

Briefly!

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A Prelude to How the AG Is Going to Improve Access to Justice

In the last April 23, 2010 Benchers' Meeting, Attorney General de Jong made his second appearance since December 11, 2009, making good his promise to provide the benchers with frequent updates on the affairs of the government.

He began by talking about his plan to improve access to court records by providing clear guidelines on matters like the movement of documents. "I would like to change the culture of protectiveness in our courthouses." De Jong shared his bias (as he refers to it) that the government must demonstrate that we can trust the public.

One that has made the pages of the national and community papers percolate sometime in the middle of March was de Jong's announcement that as part of a larger initiative to make courts more accessible, he would like to see a pilot project this Fall that will place cameras in the provincial courts. He has consulted with lawyers and has spoken to Chief Judge Thomas Crabtree. De Jong feels that there is a lot of value in seeing what goes on in the provincial court.

This will give a clearer picture of the realities and challenges that make up the

system without the filtered versions of the media who by necessity focus on the egregious cases and will ultimately demystify the system including the mythical existence of revolving door sentencing for repeat offenders.

If he succeeds in doing so, he will be able to make good of his vision of making the courts belong to the people of BC, just as the legislature belongs to them.

Interestingly enough, he was well into his remarks before he realized that his deputy, David Loukidelis was actually sitting next to him, and judging by the startled way he said "Hello David", it seemed as though it has been a long while since the two busy civil servants have actually seen each other!

He spoke about the new Civil Rules which are scheduled to be in effect on July 1, 2001. On the basis of the most recent submission of the Rules Revision Committee and his consultations with the various bar associations, we should expect an order-in-council to be released in the next week or two.

He then turned his attention to the legislative front. De Jong indicated his desire to move to complete the *Family*

Relations Act and *Limitations Act*. Both statutes are fundamentally important that they require direct involvement by the bar and other groups, beginning with the Law Society of British Columbia. He hopes to be able to table the changes to these two Acts for legislation in the Spring of 2011.

He reported that the incidents are tracking upward, and as a result, the province will use its administrative powers including – increasing roadside suspensions, fines, reinstatement of licence fees.

He also advised that his ministry is now looking to non-traditional partnerships between the crown and the private bar, so that the latter can be involved in other areas such as civil forfeiture, on a contingency perhaps.

Bencher Ken Walker raised his concern that legal aid has been an easy target for cuts.

De Jong responded by saying that he recognizes that the concern and frustration is growing. He pointed out that the interest revenues have taken a large decline. He is looking for other ways to fund legal aid and was supportive of what the CBABC was doing to identify new approaches. Further, he confirmed that there is no break in the upcoming implementation of HST.

Glen Ridgway, QC, the president of the law society thanked de Jong and complimented him for making himself accessible to the benchers. And accessible he was, he even stayed to have lunch with the benchers. There is no doubt that de Jong will be back. !

The full version of this article is posted in Dom Bautista's blog. Write him at dom@lawcourtscenter.com

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Dr. Richard Susskind: Brewing Storms for Canadian Lawyers?

At precisely 4 PM last April 22, 2010, Dean of Law Donna Greschner convened a group of academics and members of the legal profession at the University of Victoria for a special 2 hour lecture by Dr. Richard Susskind entitled: “*What Storms are Brewing for Lawyers - and What Happens if Lawyers Don’t Anticipate and Respond?*”. She described the far reaching breadth of Susskind’s work, where for the last few years, he has gone around the world to talk about how lawyers must take advantage of the developments in technology and social trends in order for them to stay relevant.

His lectures are sponsored by the University of Victoria’s Faculty of Law, the Faculty of Social Sciences, the Legal Services Branch of the Ministry of Attorney General, the Canadian Bar Association (BC Branch) and UVic’s Technology and Society. In that afternoon’s lecture, Susskind shared some of his views based on his current book “*The End of Lawyers?*”. The futurist first set out to define what the *raison d’être* of lawyers ought to be, then he proceeded to talk about the market for legal services, the move to commoditization of legal services, how technology impacts the profession, and what these should mean to lawyers.

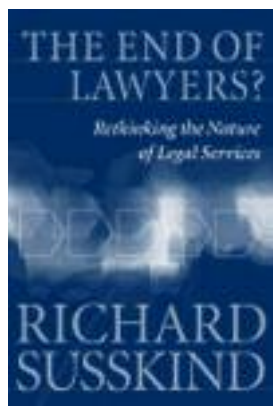
Turning knowledge for the benefit of our clients

He immediately set about to challenge the audience to ask themselves what does the market really want ... where is

the value for expensive legal advice? He cited the KPMG’s mission statement as something that most law firms can adopt: “we exist to turn knowledge for the benefit of our clients.” Fundamentally, lawyers must find a way to provide access at a lower cost. From general counsel clients, they perceive value by what lawyers say to protect them. They want advice on dispute avoidance not dispute resolution. They do not want problem solving but risk management.

He then discussed the three part dilemma that major clients face. First, there is pressure to reduce their internal headcount, second they are asked to reduce their external budgets on legal services, and third, they have more legal and compliance work than ever before (and more risk). In short, clients want more for less. This is an undeniable challenge.

In the UK, the landscape is changing, with the passage of the *Legal Services Act* in 2007, external investors from



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private equity firms to super-markets will be allowed to own and operate law firms by 2011. That is next year! The legal services market is being liberated. Canada will not be immune to these changes. One could not help but think about the possibility of seeing our local grocer doing the same thing.

On Commoditisation

Susskind claims that the legal profession will be driven by two forces in the coming decade: by a market pull towards the commoditisation of legal services, and by the pervasive development and uptake of new and disruptive legal technologies. Firms have begun to focus on providing services as efficiently as possible: by cutting costs (borne out of the recent global economic downturn), and others are moving along the path towards commoditisation and multi-sourcing. The cost of lawyering is out of control: junior lawyers cannot charge a couple hundred dollars an hour. A lot of what they do is repetitive, and the clients know this. The solution lies in considering commoditisation where marginal costs are reduced from expensive bespoke to close-to-zero commoditised work.

“Saville Row is best known for its bespoke work, where tailors measure every undulation and every crevice of your body – bespoke legal work is like that: it is highly tailored and hand crafted legal solutions. Clients have no appetite for keeping old models. Unfortunately, this is a fiction that our law schools perpetuate.” Presently with the Federation of Law Societies leading a review for a common Canadian degree, it may be a good time to consider Susskind’s remarks.

“On the opposite end of the spectrum lies the relegation for many tasks to commoditisation: where the value of work has sunk so low we cannot make money from it anymore. While it is understandable for lawyers to feel offended, the status quo is however, unsatisfactory. It is the end of a profitable business model.

Insisting on hourly billing is like giving lawyers a blank cheque. It is time to rethink client work to see which tasks can be done in as an efficient way as possible while providing consistent quality. Clients want lower and certainty of costs, and thirdly, the quality, surprisingly goes up because lawyers have distilled their knowledge management.” !

This article continues next month.

Dom Bautista is the Executive Director of Law Courts Center. Write him at dom@lawcourtscenter.com

Law Week 2010 Public Forum : Rare Opportunities for Dialogue

What a difference a year makes! The annual Law Week Public Forum took place last April 17, 2010, this time featuring the new Attorney General Michael de Jong who announced his recent appointment as Solicitor General, Chief Justice Robert Bauman, who was six months into his new position in the Supreme Court of BC and Chief Judge Thomas Crabtree, who was ten days into his new position in the Provincial Court of BC. Chief Justice Lance Finch of the Court of Appeal, who 27 years into his tenure (9 of which as chief justice), took the opportunity to announce that his court was celebrating its centenary on April 23. Assistant RCMP Commissioner German and Deputy VPD Chief Constable Doug LePard represented the law enforcement agencies and Vancouver Sun columnist Peter McKnight comprised the rest of the panel.

The CBA BC branch, the Law Society of BC, the Law Foundation of BC, the Vancouver Bar Association and CLEBC host the Law Week. This year, the CBABC provided for two ladies to accept written questions, which improved the flow of questions for CBC's Ian Hanomansing to pose to the panelists. The topic for the year was Access to Justice, Justice for All.

The attorney general opened this year's forum with a great degree of pomp and ceremony, by reading



The members of this year's panel listened intently to one of the questions posed by the public.

Order-in-Council 903 proclaiming April 11 to 17, 2010 as Law Week.

The subject of mandatory sentencing was a major subject of discussion. Hanomansing, who has for the last two years moderated the forum, has always raised the issue of the perception that judges are not tough enough. Finch pointed out that sentencing is a highly individual process given that each case is different. Bauman acknowledged that sentencing continues to be a lightning rod for that feeling. However, he is amazed at the congruity of the decisions an informed public reaches and how the judges would decide. He reminded the public that the subject of criticism is on the 1 to 2% of the thousands of cases that the Supreme Court hears.

McKnight supported Bauman's point on congruity, citing a study done in Australia that showed that the public, once it knew the full extent of circumstances, gave a lighter sentence that what the judge actually gave. More importantly, McKnight explained the by definition, what is newsworthy is what is rare and unusual not the typical

case. Inevitably, media will likely focus on sentences that appear to be unusual.

Crabtree also pointed out that all courts have endeavoured to get information out to the public by posting decisions on their website. Interestingly enough, no one brought up the suggestion by de Jong that court proceedings ought to be televised despite the prominent coverage print media has given it since mid-March.

De Jong displayed humour, when the question of seeking sanctuary was posed, he thanked German for answering on his behalf as it would have been difficult for him to respond as he also represents Abbotsford; intrepidity, when someone asked him a kind question about the government obligation's to provide access to courts, choosing instead to talk about the challenges in funding legal aid; and candor when he responded to a legal aid lawyer, Robert Bellows' plea to have the \$6 file review fee removed but admitting that he cannot take the fee entirely because the government needs to be able to fund the service and when he responded to lawyer Phil Rankin's demand that the

entire \$100 million collected from the PST be directed to legal aid instead of just \$66 million, De Jong took it a step further, pointing to the huge increase in the health care budget by pointing to the \$8 billion spent in 2001 to the amount set aside for 2010 of \$16 billion, referring to it "as the biggest challenge – beyond just the justice system."

Hanomansing asked if the Federal government should change the law for repeat offenders. Finch weighed in by saying that while these cases do not come to the Court of Appeal, he feels these problems are not legal problems but social problems underlaid by poverty, the lack of education and disadvantage. "This is my personal opinion, *not* a legal opinion, but you are asking the wrong branch of government to solve the problem. To expect the legal system to solve those problems is a pipedream." His emphatic response received a round of applause from the audience.!

The full version of this article appears online, it continues next month. Dom Bautista is the Executive Director of Law Courts Center.

Attention: First Time Job Seekers in Litigation

You have graduated from a relevant program of study and prepared a terrific résumé, and you are now looking for your first (or second) job in a law firm. Knowing that there are just as many equally qualified applicants, what can you do to set yourself apart from the other applicants, to get invited to that first interview and then the second interview, and finally, to get that perfect job?

We recently asked several managing partners and HR managers in British Columbia:

1. what qualities do they look for when selecting juniors, and
2. what information do they look for when reviewing résumés?

All job searches begin with a resume and a covering letter. And some of the responses to our question about résumés set out what you will want to think about when drafting your resume and that all-important covering letter. You will want to include:

- Awards, sports, hobbies, volunteer work that indicates skills like discipline, teamwork and initiative and that you are a well-rounded personality.
- English skills – good grammar and spelling.
- Typing/formatting skills.
- Some of your personality in your covering letter.

Jacqueline Cane, who practices plaintiff personal injury work at Cane Osborne responded by saying:

- What you did in your previous jobs and what tools you used to do those jobs.

- If there is a gap in your résumé, explain it. If you spent six months on a trek in Africa, make sure to include that and what you learned from it.
- If you have experience in customer service industries or, alternatively, in an office setting.

Carol Donohoe of Drysdale Bacon McStravick, litigation firm in Coquitlam, looks at résumés all the time, said: “I receive most résumés by email. First and foremost for me is the ability to use the English language CORRECTLY. I read each resume quickly and once I have hit three errors I move on to the next. After that, I am looking for a persuasive covering letter that indicates that the applicant has an interest in actually working for our firm, and in the position they are applying for. The qualities I look for are enthusiasm, and some training or experience, or something that says *“hire me, I’m fabulous!”*”

Being fabulous may not be easy, but it is possible. And possible begins with *your* attitude.

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This is because there was one consistent response from the HR managers we spoke to. They are looking for a group of soft skills that add up to good attitude and when put together will help convince them to hire you.

These soft skills might begin with:

- Professionalism. It may be easy to say but it is not that easy to achieve, especially early in your career. It means you look professional – you wear clothing appropriate to your job and you are always well-groomed and tidy. It means you act professionally – you have good manners and treat clients, other staff, lawyers and anyone else you encounter in the course of your job, politely and professionally. You are cheerful without being too friendly. You present yourself with confidence and enthusiasm.

In addition, Leslie Green of Hamilton Duncan Armstrong, a Surrey firm, says that, for her, the most important qualities in a junior legal assistant are:

- Work ethic;
- Ability to follow directions;
- Willingness to ask questions when necessary;
- Flexibility (can move from one priority to the next);
- Learns quickly; and
- A realistic grasp of salaries and career progression through the learning curve.

In addition to the skills noted above, other soft skills you might need are articulated by Sheila G. Nofall from Mair Jensen Blair LLP in Kamloops. She looks for intelligence, ability and a



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Briefly! is intended to provide information on new developments in litigation and law practice management.

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desire to learn, English skills and listening skills.

Working in a law firm can bring out the best in you. It will require commitment, discipline and hard work. Make sure the partners or human resources managers know what you are capable of and that *you* are the kind of employee they are looking for by paying attention to what they need from you. !

Kate Austin & Dom Bautista recently led a class on Litigation Practice Basics last April 22, 2010.