL MEETING TOOLS**

Some of the new virtual meeting tools that let you collaborate across the web are just as, if not more, effective than a face-to-face meeting, and offer several benefits including savings in time and costs and the ability to hold meetings on an *ad hoc* basis.

**GoToMeeting** ([www.gotomeeting.com](http://www.gotomeeting.com)) is a widely used product that allows you to show the contents of your computer screen with multiple people. Starting a meeting takes only a minute or two: Simply send a link via e-mail to the people you want to have attend. A click on that link opens a browser window displaying your desktop. Participants can instantly see everything you type, and you can give control of the keyboard and mouse to them if they want to type something.

You can create a document much more quickly when everyone can simultaneously view and comment on the draft as it evolves. In one phone call you can draft and finalize a document that normally would have taken many e-mails and redrafts over days or weeks to create.

**WebEx** ([www.webex.com](http://www.webex.com)) and **Acrobat Connect** ([www.adobe.com/acrobatconnect](http://www.adobe.com/acrobatconnect)) are other widely used virtual meeting products. Pricing for the basic versions of these products is extremely reasonable at around \$50 per month. If you avoid just one in-person meeting a month you are more than paying for them.

## **DOCUMENT COLLABORATION TOOLS**

Technology also makes it easy to involve several people in drafting documents. It is challenging and time consuming to collect and reconcile edits from multiple people, even if you are using the document comparison features of your word processor, or one of the specialized document comparison products such as **DeltaView** ([www.workshare.com](http://www.workshare.com)).

But technology comes to the rescue: It can let you collaborate on the drafting of a document in other ways. The commenting feature in **Adobe 9** ([www.adobe.com](http://www.adobe.com)) allows you to e-mail people a PDF document which they can annotate and

add comments. They then e-mail the document back to you and **Adobe** will combine all the comments into a single document.

And you can take it a step further: How about collaborating on the same document concurrently on an asymmetric basis? That is, work on the same document at different times. Free tools such as **Google Docs** (<http://docs.google.com>), **Zoho Writer** and **Zoho Sheet** ([www.zoho.com](http://www.zoho.com)), and **Writeboard** ([www.writeboard.com](http://www.writeboard.com)) let multiple people edit the same document or spreadsheet, at the same time or separately. Changes are tracked, and you can easily see deletions and different versions of the document.

## **VoIP**

Voice over Internet Protocol, also called VoIP, is a new way to make phone calls by routing voice conversations over the Internet. A VoIP system can give you all the calling features you are accustomed to on your land-line phone, including voicemail, call-waiting, and so on. It also lets you avoid long distance charges, easily add extra phone lines, and receive calls on the same number anywhere in the world.

A VoIP system can also give you Unified Messaging: Your voice-mail messages can be delivered to your inbox as an e-mail with an attached audio file. Although prices are falling, a full blown VoIP system can be expensive to implement – about \$1,000 per person.

However, if you have a high-speed Internet connection and your computer has a soundcard and microphone, you can try VoIP for free with **Skype** ([www.skype.com](http://www.skype.com)) or **Google Talk** ([www.google.com/talk](http://www.google.com/talk)) – but you can only talk to people who have the same software installed on their computer. Some lawyers are using **Skype** or **Google Talk** to avoid long-distance charges, improving the bottom line for both their office and for their clients.

## **SPEECH RECOGNITION SOFTWARE**

Speech recognition software (SRS) finally is ready for the mainstream computer user. Out of the box you will get about 95 per cent accuracy, and with training and practice you can get 99 per cent plus accuracy. While still not accurate enough for final client or court documents, it is quite useful for creating draft documents, internal e-mails or memos to file. Speech recognition software can also make you more efficient by speeding up routine tasks on your computer. Among lawyers, **Dragon Naturally Speaking** is the most widely used product.

## **DIGITAL DICTATION**

Digital dictation devices are roughly the same size as traditional tape-based machines, but have numerous advantages over them. They have a much greater recording capacity and let you work on several items at the same time. You can plug them into your computer and e-mail the recordings to your assistant. This eliminates the necessity of physically giving someone a tape and allows work from remote locations. And when coupled with speech recognition software, your assistant could use SRS to transcribe your dictation on his or her machine.

## FINDING OUT WHAT CLIENTS ARE THINKING

Surveys are not only a great way to get close to clients, but also can help you identify specific areas for improving your client service. LawPRO's *Managing a better professional services firm* booklet, includes a sample post-matter client survey that you can adapt for your firm ([www.practicepro.ca/servicesbooklet](http://www.practicepro.ca/servicesbooklet)).

Some firms have an online survey form on their website. Others use online tools such as **Zoomerang** ([www.zoomerang.com](http://www.zoomerang.com)) or **SurveyMonkey** ([www.surveymonkey.com](http://www.surveymonkey.com)) which allow you to do professional-looking online surveys easily and quickly at little or no cost.

## WEB 2.0 – A NEW WAY TO MARKET YOURSELF

The internet has created all sorts of new ways to market a law practice, many of which are very inexpensive or even free. One of the most cost effective marketing tools is a blog – a website that allows even a non-tech-savvy lawyer to publish articles and other content about her practice area on the web.

Publishing a blog allows a lawyer to demonstrate expertise in a particular area of the law and provide useful information to potential clients. High visibility, demonstrated expertise and helpful information combine into a very powerful marketing tool – by the time your potential clients call you, they have already decided that you have the skills and experience to help them.

You can create and maintain a blog on sites such as **Wordpress** ([wordpress.org](http://wordpress.org)), for free; and for next to nothing, you can create a polished and professional blog on your own domain.

Social networking sites offer yet another cost-effective online marketing option. **LinkedIn**, a social networking site designed for purely professional networking, is most popular among lawyers. Law firms and lawyers are beginning to find their way to creating presences on **Facebook**, the social networking behemoth that now boasts well over 100 million users around the world. **Legal OnRamp** is a social networking site designed specifically to help in-house counsel and lawyers from corporate law firms connect.

## REDUCING FRICTION IN THE SALES PROCESS

Consider technology investments that make it easier to do business with you. Evaluate your entire sales process – or better yet, ask a trusted friend or family member to go through the process and report back to you. Analyze the results to determine where there are sticking points that make it harder to do business with you. For example:

- Can you find your firm's main number on your website in the first five seconds? If not, create a prominent "contact us" button at the top of the page.
- Do you have a telephone system that efficiently routes calls so that no caller gets a busy signal or voicemail box? If not, consider a virtual PBX system so that all incoming calls are answered by a person – not a busy signal or a voicemail box.
- Do you have a shared calendaring system so that potential initial consultations can be calendared with the lawyer with

the soonest possible vacancy? If you can't calendar an initial consultation within 24 hours, someone else can. There are many free or cost effective web-based calendar products that don't require a server to share information such as **Google Calendar** ([calendar.google.com](http://calendar.google.com)), **30 Boxes** ([30boxes.com](http://30boxes.com)) and **Yahoo Calendar**.

- Do you perform initial consultations or communicate with existing clients over the telephone? By e-mail? Instant messenger? Video chat? Learn the technologies that your clients are comfortable using and start using them as well. You don't need to blaze new trails, but at a minimum your firm should not be the least tech-savvy business with which your clients do business.
- Do you accept credit card payments for initial consultations and retainers? This is a no-brainer. There are few if any ways that make it easier to collect a retainer or consultation fees.

## REDUCING INTERNAL FRICTION/CREATING SYSTEMS

In addition to looking for sticking points in your sales process, you should perform a similar analysis on the work flow of your office. Is your office performing as efficiently as possible? For example:

- Do you have document automation or assembly programs for your most commonly used documents and forms? If not, consider investing in off-the-shelf document generation software, or purchase a program such as **HotDocs** which will allow you to build your own custom automated documents. The time spent in creating the templates (remember things have slowed down and people have time on their hands) for either type of program is more than made up by the time saved in using them.
- Is your office paperless? Going paperless means less time spent looking for mis-filed documents, less overhead in storing thousands of cases worth of documents, and less staff time spent on filing and retrieving documents. Add the convenience of accessing your case files from anywhere you have an internet connection with a document management system or practice management software and you have an innovation that you cannot afford to ignore.
- Do you have a smartphone? A smartphone (e.g. BlackBerry, iPhone or Treo) gives you the ability to respond to e-mail, access your calendar and contacts, surf the Internet and more, regardless of where you are. If you consider the lost time that a smartphone will eliminate given that you can do more things while waiting at an airport or courthouse, the investment in a smartphone is a worthwhile expense.
- Do you have a knowledge management scheme? If knowledge management (KM) in your firm means sending around e-mails asking, "does anybody remember that case where I wrote that great brief on that important thing?" you need a better strategy. It can be as simple as a shared drive on a server that everyone in the office can access (you can do this for free in a few minutes), or as cutting edge as a wiki such as **PB Wiki** ([Pbwiki.com](http://Pbwiki.com)) which provides a free hosted wiki site that people can access and edit.

## UNDERSTANDING CASH FLOW

To assess how you are really doing, you must look beyond billable hours and billings. The key is cash flow management – what monies are coming into your practice, and where money is flowing out. Most modern law office accounting packages have built-in reports that slice and dice your firm finances in many different ways that will really help you see how your practice and firm is doing, and whether the trends are positive or negative.

As was detailed in practicesPRO's *Managing the finances of your practice* booklet ([www.practicepro.ca/financesbooklet](http://www.practicepro.ca/financesbooklet)), on a monthly basis you should review the following ten reports:

- #1 Overall and projected monthly billings
- #2 Projected billings versus cash flow
- #3 Actual versus budgeted costs
- #4 WIP and whether is it increasing or decreasing?
- #5 Unbilled disbursements
- #6 Receivables
- #7 Realization rates
- #8 Unbilled fees and disbursements by lawyer, client and area of law
- #9 Daily individual lawyer time summaries
- #10 Client trust account balances for each and every client

Check if your accounting software will generate these reports for you, and spend some time reviewing them. They can help identify small problem areas before they get to be big problems.

## CAPTURE MORE TIME WITH ELECTRONIC DOCKETING

All law office accounting software and practice management software products allow you to directly make your own time entries right on your computer. The efficiency, extra speed and greater accuracy of electronic dockets makes electronic time entry far better than the traditional handwritten timesheet.

Many accounting software programs have standard billing codes, for example, "conference with client", or "review of correspondence." These codes are convenient, but they don't include enough detail. A detailed time entry should look something like this: "telephone conference with client re details of weekend access problems."

Detailed time entries serve as a record of the work you did on a file and communicate to the client the details of that work on a billing statement. Detailed accounts will reduce client complaints and help you defend your account in the event you end up before an assessment officer.

Trying to create time entries for work done in the distant past is very time-consuming, and not likely to be very accurate or complete. It is universally recognized that lawyers who contemporaneously create dockets end up capturing a significantly greater portion of the work they have done – up to 20 per cent more. Also, spend a few minutes at the end of the day reviewing your dockets, and make any necessary corrections or additions while things are still fresh in your mind.

## Conclusion

Rise to the challenge of tough times by using technology to innovate in how your firm operates and serves your clients. When implemented properly, technology can help your firm be more profitable while at the same time providing better service to your clients.

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# Essential free websites

Here are some of the best free websites that are helpful for lawyers:

- **CanLii** – Canadian Legal Information Institute ([www.Canlii.org](http://www.Canlii.org)): Amazing collection of legislation and case law.
- **Microsoft Office Online Clipart page** (<http://office.microsoft.com/clipart/>): High quality clipart, animations or photos.
- **Google News Alerts** ([www.google.ca/alerts](http://www.google.ca/alerts)): Get e-mail news alerts based on queries or topics that you specify.
- **Gmail** ([www.gmail.com](http://www.gmail.com)): Free web-based e-mail.
- **Google Translate** (<http://translate.google.com>): Reasonably accurate (but not perfect) text translation to/from many languages.
- **Kayak** ([www.kayak.com](http://www.kayak.com)): Find all your flight options for departure and arrival at specific times on specific dates.
- **YouSendIt** ([www.yousendit.com](http://www.yousendit.com)) or **DropIO** ([www.drop.io](http://www.drop.io)): Send e-mail attachments of up to 100 megabytes.
- **practicePRO** ([www.practicePRO.ca](http://www.practicePRO.ca)): Resources on how to avoid a malpractice claim.
- **Canadian e-discovery portal** ([www.lexum.umontreal.ca/e-discovery](http://www.lexum.umontreal.ca/e-discovery)): The Sedona Canada E-discovery Guidelines and a digest of Canadian cases that have dealt with e-discovery issues.
- **ABA Law Practice Today webzine** ([www.lawpracticetoday.org](http://www.lawpracticetoday.org)): Hundreds of articles on law practice management issues.

# When the unthinkable happens:



## ***Internal fraud very costly for LAWPRO***

*Internal fraud has been very costly for LAWPRO. We have recently seen two major multiple frauds by long-serving and trusted law clerks. The losses on these totalled \$6 million. In one case the lawyer was simply duped by a staff person. In the other case the lawyer totally abdicated responsibility to monitor files and the trust account to a clerk. In both cases it was a long-standing and most trusted employee who committed the frauds.*

# What to do when partners, associates or staff commit fraud

*With all of the reports of defalcations by lawyers, it is a wonder that law firms are not more proactive in taking steps to prevent internal fraud. Nevertheless it is common for even the largest firms not to have appropriate safeguards in place to prevent partner, associate or employee fraud, perhaps in the misplaced belief that the firm auditor will catch fraud.*

So what do you do if you suspect that you may have a fraudster in your office? You might consider hiring your own fraud investigator to conduct a professional investigation, but presuming you eschew this step, what should you do?

A working knowledge of the mechanics of fraud is an essential first step to responding to a fraud as well as being proactive in preventing frauds. Frauds are the result of a perfect storm of three factors: motive, opportunity, and character.

## Motive

What motivates a partner, associate or staff member to commit fraud? It may be the need for cash for a separate business opportunity involving a member of the firm or a spouse. It may be a need to finance a lifestyle that reflects an individual's (often unrealistic) goals of fame and fortune. It may be the need to "set things right" because the firm member sees him or herself as underpaid or underappreciated.

Who are you looking for then? Partners, associates or staff members undergoing financial stress as a result of business reversals, divorce or forms of financial pressure rationalize their wrongdoing as a survival mechanism; those who feel mistreated see it as a mechanism to effect "justice" or revenge. People who ask for advances on their pay, or pay raises, or who complain about their performance review, may be manifesting the outward sides of someone motivated to defraud your firm.

One of the most common symptoms of possible wrong-doing is an overly keen employee who refuses to delegate, works

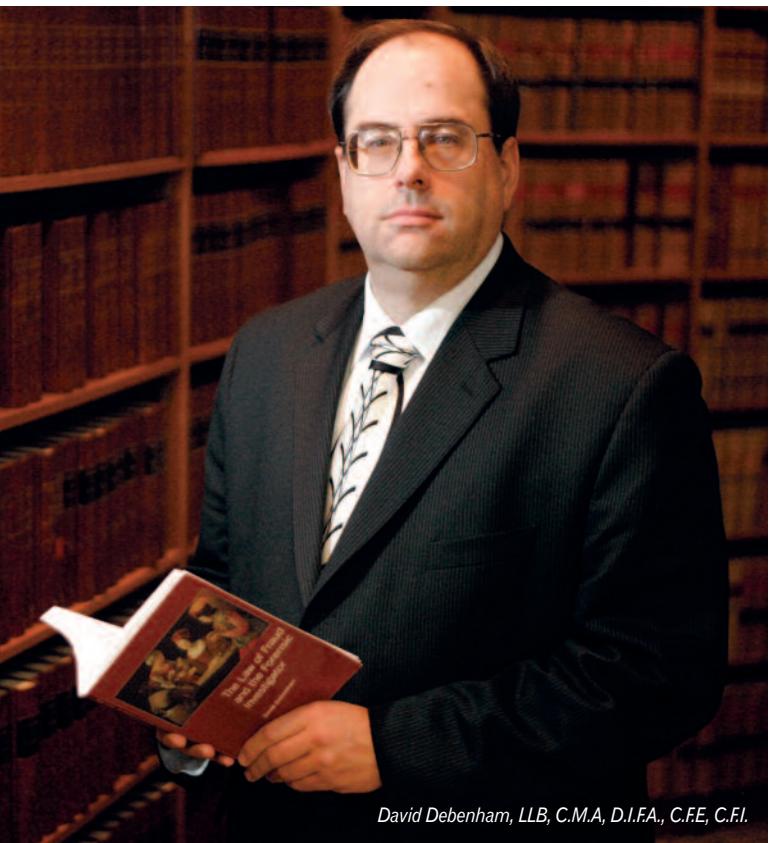
extraordinary long hours, or never takes a vacation or sick leave. Not only does perpetuating a scam require constant attention, it is the employees who are working the hardest for the same pay and recognition as everyone else who have a motive to "even the score."

Another common symptom is someone who exhibits a change in lifestyle or a different personality. Firm members whose temperament has changed drastically may be exhibiting signs of the pressure of maintaining a fraud; those whose lifestyle has changed (new house, new car, and new clothes) may be flaunting their new-found wealth at your expense. Lawyers who are not meeting targets are more likely to be committing fraud, and are also likely to have their time consumed by non-billable activities to conceal their frauds. Partners without outside business interests, who may succumb to investing in clients' businesses, are often motivated to engage in fraud.

## Opportunity

Partners have the greatest opportunity to commit frauds because their practices may be "silos" in which only subordinates know what they are doing. In addition, they often have the ability to override any internal controls in the firm.

Partners usually have the direct client contacts that give them an early warning system should the client become suspicious of fraud. If the lawyer owes a client money as a result of a business venture, the lawyer will divert client A's money to pay client B, and so on in a Ponzi scheme of "borrowing" from clients to cover what they believe to be a "temporary" loan to cover a shortfall.



David Debenham, LLB, C.M.A., D.I.F.A., C.F.E., C.F.I.

Finally, partners and associates often set up shell companies for a number of purposes, so it is an easy matter for them to do so as an instrument to divert monies into their own hands. Partners usually commit frauds by diverting proceeds in transaction forms that they are most familiar with – litigation lawyers will divert settlement funds, commercial and real estate lawyers will divert sale and mortgage proceeds.

Staff fraudsters, on the other hand, will take advantage of flaws in your accounting and internal control systems. They rarely use dummy corporations or divert payments to clients of the firm. They will divert payments to spouses or other family members, family businesses, or fictitious clients or suppliers.

Assistants get so good at “forging” their lawyers’ signatures as a matter of practice that these signatures no longer arouse suspicion when forgeries are used for personal purposes. Although most firms may have formal checks and balances in place, there are often informal procedures – such as assistants forging their lawyers’ signatures – that override the normal checks and balances for the “emergency” claim for lien, mortgage, real estate or commercial transaction. It’s these “exceptions” that allow the person of interest (POI) to “backdoor” the normal process for his own ends. This includes anyone with the ability to rush into a lawyer from another branch of the firm and ask for a “rush” approval signature for an “urgent” transaction, because partners who sign cheques in this way are no controls at all. The formal practice of separate cheque issuance, and cheque requisition approval, and other division of duties are often honored in the breach, making detecting the irregular transaction much harder.

## Character

The POI, by definition, has to be in a position of trust – normally a long-term member of the firm. Usually it is the person whom you are least likely to suspect on the surface because your most trusted employees have the greatest opportunity to circumvent office procedures without exciting suspicion. They rationalize wrongdoing to save their family, or to save their self-image. The stress of leading a double life as a respected member of your firm while covertly stealing from you leads most fraudsters to tell you that they they were going to pay back the “loan” if given enough time.

## How to spot a fraud

Where then do you start your investigation? The usual suspects are dealing with wills and estates, plaintiff's personal injury, and large commercial practices (particularly commercial real estate) where one can “borrow” large amounts of cash flow through the firm's trust accounts. Within these practices, files involving vulnerable or institutional clients where bills are less likely to be scrutinized or questioned are most vulnerable.

How do you catch the lawyers and staff who prey on these practices? Make them the focus of ‘surprise audits’, or rotate staff routinely, or enforce separation of duties. Have the accounting department check that clients and suppliers are receiving the payments issued by the firm. Then review all firm cheques for handwritten amendments to the payee or for double endorsements of the cheques when they come back from the bank.

As lawyers like to use shell companies to divert payments, the corporate law clerk should be questioned about any corporations for which a lawyer is the signing officer, or who pays the annual government filing fee, or who refuses to bill a client for any work done for a corporation.

Mail for a corporation for which no client file is opened, or billed, is an obvious red flag. So too if there are minute books kept and maintained in the lawyer's office rather than with the corporate law clerk. Having a shell company is a tell-tale sign in itself. Pay special attention to payments to numbered companies. Clients or suppliers who are complaining of slow payment may be a symptom of a Ponzi scheme in which monies intended to pay them are being used to pay someone else.

Lawyers with a large amount of written-off WIP may be billing that time but not submitting the accounts through the accounting department, and appropriating the payments by endorsing firm cheques over to themselves or by directing clients to pay them personally instead of the firm. Accounts being billed and then written-off may be receiving a similar treatment.

Miscellaneous or general files are also good hiding places for fraud, particularly if the files are never billed. Invoices paid by the firm for even amounts like \$275.00, instead of an amount that reflects PST and GST, are a tip-off. Payments to credit card

# **How to respond to and investigate a suspected fraud**

- 1) Rotate staff so that someone new either does the job of the person of interest (POI), or works for the person, and see if they notice anything peculiar in the ways things have been, or are being, handled.
- 2) Serve notice throughout the department that strict compliance with office procedures regarding separation of duties will be enforced so that the POI has to dupe as many people as possible each time a fraud is perpetrated.
- 3) Conduct surprise audits without it appearing that you are targeting anyone specific.
- 4) Hire independent counsel, a forensic investigator and possibly a forensic accountant for advice.
- 5) If you have a fidelity bond, follow the procedure stipulated in it.
- 6) Review the POI's terms of employment to ensure any investigation does not infringe their contractual rights or their right to privacy.
- 7) Search the server and all computer and accounting records available to you. Accumulate all documentary evidence you can.
- 8) Have the person take a holiday or work outside the office to give you an opportunity to investigate his/her office, subject to any privacy rights the POI may have. If necessary, investigate at night and weekends.
- 9) Change passwords, preserve evidence. Change passwords throughout the firm, and grant the POI only as much access as he/she would need to conduct legitimate business. It may be that the POI has unauthorized access because someone was lax with a password. Preserve evidence by photocopying documents and backing up electronic data on any servers. Don't forget data on desktop or laptop computers.
- 10) Investigate any suspicious documentation to see if there are independent witnesses or other documents to support it.
- 11) If one transaction is fraudulent, treat that transaction as a template for the POI's *modus operandi*, keeping in mind that fraudsters start small and rather crudely, and have bigger and more sophisticated transactions as they go on (with sloppiness creeping in as the person's confidence grows). It is very unlikely that there was only one fraud.
- 12) Interview co-workers, keeping in mind the motives and opportunities for fraud and taking copious notes. Better still digitally record these interviews, with their permission. Keep in mind that close co-workers may either be unknowing dupes or knowing accomplices. Interview more distant witnesses before investigating close co-workers who are likely to tip-off the POI. Interview the POI last.

Taking photographs before you start your search ensures no one can accuse you of planting evidence.

companies without proper back-up may be paying the lawyer's personal expenses (payments on real estate, tax, litigation, or wills and estates files to the Receiver General are often paying the lawyer's personal taxes).

Anything unusual, or any change in pattern, such as a sudden increase in payments to a particular person, may indicate double-billing or cheques to non-arm's length or fictional persons. When employees embezzle from their employers, they generally alter, forge, or destroy checks, sales invoices, purchase orders, purchase requisitions, or receiving reports. Red flags to look for include: missing documents; names of payees or customers that are similar to those of firm members; addresses that are similar to firm members'; or P.O. boxes.

Further investigation to see if firm payments are being redirected by staff is also warranted if:

- the firm is getting past due account notices when it should not;
- if there are second endorsements appearing on firm checks when they come back from the bank;
- if documents appear altered, or handwriting on documents is questionable; or
- original documents are missing.

Finally, and most importantly, anonymous complaints from staff, or from clients, suppliers, or others, may be indicative of a larger problem. Having an anonymous whistle-blowing mechanism helps immensely in detecting and investigating fraud.

## Co-worker vigilance

Fraud consists of the fraudulent act, concealment, and conversion. Co-workers often witness the fraudulent act and may comment on the "odd" way a transaction is being handled or explained. The accounting department does have a chance to find fraud at the concealment stage when it notices missing or altered documents, miscounts, or other anomalies. However, the accounting department often goes to the POI first for an explanation and, not suspecting fraud, is often satisfied with the explanation or allows the POI a second chance to "substantiate" the transaction with forged documentation.

There is no way auditors can know, for example, that an employee who used to drive a used, inexpensive car now comes to work in a brand-new expensive one or that an employee suddenly expresses changes in behavior. It is co-workers who have an opportunity to identify aberrant behaviour and a change of lifestyle, witness a fraudulent act or its concealment, and witness the POI's new found wealth as part of out of office friendships and office gossip. That is why most POI's are caught not by auditors, but by co-workers who provide their employer with an anonymous tip and why honest employees who are vigilant for fraud are your most important investigative tool.

## Dealing with a suspected fraud

So what do you do if you suspect a fraud has taken place? You must respond with tact and care so you comply with your obligations under the LawPRO policy, the Rules of Professional Conduct, and requirements under employment law.

Approach the investigation on the presumption that there is an innocent explanation for what has occurred. Only when all innocent explanations have been disproved can you conclude fraud. All exculpatory evidence must be recorded and investigated. Don't hesitate to pursue the investigation due to the fact the fraud appears to involve a long-standing and most trusted employee – they are the ones that have the greatest ability to misappropriate funds.

If the fraud involved client trust funds or there is a negligence claim, and even if there is only the possibility of one (remember that frauds often end up more complex than they first appear to be), report the fraud to LawPRO.

Consider also your obligations under Rule 6.01(3) of the Rules of Professional Conduct – the Mandatory Reporting rule. Any misconduct by a lawyer or involving client trust funds will likely have to be reported to the Law Society.

The sidebar *How to respond to and investigate a suspected fraud* sets out the various steps you need to take to investigate a suspected fraud.

## Confronting the suspect

Confront the suspect last. Be wary of an "incident" as people can react unpredictably if they have been under pressure for a long time or feel threatened. Any interviews should be done privately, with at least two management personnel present to serve as witnesses. Do not meet near other employees in the workplace, and meet before or after work hours (which is not a problem if the suspect is a workaholic).

Do not invade the person's privacy at the office (personal possessions such as briefcases) without express permission. A technology-use policy that explicitly gives you the right to review e-mail and data on a computer can be a huge help in removing any question as to the ability to access this data (See a useful technology-use policy precedent on the Law Society of British Columbia website [www.lawsociety.bc.ca/practice\\_support/articles/policy-internet.html](http://www.lawsociety.bc.ca/practice_support/articles/policy-internet.html)).

As part of the confrontation meeting, make sure you get all firm credit cards, keys, etc. from the suspect, and escort the suspect out of the building without returning to his/her office. Return personal property later. Be prepared to close all physical and electronic points of access. For an itemized departure checklist, see the *LawPRO Checklist for a departing employee* ([www.practicepro.ca/practice/pdf/EmployeeDepartureChecklist.pdf](http://www.practicepro.ca/practice/pdf/EmployeeDepartureChecklist.pdf)).

Terminating the POI does not mean that the POI has been proven a fraudster, and it should not be treated as such by the firm. Moreover, the person is usually a trusted long-standing employee or lawyer who has many friends in your firm. Therefore, all post-termination steps require a great deal of sensitivity and tact. See the *What to after the suspect has left the building* sidebar below for the steps you must follow.

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# What to do after the fraud suspect has left the building

- 1) The managing partner must “quarterback” the repair of your firm, exercising full authority over everyone in the firm to do what is needed expeditiously.
- 2) Make sure all points of access for the departed employee are closed – review and take all steps on the LawPRO checklist ([www.practicepro.ca/practice/pdf/EmployeeDepartureChecklist.pdf](http://www.practicepro.ca/practice/pdf/EmployeeDepartureChecklist.pdf)).
- 3) Move to protect clients immediately (their assets and their confidences and their right to a seamless transition in service). You may need to tell clients some details of what has happened.
- 4) Make sure clients, employees or your firm get ILA, if it is appropriate.
- 5) Archive all of the suspect’s files (paper or electronic), segregating his or her workspace to preserve the evidence.
- 6) Monitor the suspect’s voicemail, e-mail and regular mail within the limits of the law.
- 7) Be prepared to address the concerns of firm stakeholders and answer press inquiries. Depending on the scale of the incident and the likelihood of adverse media coverage, consider obtaining expert crisis communication advice.
- 8) Notify all fidelity insurers, and if appropriate, the Law Society, LawPRO and any excess insurer of the status of your investigation, and your findings leading to the termination.
- 9) Have a replacement for the suspect in place forthwith (in a different workspace with a different phone and e-mail account) to ensure a seamless transition of service to the firm and clients. Calls for the suspect should be logged by the receptionist.
- 10) Be prepared to deal with co-workers in the grieving process over the sudden loss of the suspect when news of the departure has spread within the firm (this is highly combustible gossip after all). Disclosing the exact reason for the departure is likely not an option.
- 11) Act promptly to complete your investigation and take steps to ensure that shortcomings in the firm’s internal controls have been identified, and remediated with the assistance of an expert in the field with all due speed.
- 12) If the circumstances warrant, call the police.

# Leaving private practice?

## Don't forget your LawPRO insurance!

If you are planning on leaving private practice, whether to become in-house corporate counsel, employed in government or in education, employed or volunteer in a legal aid clinic, or perhaps to retire, it is important to recognize that this change is likely to have insurance implications.

Under the Law Society's insurance program, this change **may** qualify you for exemption from having to purchase LawPRO insurance. It may also entitle you to basic run-off coverage protection at no cost to you.<sup>1</sup> (See next column)

Because not all lawyers in these types of circumstances qualify for exemption, it is important to consider the actual exemption provisions and your particular circumstances.

For example, after leaving their old practice, some lawyers continue to represent clients on past matters. Others may take on a matter for a friend or family member. Some may opt to provide professional services to members, customers or clients of their new employer, or to organizations outside of the employer group.

Lawyers who find themselves involved in these types of activities are often not eligible for exemption and must purchase the practice coverage under the program. Because many lawyers provide these services on a part-time basis, they may qualify for the part-time practice premium discount (equal to 40 per cent of the base premium).

### **Implications of a claims-made policy**

LawPRO's is a claims-made and reported policy. This means that if a claim is made against you, **it is the policy in force when the claim is first made against you and reported by you to the insurer**

**that responds, not the policy in force at the time that the professional services were provided.**

This is significant because the **basic run-off coverage protection provided to you while on exemption has limits of just \$250,000 per claim/\$250,000 aggregate**, compared to the \$1 million per claim/\$2 million aggregate limit protection provided to you while in private practice.

Moreover, this **basic run-off limit is a one-time limit. It is not reinstated each year** and applies in respect of all claims made against you while exempt, including when exempt in past and in future years. Also, note that policy limits are inclusive of claim expenses, repair costs and indemnity payments, including interest, so erode (or decline) as costs are incurred.

This makes it particularly important in leaving private practice that you reflect on your insurance coverage and practice exposures.

### **Consider your potential exposure to claims**

Were you involved in areas of practice that can create exposures well above policy limits, such as litigation, corporate, commercial, real estate, tax, securities, pensions or intellectual property? Also consider where the stakes were unusually high, like environmental law or class action suits, or where clients' wealth has grown beyond that contemplated when providing your wills and estate planning or other services.

Of course, there is also the work of former partners, associates, and employees to consider. How well informed were you about other lawyers' work and practice areas? In the more claims-prone areas, was the work focused in the hands of the few with the right expertise or with others under appropriate supervision or guidance?

Consider also your exposure to others, like associated law practices, co-tenants and others with whom you may have shared space or resources, as well as "of counsel", back-up counsel, co-counsel and others retained in relation to files.

Also, think about files where the client relationship has been particularly challenging, or where multiple clients were represented and could each file individual claims, or where advice provided to many clients was based upon the same research or underlying opinion.

As well, consider that claims take time to develop and can grow substantially as damages and interest accrue, potentially exposing you to significant amounts. In fact, up to 10 per cent of claims are not reported until five or more years after the service was provided; claims involving real estate, wills and estates, and family law generally take even longer to surface.

With this in mind, it is important that you consider what insurance protection you are likely to need.

### **Options to increase insurance protection**

Many lawyers consider applying to LawPRO to increase the amount of their run-off coverage protection to \$500,000 per claim/\$500,000 aggregate or to \$1 million/\$2 million aggregate. Others prefer to continue to carry the standard \$1 million/\$2 million aggregate insurance program coverage, because it includes \$250,000 per claim/\$250,000 aggregate sub-limit defence cost protection for claims brought against in-house corporate counsel by their employer.

LawPRO also provides excess insurance coverage to law firms above the Law Society program \$1 million/\$2 million aggregate limit; this excess coverage

<sup>1</sup> Note that lawyers on a Temporary Leave of absence pursuant to Exemption (c) are provided with \$1 million per claim / \$2 million aggregate limit protection at no cost.

usually insures former as well as current partners and employed lawyers of the firm for their work in relation to the firm.

In considering these insurance alternatives, we encourage you to minimize any gaps in coverage. For example, be sure to increase the amount of your run-off protection to the full \$1 million per claim/\$2 million aggregate amount if excess insurance is being carried above that, and consider carrying the optional innocent partner protection to ensure uniform protection against the dishonest acts of others.

There is no uniform excess insurance wording, so review that policy wording with care and know whether you are insured and for what. Consider what limiting provisions apply with respect to your work on behalf of the firm, and whether you are insured for your work with predecessor and other prior law firms. Also, see what notice or assurances may be agreed upon, to ensure that excess insurance continues to be maintained.

These are just some of the basic points discussed on the LAWPRO website and in our various "insurance matters" booklets

available on-line through the LAWPRO website at [www.lawpro.ca](http://www.lawpro.ca).

So, give insurance some thought if you plan to leave private practice, and let LAWPRO know 60 days in advance of any planned changes, to ensure that the appropriate insurance protections are then in place based on your instructions.

For more information on run-off coverage, see our website at [www.lawpro.ca](http://www.lawpro.ca) or contact customer service at [service@lawpro.ca](mailto:service@lawpro.ca) or 41-598-5899 or 1-800-410-1013.

## sustainability

# LAWPRO sustainability update



In our last issue of the magazine, we tried to demonstrate our commitment to a greener workplace and supporting sustainability. To continue this, we will be devoting a small portion of the magazine to bring you updates on what LAWPRO is doing to help the environment as well as tips that you can implement in your workplace.

### **Online renewals**

Our push to have even more lawyers than before renew their insurance coverage online, via our website, is proving to be a great success: By the filing deadline,

about 19,500 lawyers had filed insurance applications electronically – and by the time we take down the site that lets lawyers file via the web, we expect that about 95 per cent of eligible lawyers will have supported our sustainability drive (and saved themselves \$50) by filing online.

### **LAWPRO's Green Committee**

Recently LAWPRO started an internal Green Committee to investigate ways the company and individual employees could be more environmentally conscious. The committee's aim is to be informative and helpful without seeming invasive.

In the past few months the committee has undertaken a number of interesting activities, including a screening of the Al

Gore film, "An Inconvenient Truth." On the drawing boards are an awareness campaign around employees' paper usage and a push to make all office printers capable of double-sided printing.

### **Sustainability tip: Online party invitations**

Next time your firm is sending out invitations to a company event, consider using electronic invites. Online services can keep track of details such as who has RSVP'd, how many guests will be attending and their meal choice.

Online sites such as [www.evite.com](http://www.evite.com), [www.mypunchbowl.com](http://www.mypunchbowl.com) and [www.anyinvite.com](http://www.anyinvite.com) provide you with an eye-catching and cost effective way to get your information out – and at a fraction of the time it might normally take.

# New TitlePLUS ad campaigns roll out across Canada

The TitlePLUS program has all the tools to ensure lawyers provide clients with the best protection possible – including the benefits of legal services coverage.\*

That's the principal message of a new series of TitlePLUS ads now running in major legal publications across Canada. Like its predecessor ads, the current "Tools" campaign also emphasizes the TitlePLUS program as the Bar-related® real estate partner for lawyers.

To mark its launch in Québec, the TitlePLUS program has also launched a Québec-oriented advertising campaign that positions the program as the "valued partner of the real estate notary and lawyer" in addressing marketplace changes in that province. Regulatory and legal bodies have only recently addressed the use of title insurance in real estate conveyancing in Québec.

Complementing the TitlePLUS ad campaigns is an ambitious schedule of presentations, sponsorships and exhibitions that help deliver the TitlePLUS message to consumers, real estate agents and the lender community. By the end of 2008, the TitlePLUS department will have exhibited and/or presented at more than 130 events from coast-to-coast. By emphasizing the value of seeking independent legal advice for all real estate transactions, the TitlePLUS program supports the role of the lawyer as central to the real estate transaction.

**PSST... ILS SONT LÀ !**

Présentant assurance titre TitrePLUS<sup>MD</sup> d'Assurance LawPRO<sup>REG</sup>

Le programme TitrePLUS met l'accent sur vous. Tout ce qu'ils entreprennent se fait en fonction de vous conserve au centre de la transaction immobilière. Ils croient que vous devez toujours être impliqués activement dans la transaction immobilière pour le bien du client.

Ils ont créé leur programme pour le Québec afin de travailler avec vous : le programme TitrePLUS est heureux d'être votre partenaire pour confronter les changements du marché.

La mission de TitrePLUS est d'être le partenaire reconnu et estimé du notaire et de l'avocat, en apportant des opportunités d'affaires et un soutien continu pour l'entreprise du notaire et de l'avocat qui pratique dans le droit immobilier.

Pour plus d'information,appelez leur représentant au Québec, Dale Parizeau L.M. Inc., au 1-877-865-6865.

Le but du programme TitrePLUS est de vous aider à rester compétitif dans le marché en conservant les transactions immobilières locales.

**Title PLUS**  
1-800-410-1013  
titreplus.ca

1. La police TitrePLUS est souscrite par Assurance LawPRO. Veuillez référer à la police pour détails de détails, y compris les termes et conditions actuels. Les polices TitrePLUS intègrent pour des propriétés situées au Québec et les politiques OwnerEXPRESS<sup>MD</sup> intègrent pour les propriétés situées au Québec et les garanties sur services professionnels.  
2. Assurance LawPRO est un nom enregistré et employé au Québec par Lawyers' Professional Indemnity Company.  
3. LawPRO est déposée par Lawyers' Professional Indemnity Company.

Major events at which the TitlePLUS program exhibited or presented in 2008 include:

- Exhibited at Financial Forum Wealth and Management Expo in Toronto;
- Sponsored the Real Property Program at the 2008 Ontario Bar Association's Annual Institute in Toronto;

- Presented to the Edmonton CBA Real Estate Section;
- Attended the CBA Alberta Law Conference in Calgary;
- Hosted "The Next 10 Years..." TitlePLUS Annual Conference in Toronto;
- Exhibited at Leader's Edge Training Revolution Conference for Real Estate Agents in Mississauga;
- Sponsored a luncheon at the PME-Inter Notaires Annual Conference in Quebec;
- Exhibited at the National Credit Union Lending Conference in Newfoundland;
- Sponsored the Winnipeg Real Estate Agents Technology Conference and Trade Show.

**Built just for you**

Together we have all the tools

The TitlePLUS<sup>MD</sup> Program works with you to help protect your clients from title risks. With the right tools we assist you, through our legal services coverage\*, by reducing the inconvenience of dealing with a loss as the result of an error or omission in your real estate transactions.

To ensure your clients get the most comprehensive coverage in one policy, take a look at the TitlePLUS Program, your Bar-related<sup>®</sup> real estate partner!

**PROTECTION AS GOOD AS IT GETS**  
1-800-410-1013

1. Please refer to the policy for full details, including actual terms and conditions. The TitrePLUS policy is underwritten by Lawyers' Professional Indemnity Company & LawPRO<sup>REG</sup>. Assurance LawPRO<sup>REG</sup>, Assurance LawPRO is the registered name used by Lawyers' Professional Indemnity Company, United LawPRO for business in Saskatchewan, Manitoba, Alberta and Quebec.  
2. Excluding OwnerEXPRESS<sup>MD</sup> policies and Quebec policies.

**All you need**

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The TitlePLUS<sup>MD</sup> Program works with you to help protect your clients from title risks. With the right tools we assist you, through our legal services coverage\*, by reducing the inconvenience of dealing with a loss as the result of an error or omission in your real estate transactions.

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1. Please refer to the policy for full details, including actual terms and conditions. The TitrePLUS policy is underwritten by Lawyers' Professional Indemnity Company (LawPRO).  
Contact LawPRO for business in Saskatchewan, Manitoba, Alberta and Quebec.  
2. Excluding OwnerEXPRESS<sup>MD</sup> policies and Quebec policies.  
3. TitrePLUS, the TitrePLUS logo, OwnerEXPRESS and LawPRO are registered trademarks of Lawyers' Professional Indemnity Company.  
4. BAR RELATED is a registered mark of North American Bar Related Title Insurers used by LawPRO under license.

**Title PLUS**  
titreplus.ca

## Together we have all the tools

To ensure your clients get the most comprehensive coverage in one title insurance policy, take a look at the TitlePLUS<sup>MD</sup> Program, your Bar-related<sup>®</sup> real estate partner!

**PROTECTION AS GOOD AS IT GETS** 1-800-410-1013 [titreplus.ca](http://titreplus.ca) **Title PLUS**

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2. Excluding OwnerEXPRESS<sup>MD</sup> policies and Quebec policies.



\* TitlePLUS policies issued with respect to properties in Québec and OwnerEXPRESS<sup>MD</sup> policies do not include legal services coverage.  
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# The Phantom Client returns

## ... again and again

Recent LAWPRO claims have driven home to us the importance of formal retainer arrangements and avoiding the spectre of the phantom client. Unfortunately, these issues are not new. In 1991, William S. O'Hara wrote an article for the *Law Society of Upper Canada Errors and Omissions Bulletin* entitled "Beware of the Phantom Client." He wrote:

Of all the hazards of practising law in the late twentieth century none is more bone chilling than the phantom client who drifts into our office like an apparition, speaks to you briefly, and then disappears into the mists of time. The phantom reappears only when forgotten, to haunt you and point a bony finger at you...

A phantom client is almost always the victim of a loss by house fire, car crash, slander or anything else involving a limitation period. The apparition will always appear before the limitation period has expired. The first meeting is usually a short introductory session when the client explains the problem, asks whether you could help, and how much it would cost.... Often the client will set up an appointment to show you the policy and give you a retainer. The appointment is missed....

You may write to the client to set up another meeting or you may phone when the client is out of town. As the weeks pass the phantom client becomes a fading memory – the client who did not come back.

When the phantom client reappears to ask how the case is going you

cannot recall the client's name. There is no case at all and the limitation period has passed....

The only way to avoid this type of claim is at the time the client is first in your office, or has just failed to show up for a follow-up appointment. After that it is too late. The way to avoid this type of claim is simple. Write to the potential client (or better yet have the client sign a form in your office) saying that you will not be retained until you receive written instructions or a monetary retainer. At the same time advise the client that if you are not retained, another lawyer should be consulted immediately because of the limitation period involved. Following these simple steps will protect you from the return of the phantom client and its plaintive calls for help....

This advice is as appropriate today as it was eighteen years ago.

Although not a recent claim, the Ontario Court of Appeal decision in *Coughlin v. Comery*, [1998] O.J. No. 4066 (Ont.C.A.), ([www.canlii.org/en/on/onca/doc/1998/1998canlii1222/1998canlii1222.html](http://www.canlii.org/en/on/onca/doc/1998/1998canlii1222/1998canlii1222.html)) provides some guidance. This case supports the proposition that the onus is on the solicitor who seeks to limit the scope of his/her retainer, and where there is an ambiguity or doubt it will, generally, be resolved in favour of the client. Fortunately for the solicitor, he was able to demonstrate that he was retained solely to pursue his client's claim for disability benefits. He was NOT retained to prosecute his client's tort

claim. Although LAWPRO successfully defended the solicitor, it was a very costly and time-consuming lawsuit. The lesson: If a lawyer accepts a retainer, he or she should carefully document the scope of that retainer.

The red flags should also go up when one family member wishes to retain a solicitor not only on his own behalf, but purportedly on behalf of other family members. A solicitor cannot assume that it is safe to accept such instructions. The "instructing" client may have no authority to retain counsel on behalf of anyone else. Or he may have a conflict of interest with the other family members, making it impossible for counsel to represent everyone. A recent example of this scenario is *Gallop v. Abdoulah*<sup>1</sup> matter.

Lawyers must be vigilant about documenting the existence or non-existence of retainers. If a lawyer gives advice on the telephone, she should record what advice was given. If a retainer is accepted, he should document the scope of the retainer. If a family member purports to instruct a solicitor on behalf of others, the solicitor must carefully consider whether to accept these instructions.

We are now in a new century, but these types of claims remain a perennial difficulty. The phantom client is still with us. Be aware, and take steps to protect yourself if the phantom client reappears.

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*Debra Rolph is director of research, Claims at LAWPRO.*

<sup>1</sup> *Gallop v. Abdoulah*, [2006] 8 W.W.R. 631 (Sask.C.A.), ([www.canlii.org/en/sk/skca/doc/2006/2006skca11/2006skca11.html](http://www.canlii.org/en/sk/skca/doc/2006/2006skca11/2006skca11.html))

# BlackBerry 101:

## The hidden essentials



You can do much more with your BlackBerry by learning a few extra keystroke combinations and digging a little deeper into the device's range of functions. These shortcuts and other pointers will help you get the most bang from your favourite device.

An awful lot of stuff is crammed onto the average BlackBerry, and with only 45 keys to access all of it, many keys do double- and even triple-duty. But while much of the basic functionality of a BlackBerry is reasonably obvious, various keyboard shortcuts and functions just aren't so apparent.

That is a real shame because some of them are downright useful – if not essential – for making maximum use of this device.

For better or worse, I recently became a full-fledged BlackBerry user and want to share some of the device's features that I'm finding most useful.

*Note: I have a BlackBerry Bold (aka, the 9000 Series), so some of what I describe here will not apply, or be slightly different, on other BlackBerry models.*

### The critical keys

To start, let's all get on the same page as to the four critical keys that are mentioned many times in the following tips. To the immediate right of the trackball is the Escape key. You use it to close menus or go back one or more screens. Next to the right is the End/Power key. It ends a call or turns the device off.

To the immediate left of the trackball is the Menu key, which opens the menus that are within all the BlackBerry applications. Next to the left is the Send key, which starts or dials a phone call.

### Typing tricks

You want to make the most of that microscopic keyboard, right? It works

reasonably well once you get used to it, but here are some cool typing tricks you might not know about that will save you some time and effort in formatting and the like:

- To type a capital letter, press and hold the appropriate letter key.
- To type an accented letter, hold the letter key down, roll the trackball to view the available accented letters, and release to insert the one you want.
- To turn on Number Lock, hold the Alt key and press the left Shift key.
- To turn on Caps Lock, hold the Alt key and press the right Shift key.
- Pressing either Shift key will turn Number or Caps Lock off.
- To insert a period, press the Space key twice, and you'll find that the next letter will automatically be capitalized, too.
- To insert a period or at sign (@) into an e-mail address, just press Space.
- To type a symbol, press the Symbol key and type the letter that appears below the symbol on your screen (read this one twice so you don't miss the point – i.e., you don't have to scroll and click on the symbols you want, you just use the letters instead).

### Cut, copy and paste tips

Anything that helps you avoid unnecessary typing on that tiny BlackBerry keyboard is a lifesaver. Never retype text that is already on your device. Use the following steps to cut, copy and paste text in the same way you do on a computer.

To highlight a line of text, press Shift and roll the trackball up or down. To highlight text character by character, press Shift and roll the trackball left or right. Note: If you want to cancel a text selection, press the Escape key.

Now, to cut the highlighted text when typing, press Shift + Backspace/Delete. To copy highlighted text when typing,

press Alt and click the trackball. And to paste highlighted text when typing, press Shift and click the trackball.

### How to massacre e-mails and manage messages

Most of us spend the majority of our BlackBerry time reading e-mails – lots and lots of them. So here are some tips to help you more quickly deal with all those messages.

When you are within a message, try the following:

- To reply, press R. To reply to all, press L.
- To forward the message, press F.
- To view a contact's e-mail address, highlight the contact and press Q.
- To view the display name again, press Q.

When you want to move around a message list, use these tips:

- To move down one screen at a time, press Space. To move up one screen at a time, press Shift + Space.
- To move to the top of a message list, press T. To move to the bottom of the list, Press B.
- To move to the next date, press N. To move to the previous date, press P.
- To move to the next related message, press J. To move to the previous one, press K.

And here are more tips for when you are in a message list:

- To open a highlighted message, press the Enter key.
- To compose a new message, press C.
- To mark a message as opened or unopened, press Alt + U.
- To view only received messages, press Alt + I.
- To view only sent messages, press Alt + O.
- To view only voice-mail messages,

press Alt + V.

- To view only call logs, press Alt + P.
- To view all your messages again, press Escape.

### **There's a spell checker!**

Bad spellers, rejoice: You can check spelling in a message, memo, task or appointment by pressing the Menu key and selecting Check Spelling. You can accept or ignore suggested spellings, and you can even add words to a custom dictionary (and you should do this whenever you're prompted to, so you aren't asked again next time).

To stop Spell Check, press the Menu key and click Cancel Spell Check.

### **Mastering the mute key**

The Mute key's name says it all – it kills the ring. Good to know that when your BlackBerry rings in a location it shouldn't, there's no need to fuss about pressing keys on the keyboard. But the Mute key also has a hidden function. Pressing and holding it puts the device in Standby mode.

In Standby mode, key presses and trackball clicks won't wake up the device or turn on the screen. This is a great way to ensure that you don't accidentally make a phone call or waste battery power when you put the device in your pocket or purse.

To turn Standby off, click the Mute key again. Note that in Standby mode incoming calls will wake up the device and it will ring or vibrate as it is configured to do.

Also, some BlackBerry cases and belt clips have a tiny magnet in them. (Look for a circle about the size of a dime near where the bottom back of the device will sit when in the case or clip.) This magnet trips a switch that turns off the screen and disables the keys – so there is no need to manually put the device into Standby mode.

### **Right-clicking with your trackball**

Right mouse clicks let you jump to menu settings or options on your computer. The clever BlackBerry programmers have set up similar abilities on the trackball. For example, one quick click on the device's trackball will let you do the

following:

- Send a message that you have finished typing.
- Dial a number when you highlight it in Call Log.
- Use the Send Using field to pick the address you want to send a message from (if your BlackBerry is set up to use more than one e-mail address).

### **Disabling your wireless transmit**

Okay, let's be honest here, how many of you can actually obey the airplane pilot at takeoff when you're asked to disable your wireless transmit? For those of us that don't know how to do this (and I will admit, it wasn't obvious to me), click on Manage Connections on your home screen, and then click on Turn All Connections Off.

To turn things back on, do the same thing but select Restore Connections.

### **Tricks for outgoing and incoming phone calls**

Digging around through your contacts list to make a phone call takes too many keystrokes. To initiate calls faster, simply type any part of a contact name or phone number on your BlackBerry's home screen. The software will scan your address book and present you with the names that match the letters or number you have entered. Highlight the contact you want to call and press Send.

On the incoming side, there are certain calls you don't want to miss – such as ones from your spouse, partner or kids. Why not create a specific ring tone for each of them so you never miss their calls again? To do this, open the contact in your Address Book, click the trackball and select Edit, then click the trackball again and select Add Custom Phone Tone. Next, click the trackball to open a list of all available ring tones. Select one and save the change to the contact.

In addition, since you can easily take any picture with your BlackBerry camera, how about this? Take a picture of a contact and associate it with that contact to make that picture pop up when that person calls. To do this, just take the picture and then click on the Set As icon. It's 3-D

caller ID!

### **Voice dialing**

Voice dialing might seem like a gimmick, but it's indispensable for safety and ease of dialing while driving. Here's how to use it. Press the Voice Dial button – it's on the left side – and you'll hear the prompt "Say a command." Wait for the beep and then say "Call" and the name or number you want to call (e.g., "Call 416-598-5863"). And this is cool: If you have more than one number stored for a person – such as a work number as well as a mobile number – simply indicate which one you want by saying "work" or "mobile" after the person's name (e.g., "Call Jim Calloway Work.")

You can also dial extensions using voice commands. Enable this in Phone Options, Smart Dialing. Then, in your contacts, you can put "x5864," which will let the Voice Dial function understand you when you say "Call extension 5863."

You can also check several things via the Voice Dial function, including the battery charge (say "Check battery"), signal strength, status, coverage and, last but not least, your BlackBerry phone number. Can you say "Check my phone number?"

And finally, these miscellaneous pointers for voice dialing: You can tweak several voice dialing options and settings to better fit your personal preferences (go to Device Options, Voice Dialing). And if you're the international type, you can configure it to support other languages. Also to note: Voice dialing doesn't work with all Bluetooth headsets.

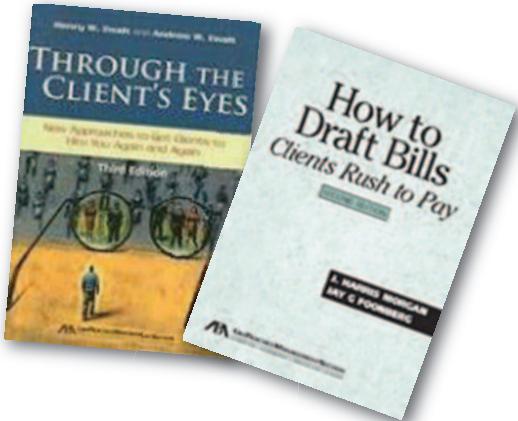
### **Try a few at a time**

This column contains tons of tips: Don't try to learn them all at once. Identify the two or three that will initially be most helpful for you. Learn those first, then pick a few more. In no time at all, you will be flying around your BlackBerry keyboard and crunching e-mail messages faster than you ever have before.

*Dan Pinnington is director of practicePRO, LawPRO's risk and practice management program. He can be reached at [dan.pinnington@lawpro.ca](mailto:dan.pinnington@lawpro.ca).*

## Through the Client's Eyes: New Approaches to Getting Clients to Hire You Again and Again, 3<sup>rd</sup> Edition

Henry W. Ewalt, published 2008, 300 pages.



## How to Draft Bills Clients Rush to Pay, 2<sup>nd</sup> Edition

J. Harris Morgan & Jay G. Foonberg, published 2003, 136 pages.

Every time we shop, eat, travel or visit a web page, it seems the company we deal with wants to know how their service was and how they can do better. So why don't law firms ask this question more often?

Henry W. Ewalt's book *Through the Client's Eyes*, sets out to make the case from both a business perspective and in terms of lawyers' job satisfaction. His book demonstrates that by treating clients like people rather than cases, lawyers can develop more profitable (financially and personally) relations with clients.

Ewalt starts off with a look at the lawyer's traditional reluctance to consider "client service" techniques. Some think it isn't professional, some find soliciting the client's opinion a nuisance, and others just don't like criticism. These attitudes are damaging to a practice. The public expects a certain level of service quality, and if they don't think they are getting understanding from the lawyer and value for their money they will take their business elsewhere.

So how to develop a better bond with clients? As the book title says, look at everything you do through their eyes. When they come into your office for the first time, what do they see? A tidy office and professional, friendly staff make a great first impression. Learn as much as you can about the client, beyond just the matter at hand. The more you know the more services you can offer to them, their family, their business and their associates. Take the opportunity to educate them on what you are doing for them, so they can make informed decisions and be an active participant. Explain your fees and keep them informed as to the progress of their matter. Clients (like all of us) hate uncertainty: uncertainty of the legal system, the costs, and what the outcome will be.

Take the time to reassure them. It's not hand-holding; it's creating a bond of trust that will keep them bringing their business to you.

Other chapters look at how much a lawyer can be considered an 'entrepreneur', and incorporate successful ideas from the business world (e.g. technical innovations, alliance with other firms, outsourcing) to benefit the bottom line and the client experience. As well, most businesses today take steps to measure client satisfaction and ensure that all their staff are 'on board'. It should be no different at your firm. If your clients are corporations, you will find a chapter in this book that explains how to tailor your services to accommodate corporate cost controls and internal decision making processes.

So now that you have taken steps to keep your clients happy and coming to you with new business, you need to keep them paying you promptly! That is where *How to Draft Bills Client Rush to Pay* comes in. It is written by J. Harris Morgan and Jay G. Foonberg, two giants in the world of educating lawyers on law practice management.

All the advice in the book is based around two principles: Make sure the value of the work you have done for the client is clearly laid out in the bill, and don't surprise the client with the amount of the fee (unless it's a good surprise).

The authors give advice on how to come up with rates for all the staff and services in your office and in the following chapter tell you how to visually convey your efforts in the bill so clients will know exactly where the money is going. Several sample bills are provided.

Not surprising clients with the final bill means raising the issue of fees from the

very first meeting and having a fee agreement. Then keep the client informed of expenses on an ongoing basis and make them aware of anything that may change your initial estimate of the cost of handling the matter. Bill them promptly. Clients will be happy to pay bills that tell them they have received good value for their money and have come in at an amount they have expected.

The book wraps up with a look at alternative billing arrangements such as flat fees and contingency fees. It is the authors' opinion that while there is a growing push to get away from the time-based fees toward new and different types of billing arrangements, the billable hour is deeply entrenched in firms and law school teaching and is not going away.

At a time when firms may be feeling financial pressures from the economic downturn, keeping clients both happy and paying their bills promptly is more important than ever. These books provide easy-to-implement ideas and a lot of food for thought for firms looking to become more client focused.

You can borrow both these books for free from the practicePRO Lending library ([www.practicepro.ca/library](http://www.practicepro.ca/library)). Full tables of contents for both books are available online.

If you wish to purchase your own copy, *Through the Client's Eyes* costs \$89.95 and *Drafting Bills Clients Rush to Pay* costs \$67.95. For more information on these and other excellent ABA LPM section publications, go to [www.abanet.org/catalog](http://www.abanet.org/catalog).

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# Workshop: business development

## Module: # 19 – Developing business by ...getting more business from clients

### **Coaching**

When marketing their personal services, lawyers must be visible to four groups of people. These people are referral sources, suspects, prospects and clients.

#### **CONSIDER CLIENTS**

Clients are people you are doing business with now or have in the last year. They can give you more business or make referrals.

Current clients are typically your best source of new business. They already know you, hopefully they trust you and admire your work.

There are a number of tactics you can use to increase the volume of business with your clients. (Watch how your suppliers of personal services, for example, your investment advisors, treat you. See if they do the following.)

#### **STAY IN TOUCH**

Don't ignore your clients. Find some way of putting your name in front of them regularly.

#### **TREAT THEM AS FRIENDS**

Help them feel comfortable and important to you. This builds trust.

#### **ASK THEIR OPINION**

This builds trust. Ask them questions.

#### **SEND THEM INFORMATION THAT THEY WOULD FIND INTERESTING**

Make them feel valued.

#### **HELP THEM PROSPER**

Send them new business, referrals or clients.

Buy from them.

### **Mentoring**

Who are your best clients now?

Why are they good clients?

What more can you do to cultivate your existing clients toward increasing your business with them? Essentially this is all relationship and trust building.

Work through the chart below to identify ways you can connect with your clients.

## **About the OCC**

The Online Coaching Centre (OCC) is LAWPRO's innovative online education tool. It lets you quickly and easily enhance a variety of "soft skills" that not only help you survive and thrive, but also help reduce malpractice claims.

The OCC is entirely web-based, allowing lawyers across Ontario to use it at a time and place convenient to them. It is organized into six workshops, each of which contains approximately 25 learning modules, such as the one profiled on this page. Modules encourage self-teaching and self-evaluation; answers you provide when working in the modules should be saved for review at a later time.

To access the OCC, go to  
[www.practicepro.ca/occ](http://www.practicepro.ca/occ).

<b>Relationship building possibility</b>	<b>Your new activities</b>	<b>Do date</b>
Treat them as friends. Make them feel comfortable and important to you. Stay in touch. This builds trust.	What can you do?	
Ask their opinion. This builds trust. Ask them questions.	Who can you ask? What would you ask?	
Send them information that they would find interesting. Make them feel valued.	What could you send? To whom?	
Help them prosper. Send them referrals or clients. Buy from them.	What could you do?	

# Taking care of yourself

## in tough economic times

by John Starzynski

This article is not about dealing with your investments or securities in the current global economic crisis. Many articles in many media address what you should do financially. This is not one of those. Instead it deals with what you can do for yourself in self-care – emotionally, physically, spiritually and in terms of wellness – to help you weather the tough and stressful times we are in.

At OLAP (Ontario Lawyers Assistance Program) we've seen an increase in callers upset about the global economic crisis. Much money has been lost, including retirement savings. Some callers are coping (or really not coping) by misuse and abuse of substances – alcohol and drugs. Others are consumed with the Internet, spending huge amounts of time surfing, chatting and exploring websites and not doing the basic things like eating, or grooming. Depression, lethargy, unexplained and baseless medical complaints such as headaches and migraines, panic attacks, skin rashes, phantom heart attacks are not unusual; stress is taking its toll too on relationships with family and friends. We all know someone, or ourselves, who is not coping very well right now.

### **Let's talk about what we can do to care for ourselves.**

Physically, your mother was right. Eat three meals a day, get eight hours of sleep a night and exercise at least three times a week. Food is our fuel and energy to function. If we do not eat three meals a day, we deprive our body, especially our most valuable resource, the brain, of the

fuel it needs to carry on as optimally as possible. Follow the Canada Food Guide for a balanced diet. Having snacks during the day keeps the energy levels up. Ten to twelve almonds at each of 10:00 a.m. and 3:00 p.m. gives you the protein boost that gets you through to your next meal. Eight (not eighty) walnuts a day will give you your daily quota of essential oils. Nuts are good energy food but they have a lot of fat if you are worrying about your weight. Snack on fruit and vegetables and get natural sugars. Ergo, cut down on added sugar in your diet, especially if diabetes is a concern. Cut out fast, greasy food. Your heart will love you for it.

Exercise keeps the body and mind in top shape. Moving gets the blood flowing and nourishes the brain with oxygen-filled blood. You do not have to be a professional athlete to exercise at least three times a week for a half hour each time. Here is a non-complete list of some ideas that may help. Walk to your office. At lunch, take a half hour power walk without talking on the phone. Walk up the stairs rather than taking the elevator, if possible. Play organized sports such as volleyball, hockey or baseball. Jog. Run. Have sex regularly – it is great exercise and clears the mind. Mud wrestle – okay, it is my attempt at humour and I'm checking if you read this far. Stretch your neck, arms and shoulders at your desk often. Keep as supple as you can. Do yoga or pilates.

Cut out or cut down on smoking. No judgments meant here. See [www.smokershelpline.ca](http://www.smokershelpline.ca) (Canadian Cancer Society) and

[www.lung.ca](http://www.lung.ca) (Lung Association). Cut out or cut down on caffeine. Drink lots of water to hydrate your body and help deal with cravings. Cut out or down on alcohol – there is lots of information on our website – [www.olap.ca](http://www.olap.ca). There are lots of support groups – Alcoholics Anonymous. Narcotics Anonymous, Emotions Anonymous and many more. We can connect you.

When you are really under a lot of stress, close your door, sit down with both feet on the ground, put your hands palms down in your thighs and BREATHE deeply three times in through the nose out through the mouth in an o-shape. Turn the phone and crackberry off. Face away from your computer. All this should help relieve the tension in your neck and shoulders. Try to make your mind a blank. Do this for three minutes and consider it a gift to yourself and a brief, well-deserved holiday. Drink lots of water to keep your body hydrated.

Finally, go to your doctor for a complete physical checkup including blood work. Address any physical concerns you may have so that you can be assured that you are functioning well. This will serve to also give you peace of mind.

Emotionally, it is important to have ongoing support and if possible, daily support. Have a close friend or confidant that you can share your troubles, dreams, triumphs and daily life with. Keep a daily journal so you can monitor your moods and thoughts.

Get emotional support when you need it – go to a psychologist, therapist or psychiatrist if you need it. OLAP can help by getting you short-term counselling and a peer support volunteer. Call 1-877-576-6227.

Make time for leisure and don't take work into your home environment. Listen to soothing music in the car rather than the news which is chock full of negative stimuli. Get a dog. At least someone should be happy to see you when you finally get home and a dog will necessitate exercise. Hug and kiss your partner, children and parents every day and tell them that you love them – this never gets old. Laugh a lot and watch comedy movies to get a belly laugh. For a daily chuckle, call 1-800-424-2424 (1-800-HAHHAHA)

Prioritize what you need to do in your life. Do what matters most first. This involves life or death issues getting top priority. Then look at your roles in life – spouse, parent, child, etc. Are these number two? Make time for this priority BEFORE you put in work, exercise, etc. These items become non-negotiable especially if you live your life in actual fact making your family the most important thing in your life and treating the priority that way. I am not diminishing the importance of work. You must decide personally where it fits in your priority scheme and adjust your time commitments to meet that priority.

Spirituality does not necessarily mean religion. Some people practice religious rites. Others believe in a higher power without a formal structure. Whatever you believe, connect with your inner self through reflection, meditation and self-examination. Review your ethical beliefs and see how you stack up. Look to your future and how you will get there. Make a plan for your life so that you

**OLAP  
understands  
lawyers.**



Ontario Lawyers' Assistance Program  
Programme d'aide aux avocats d'ontario

**OLAP reaches  
out to lawyers.**

## ANNOUNCEMENT

OLAP is excited to announce to the profession the formation of a brand new mutual aid group for lawyers dealing with family pressures, practice or career stress, mental health and addiction. The group offers something for lawyers every stage of the recovery and healing process. You are enthusiastically invited to come, participate, encourage, receive support, teach, learn, grow and heal. This is of special relevance and interest to OLAP volunteers whose individual role is emulated and expanded upon in this supportive group setting. We look forward to seeing you there. Meetings will be held on the first and third Thursdays of each month.

### All Lawyers are Welcome

Share your experience dealing with mental health issues, addiction or the stress of practice.  
Offer support and encouragement to others.  
Find strength and ideas for coping.

### THESE GROUP MEETINGS ARE CONFIDENTIAL

The group will be facilitated by OLAP Volunteers with the support of OLAP staff.  
Come and Bring a Friend

Please contact Catherine Hendrick at 905 238-1740 or email [catherine@olap.ca](mailto:catherine@olap.ca)

know that you have actually thought about it and are not just drifting through life without direction.

Read great literature with noble themes and actions. Take a course that will feed your soul and tap into your inner resources – painting, golf, music, etc. Volunteer in activities you enjoy and make you feel that you are making a difference by serving others. Write a personal Mission Statement to identify who you are, what you believe in, where you are going and how you are going to get there. This is a powerful exercise and cuts right to the heart of your being.

Always, when you need to talk, call OLAP. We have 75 peer support volunteers across the province who will lend you a non-judgmental supportive ear. We have all had challenges and can share our experience, strength and hope with others.

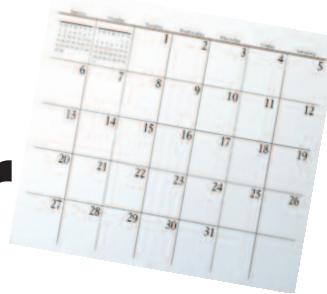
## Resources

Credit Canada has a lot of information at [www.creditcanada.com](http://www.creditcanada.com). The Credit Counselling Service of Toronto is at 416-228-3328. Lawyer Stanley Kershman, one of our peer volunteers, has written an excellent book: *Put Your Debt on a Diet*.

The Wellness page on the practicePRO website ([www.practicepro.ca/wellness](http://www.practicepro.ca/wellness)) has a number of health and balance self-assessment tools.

To contact the Ontario Lawyers Assistance Program, call Leota Embleton, MSW, Program Manager, Doron Gold, LLB, Personal Coach, Case Manager and Terri Wilkinson, LLB, RN, Case Manager at 1-877-576-6227. To contact John Starzynski, LLB, Volunteer Executive Director, call 1-877-584-6227. The website is [www.olap.ca](http://www.olap.ca).

# Events calendar



## Upcoming events

### **January 9, 2009**

CBA NS Annual Professional Development Conference  
TitlePLUS exhibiting  
Halifax Marriot Harbourfront  
Halifax, NS

### **January 20**

TitlePLUS/LawyerDoneDeal/Working Group Roadshow  
TitlePLUS hosting  
Holiday Inn  
Barrie, ON

### **January 21**

Calgary Real Estate Board Conference & Trade Show  
TitlePLUS exhibiting  
Roundup Centre  
Calgary, AB

### **January 29-30**

CBA Alberta's Law Conference  
TitlePLUS exhibiting  
Dan Pinnington, practicePRO, presenting  
Hotel MacDonald  
Edmonton, AB

### **January 29-31**

Banff Western Connection  
TitlePLUS exhibiting  
Fairmont Banff Springs Hotel  
Banff, ON

### **January 31**

LAWPRO 2008  
Fourth Quarter Real Estate and Civil Litigation Levy Surcharge filings and applicable payments due

### **February 2-3**

OBA's 2009 Institute  
practicePRO and TitlePLUS exhibiting  
Dan Pinnington, practicePRO, presenting  
Ray Leclair, TitlePLUS, presenting  
Metro Toronto Convention Centre  
Toronto, ON

### **February 26**

OREA Conference  
TitlePLUS exhibiting  
Sheraton Centre Hotel  
Toronto, ON

### **April 2-3**

IMBA Conference  
TitlePLUS exhibiting  
Toronto Congress Centre  
Toronto, ON

### **April 2-4**

ABA Techshow  
Dan Pinnington, practicePRO presenting  
Chicago, IL

## Recent events

### **September 25**

Brampton Real Estate Board Trade Show  
TitlePLUS exhibited  
Brampton, ON

### **September 26**

PME Conference  
TitlePLUS sponsored & exhibited  
Quebec City, QC

### **October 2**

Niagara Association of Realtors Trade Show  
TitlePLUS exhibited  
Niagara Falls, ON

### **October 3-5**

Home Buyers & Sellers Expo  
TitlePLUS exhibited  
Toronto, ON

### **October 5-7**

Credit Union Central of Canada's 2008 National Credit Union Lending Conference  
TitlePLUS exhibited  
St. John's, NF

### **October 7**

London & St. Thomas Association of Realtors Commercial Breakfast & Mini Trade Show  
TitlePLUS exhibited  
London, ON

### **October 16**

IBAS Convention Trade Show  
TitlePLUS exhibited  
Regina, SK

### **October 20**

Realtors Association of Hamilton-Burlington "Realtors Without Borders"  
TitlePLUS exhibited  
Hamilton, ON

### **October 23-24**

Thunder Bay Law Association  
TitlePLUS exhibited  
Thunder Bay, ON

**October 29**

Winnipeg Realtors Technology Conference & Trade Show  
TitlePLUS exhibited  
Winnipeg, MB

**November 6**

Hamilton Law Association Annual Conference  
*Risk management and claims prevention*  
Dan Pinnington, practicePRO presented  
Hamilton, ON

**November 18**

Legal Aid Regional Conference  
*60 Tips in 60 Minutes*  
Dan Pinnington, practicePRO presented  
London, ON

**November 28**

PME Title Insurance Conference  
TitlePLUS presented  
Quebec, QC

**December 4**

CBA BC/CLE BC Joint Real Estate Conference  
TitlePLUS sponsored  
Pan Pacific Hotel  
Vancouver, B.C.

**December 10**

*Opening your Practice*  
Dan Pinnington, practicePRO presented  
TitlePLUS presented  
Toronto, ON

**December 10**

Constituency Day, Queen's Park  
TitlePLUS sponsored  
MacDonald Block  
Toronto, ON

*For more information on practicePRO events, contact practicePRO at 416-598-5863 or 1-800-410-1013 or e-mail [dan.pinnington@lawpro.ca](mailto:dan.pinnington@lawpro.ca)*

*For more information on TitlePLUS events, contact Marcia Brokenshire at 416-598-5882 or e-mail [marcia.brokenshire@lawpro.ca](mailto:marcia.brokenshire@lawpro.ca)*

## newsbriefs

**Transaction levy filing due dates****Third and fourth quarter transaction levy filings**

Lawyers practising real estate and/or civil litigation must complete and file the appropriate transaction levy form and payment as follows:

- For the third quarter ended on September 30, filings were due and payable by October 31, 2008;
- For the fourth quarter ending on December 31, 2008, filings are due and payable by January 31, 2009.

To file these forms online, visit the LawPRO website, [www.lawpro.ca](http://www.lawpro.ca), and sign in using your Law Society member number or Firm Number and your e-file password (the same password used to file your insurance application online). Under the 'My Personal Account' menu, select the 'Transaction Levy Filing' tab.

**Insurance application filing deadline now past**

By now, all lawyers intending to practise in private practice in Ontario in 2009

should have completed and filed their renewal insurance application. The filing deadline was November 10, 2008. Applications filed after November 10, 2008, are subject to a surcharge equal to 30 per cent of the base premium, in accordance with By-Law 6 of the Law Society Act and the policy.

Lawyers were either notified by e-mail that their 2009 application was available online on the LawPRO website (or if practising in a Partnership or Law Corporation of five or more lawyers, the key contacts in that firm were notified by e-mail), or an application package was mailed to you on or about October 1, 2008.

If you have not filed or did not receive a notice, please contact Customer Service at [service@lawpro.ca](mailto:service@lawpro.ca), tel 416-598-5844 or 1-800-410-1013.

**Dan Pinnington now Editor-in-Chief of Law Practice Magazine**

Dan Pinnington, director of practicePRO at LawPRO, recently took over as Editor-in-Chief of Law Practice Magazine, the American Bar Association Law Practice Management Section's award winning

magazine. It is universally recognized as one of the top publications covering law practice management issues, including law firm management, marketing, finances and technology. It is available online at [www.lawpractice.org/magazine](http://www.lawpractice.org/magazine) and is available to non-ABA-LPM section members by subscription.

**eLaws cite now official**

The Legislation Act, 2006 provided in section 35 that a copy of a source law or consolidated law is an official copy of the law if accessed from the eLaws website in a prescribed form or format.

The regulation prescribing the form or format has now been filed and published and is effective as of November 30, 2008 (<http://tinyurl.com/elawscitereg>). Section 39 of the Act provides that an official copy is an accurate statement of the law, unless the contrary is proved. For official copies taken from the eLaws site, the accuracy is so presumed within the period indicated on the site.



**Return undeliverable Canadian addresses to:**

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## LAWYERS' PROFESSIONAL INDEMNITY COMPANY (LAWPRO®)

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