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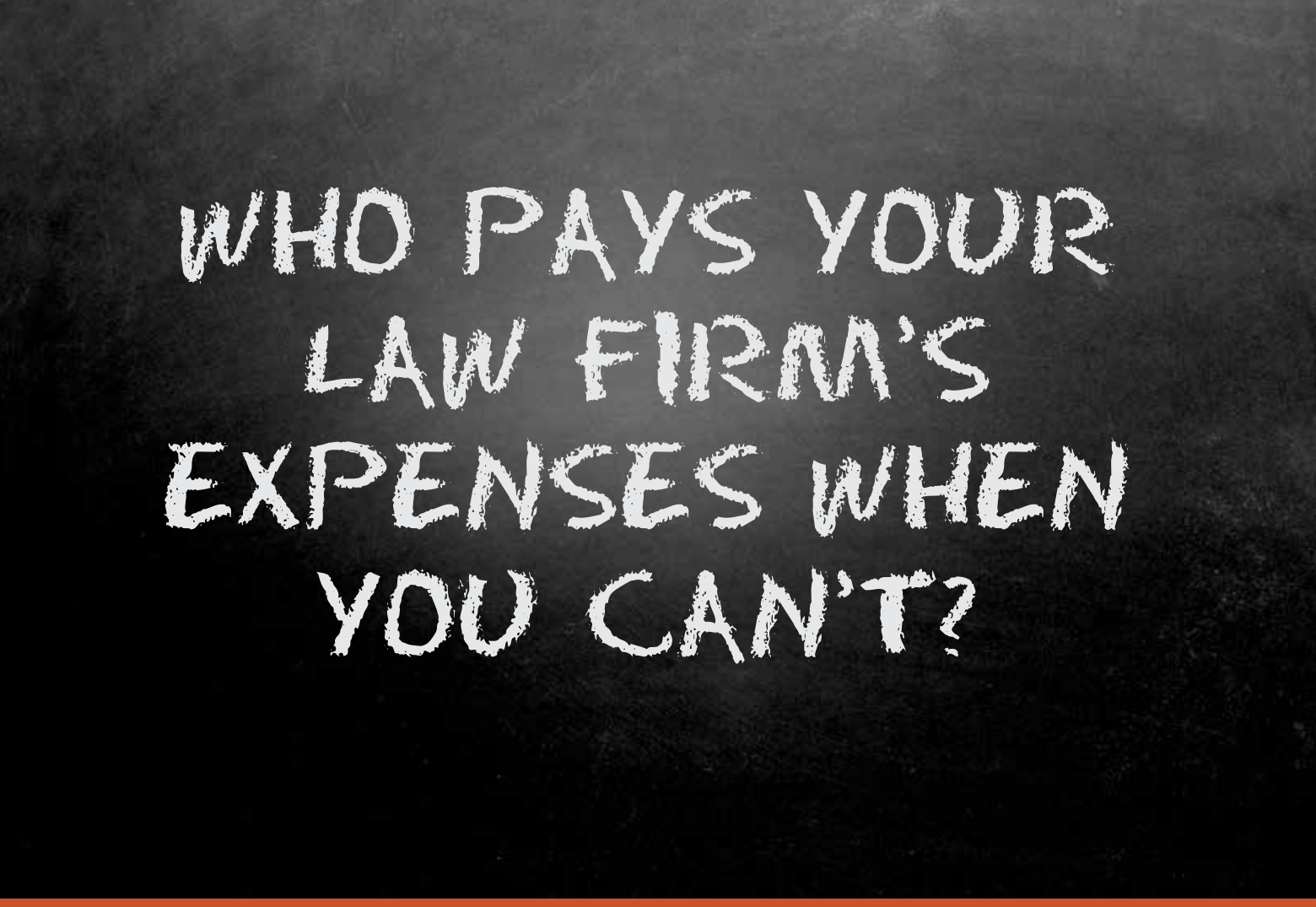
William Rosenberg, Chair of ABA BusinessLaw Section

- McCarthy Tetrault's Marc-André Blanchard appointed Canada Ambassador to the UN
- CN has pledged 5 million $ to help Syrian refugees settle in Canada
- James A. Woods, named «Litigator of the Year 2016» by sister publication Le Monde Juridique
- Fasken Martineau's Jean-Louis Baudouin appointed Jurisconsultant by Quebec National Assembly



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BETTER THAN EVER!

First Quebecois and Canadian Chair of ABA Business Law Section looks to grow membership

Stikeman Elliott's William Rosenberg to welcome business law professionals at ABA Spring Meeting in Montreal

By André Gagnon

Business law professionals from around the world will convene in Montreal from April 7 to April 9, 2016, for a meeting of the American Bar Association (ABA) Business Law Section, under the leadership of William B. Rosenberg, Senior Partner at Stikeman Elliott LLP. Mr. Rosenberg is the first non-US lawyer to hold the position of Chair of the Section, and his unique international experience will benefit the Section's ongoing efforts to expand its global network of business law professionals, which currently stands at over 52,000 members. "It will be the first time in the long history of the ABA Business Law Section that a Section-wide meeting will be held in Montreal. I am very proud to be able to showcase the city's cultural diversity, along with its many wonderful and unique attractions" explained Mr. Rosenberg.

Mr. Rosenberg first joined the ABA in 1992, concentrating his involvement initially on the Section's Mergers & Acquisitions Committee. Mr. Rosenberg's growing recognition and achievements while involved with the Section were in addition to his corporate and commercial law practice in the Montreal office of Stikeman Elliott LLP, which he joined in 1989. He is widely regarded in industry circles as a leading practitioner in the areas of mergers and acquisitions, and private equity, with a particular focus on cross-border transactions.

William Rosenberg, Chair of ABA Business Law Section

In 2013-2014, Mr. Rosenberg served as Editor-in-Chief of The Business Lawyer, an ABA publication and the leading business law journal in the U.S. He finds himself among a renowned list of legal luminaries who have served as Chair of the Business Law Section, which is more than 80 years old. This list includes William Webster (1977-78), who is the only person to have headed the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI) during his professional career; and John J. Creedon (1975-76), who served as President and CEO of Metropolitan Life Insurance Company from 1983 to 1989.

"The Section's strong commitment to diversity and inclusion, and pro bono and legal aid, serve as great examples

from which we, in the Montreal legal community, can learn", stressed Mr. Rosenberg. As to his current mandate as Section Chair, Mr. Rosenberg explains: "I am truly humbled by the trust that has been placed in me and by the opportunity to lead this distinguished group of business law professionals. Among my objectives are to expand the Section's global network of business lawyers and to improve its valuable membership benefits and services."

"The ABA Business Law Section offers distinct benefits to foreign lawyers in terms of its networking opportunities – with subject-matter experts, regulators, and potential sources of referral business," said Mr. Rosenberg. "These distinct benefits, together with the high quality of the Section's substantive programs, will be on display in Montreal this April."

Unstable, Inadequate Funding Causes Public Defender Shortage, Putting Those Who Are Arrested and Can't Afford an Attorney in Legal Limbo

ACLU Sues Over Public Defender Shortage and Resulting Wait List in New Orleans

The American Civil Liberties Union and the ACLU of Louisiana filed a class-action lawsuit yesterday evening against the Orleans Parish public defenders' office and the Louisiana Public Defender Board over the office's placement of new clients on a waiting list for representation due to a shortage of public defenders. Like others who have been arrested in Orleans Parish, our plaintiffs Douglas Brown, Leroy Shaw Jr., and Darwin Yarls Jr. are on the list because they can't afford a private attorney. Their lack of legal representation violates their Sixth Amendment rights.

"So long as you're on the public defender waiting list in New Orleans, you're helpless. Your legal defense erodes along with your constitutional rights," said Brandon Buskey, staff attorney with the ACLU's Criminal Law Reform Project. "With every hour without an attorney, you may forever lose invaluable opportunities to build your defense. You also may be forced into a crippling choice between waiting months for counsel or doing bail and plea negotiations yourself. The damage to your case can be irreparable."

The Orleans Parish public defender's office created the waiting list because it is running out of money to pay its attorneys and fulfill its mission.

"In Orleans Parish, as in the rest of Louisiana, funding for public defenders is inherently unreliable and prone to crippling shortages," said Marjorie Esman, executive director of the ACLU of Louisiana. "To pay for public defense, the state relies on the fines and fees collected from the public for traffic tickets and other convictions — a system that makes public defenders dependent on excessive policing and draconian sentencing that work against the people they defend."

At least three other parishes in Louisiana have waiting lists for public defenders.

"By relying on a 'user-funded' scheme to fund public defense, the state of Louisiana has put the Sixth Amendment in peril," said Buskey. "Repeated staff shortages, waiting lists, and other public defense crises have shown that conviction fees can't provide steady or adequate funds to public defender offices. The state must meet its constitutional obligation to its people and invest in public defense."

In addition to the ACLU and the ACLU of Louisiana, Anna Lellelid, William Quigley, and Emily Faye Ratner represent the plaintiffs.

James A. Woods founded the most important litigation boutique law firm in Québec

By André Gagnon

In 1995, James A. Woods, practicing litigator, founded the firm which bears his name. With its team of 27 lawyers, the firm is now the most important litigation boutique firm in Montreal and among the most renowned in Canada. Its lawyers advise, represent and act on behalf of some of the most prestigious business consortiums in Québec and in Canada.

Born in Noranda (presently known as Rouyn-Noranda) in Québec, to a father who was a banker at the TD Bank and an Irish mother, James A. Woods studied at McGill University, first in economics and political sciences, and then obtained his civil and common law degrees, also from McGill University. He earned scholarships which then allowed him to attend the University d'Aix-en-Provence, a university city close to Marseille, France, where he fell in love with the French culture. Incidentally, many years later, his daughter, Mtre. Sarah Woods, who is a partner of the firm, married a French citizen. Through the years, James A. Woods became a member of various other law societies in Ontario, British Columbia, Alberta, England and Wales. In 2013, he became a member of the Paris Bar.

Attracted to tax law, James A. Woods articled at Stikeman Elliott in Montreal, which was founded by Heward Stikeman and Fraser Elliott more than 60 years ago. There, he worked with Mtre. Richard A. Pound in the tax department and Mtre. François Mercier in the litigation sector. He became passionate about civil litigation and, for a certain period of time, he dabbled in criminal law. The late Mtre. John Sopinka, a prominent lawyer with Stikeman Elliott in Toronto who later became a Judge of the Supreme Court of Canada, and who had once played in the Canadian National Football League, asked James A. Woods to assist him in the "dredging scandal in the Great Lakes", a criminal jury trial which was highly publicized at the end of the 1970s.


James A. Woods

James. A. Woods went to Toronto for the duration of that lengthy trial. The mandate consisted in defending the interests of Marine Industries, a company from Sorel, which formerly was affiliated with the Simard family, against allegations of bid-rigging on dredging contracts.

Claude Ryan

It was during the course of this criminal trial in Toronto against Marine Industries and its president, Mr. Gérard Filion, who was later acquitted, that James A. Woods met the late Mr. Claude Ryan (former leader of the Liberal opposition in Quebec and then Minister of Education). Claude Ryan, who later replaced Mr. Filion as director of the newspaper Le Devoir, was the father of three lawyers, Mtres. Monique, André (at BCF) and Paul Ryan (at Ravinksly Ryan). James A. Woods remembers having had a long discussion with Mr. Ryan on the day when the Toronto Metro system went on strike which delayed the beginning of the hearing that day.

Mr. Claude Ryan's daughter, Monique, decided to join the firm Clark Woods, which was founded by James A. Woods. There, she met her future husband, Me Marc-André

Blanchard, who was then completing his articles. Mtre. Blanchard then joined the firm of McCarthy Tétrault in Montreal and later became Chair and Chief Executive Officer of this national firm in Toronto. On January 16, 2016, he was named Canada's Ambassador to the United Nations by the Prime Minister Justin Trudeau.

10 years of legal battles

James A. Woods enjoyed a very busy career, highlighted by remarkable litigation achievements. He earned one of his most recent accolades acting as the lead lawyer for TVA and Vidéotron and prevailing over the telecommunications giant Bell (Bell Express-Vu BEV) in a dispute over pirated satellite signals. This case set a precedent across Canada. TVA and Videotron instituted proceedings in this matter against Bell in September 2005. Ten years later, in 2015, the Supreme Court of Canada refused Bell's appeal.

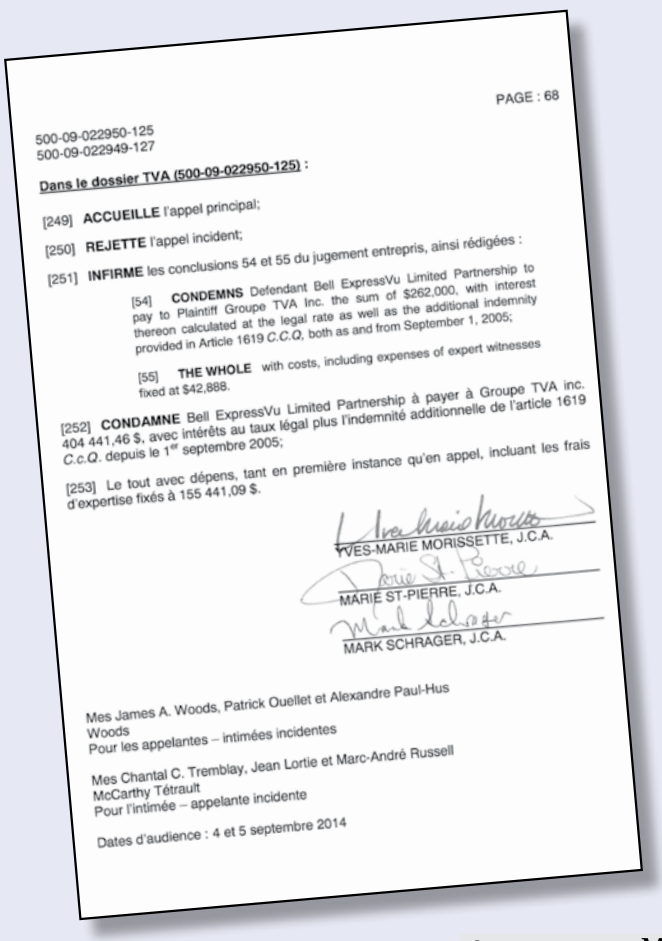
$142 Million to TVA and Videotron

Mr. Justice Silcoff, of the Superior Court, sitting in the District of Montreal, agreed in part with Mtre. James A. Woods and Mtre. Patrick Ouellet (the team also included, Mtres. Alexandre Paul-Hus and Emmanuel Laurin-Légaré at the Superior Court level); Mtre. Joe R. Nuss at the Court of Appeal level and the Dean of McGill University, Faculty of Law, Mtre. Daniel Jutras, at the Supreme Court of Canada level). Justice Silcoff dismissed the evidence of TVA's and Vidéotron's economic loss adduced by Navigant (now Quotient Juriscomptables) and more specifically by Mr. Alain Lajoie and Mr. Jonathan Allard, two CPAs retained by Videotron, TVA and the Woods law firm.

The Court of Appeal agreed with the arguments of Mtres. Woods and Ouellet and granted an award of $142 million dollars against Bell (BEV) for the latter's negligence, which abetted the pirating of the signals of TVA and Vidéotron

DOSSIER BELL - VIDÉOTRON

The end of a very complex litigation



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Dans le dossier TVA (500-09-022950-125) :

[249] **ACCUEILLE** l'appel principal;

[250] **REJETTE** l'appel incident;

[251] **INFIRME** les conclusions 54 et 55 du jugement entrepris, ainsi rédigées :

[54] **CONDEMNS** Defendant Bell ExpressVu Limited Partnership to pay to Plaintiff Groupe TVA Inc. the sum of $262,000, with interest thereon calculated at the legal rate as well as the additional indemnity provided in Article 1619 *C.C.Q.* both as and from September 1, 2005;

[55] **THE WHOLE** with costs, including expenses of expert witnesses fixed at $42,888.

[252] **CONDAMNE** Bell ExpressVu Limited Partnership à payer à Groupe TVA inc. 404 441,46 $, avec intérêts au taux légal plus l'indemnité additionnelle de l'article 1619 *C.c.Q.* depuis le 1er septembre 2005;

[253] Le tout avec dépens, tant en première instance qu'en appel, incluant les frais d'expertise fixés à 155 441,09 $.

YVES-MARIE MORISSETTE, J.C.A.

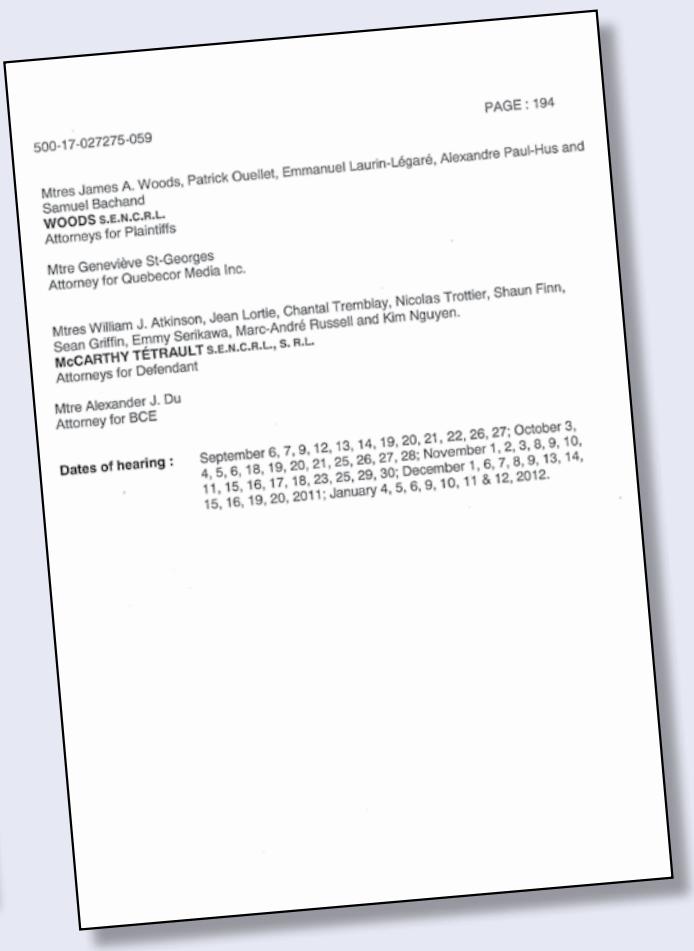
MARIE ST-PIERRE, J.C.A.

MARK SCHRAGER, J.C.A.

Mes James A. Woods, Patrick Ouellet et Alexandre Paul-Hus
Woods
Pour les appelantes – intimées incidentes

Mes Chantal C. Tremblay, Jean Lortie et Marc-André Russell
McCarthy Tétrault
Pour l'intimée – appelante incidente

Dates d'audience : 4 et 5 septembre 2014



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Mtres James A. Woods, Patrick Ouellet, Emmanuel Laurin-Légaré, Alexandre Paul-Hus and Samuel Bachand
WOODS S.E.N.C.R.L.
Attorneys for Plaintiffs

Mtre Geneviève St-Georges
Attorney for Quebecor Media Inc.

Mtres William J. Atkinson, Jean Lortie, Chantal Tremblay, Nicolas Trottier, Shaun Finn, Sean Griffin, Emmy Serikawa, Marc-André Russell and Kim Nguyen.
McCARTHY TÉTRAULT S.E.N.C.R.L., S. R.L.
Attorneys for Defendant

Mtre Alexander J. Du
Attorney for BCE

Dates of hearing : September 6, 7, 9, 12, 13, 14, 19, 20, 21, 22, 26, 27; October 3, 4, 5, 6, 18, 19, 20, 21, 25, 26, 27, 28; November 1, 2, 3, 8, 9, 10, 11, 15, 16, 17, 18, 23, 25, 29, 30; December 1, 6, 7, 8, 9, 13, 14, 15, 16, 19, 20, 2011; January 4, 5, 6, 9, 10, 11 & 12, 2012.

Alexandre Paul-Hus

Patrick Ouellet

during the course of several years.

The team of Woods LLP attorneys led by James A. Woods, accomplished a colossal advocacy feat in the context of this matter, demonstrating extraordinary skills, talent and expertise throughout all of these years. It is for this reason that the magazine Le Monde Juridique named Mtre. James A. Woods as "Litigator of the Year 2016." Mtre. Woods as well as his firm, will be honored at a dinner to be held this spring. Not only will he be honored for this particular case of long duration but also for his legal career of over 40 years of practice.

Litigation and pleading techniques

James A. Woods has taught a civil litigation workshop at the McGill University Faculty of Law for a number of years. His daughter, Mtre. Sarah Woods, with her passion for civil litigation, has followed in his footsteps. The firm of 27 lawyers, ten of whom are partners, comprises some renowned jurists, namely, Mtre. Christopher Richter, Mtre. Caroline Biron, Mtre. Patrick Ouellet, Mtre. Richard Vachon (managing partner of the firm), Mtre. Sébastien Richemont, Mtre. Marie-Louise Délisle, Mtre. Bogdan Catanu, Mtre. Sarah Woods, Mtre. Stephen Drymer and Mtre. Sylvain Vauclair, as well as Mtre. Joe R. Nuss, former Justice of the Quebec Court of Appeal and senior counsel for the firm.

James A. Woods is also one of the three trustees named by his client, Mr. Pierre Karl Péladeau, to a trust where the latter placed his controlling Québecor shares. The other trustees are Mtre. Claude Béland, administrator and former President and Chief Executive of Desjardins as well as Mr. André-P. Brosseau, former banker, and President of Marchés des Capitaux Avenue BNB Inc.

During the course of his career, James A. Woods has represented the interests of large corporations, such as Manulife, Saputo and others listed on the website of Woods LLP. Woods LLP has also developed expertise in arbitration, insolvency and other areas of practice.

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642, rue Pierre-Tétrault
Montréal, (Québec)
H1L 4Y5
(514) 353-3549

Email : mtllawyer@videotron.ca
Website : themontreallawyer.com

Publisher & Editor
André Gagnon, B. A., LL. L.

Publication Manager
Jeanne d'Arc Tissot

Advertising Director
Benjamin Gagnon

Advertising
642, Pierre-Tétrault
Montréal, (Québec) H1L 4Y5
Phone: (514) 353-3549

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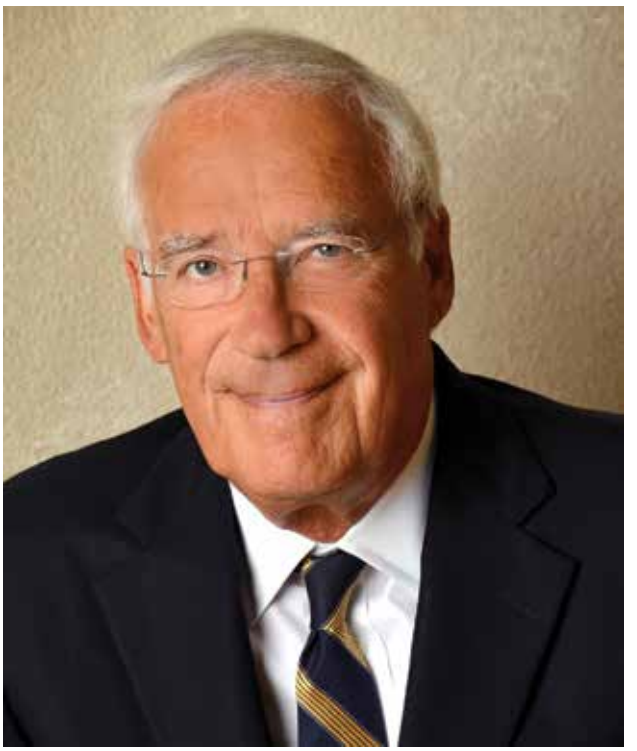
SUMMARY

"The valuation of a law practice" — Part 1

By Richard M. Wise Partner, MNP LLP



Introduction

There are several reasons why a law practice may have to be valued. In most cases, a valuation would be performed for any one of the following purposes:

- pricing and structuring the purchase or sale of the practice or a partnership interest therein, including a firm merger and the admission of new partners. If a partnership interest, the partnership agreement will be consulted;
- income tax, succession and estate planning;
- firm management and financial planning;
- partner buy-sell agreements;
- litigation support and ADR, including partner disputes, matrimonial litigation involving a partner, and income tax controversies with the fiscal authorities;
- financing, collateralization and securitization, including financing of the firm's operations; and
- disability, retirement, withdrawal or death of a partner.

As each partner may play a different role in the firm, with some partners having additional responsibilities, the firm will be more dependent on certain partners than others.

As is the case for most professional firms, the value of a law practice lies primarily in its intangible, rather than tangible, assets. For example, a review of the firm's financial statement will make it immediately evident that the firm's goodwill and the other intangible assets (which, by far, have the greatest value) are generally not even reflected on the balance sheet. The assets that generally appear on a law firm's balance sheet are cash, accounts receivable, work-in-process (see below) and furniture and equipment at their depreciated or amortized book (accounting) values.

Intangible value in the form of goodwill can arise, in part, from personal goodwill (attaching to individual partners, in different proportions). Personal goodwill is not transferable. Another type of goodwill relates to the law practice and is commercially transferable. Both types of goodwill require the maintenance of a high level and quality of services and a solid reputation, without which they would lose their value.

A sub-category of goodwill is individual goodwill, which represents the economic benefits that accrue to a law

firm by virtue of its employment of one or more lawyers who have technical skills, contacts and a good reputation. The loss of such individual(s) could have a negative impact on the practice if he or she were to then compete with the firm. In contrast with personal goodwill, individual goodwill does not expire upon retirement or death. For example, the firm may have the capacity to substitute another lawyer to fill the role of the departing lawyer. In an open-market context, non-competition agreements result in individual goodwill having commercial value.

In the valuation of a law practice, it is assumed that a purchaser will have access to the firm's client files and be able to continue with, and develop, a network of contacts that will serve as a basis for generating future professional fees for the firm. However, because each law practice is unique, the valuation must consider each of the firm's different revenue sources and analyze the firm's gross fees by source. Gross fees would be analyzed by source of type of engagement: corporate, litigation, taxation, matrimonial, intellectual property, estates and trusts, insolvency, M&A transactions, real estate and so forth. In commercial litigation, for example, revenues are usually one-time, although the file might remain active for years. With corporate work, on the other hand, the firm often receives annual retainers. Income tax mandates (compliance, planning, consulting, litigation) can be either recurring or one-time, depending on the nature and scope of the engagement. Recurring, or on-going, fees provide a more stable source of income to the firm, and often have more transferable goodwill value. One-time engagements can provide potential new-client possibilities (by way of introductions and networking opportunities).

Jean-Louis Baudouin, partner and former Quebec Court of Appeal judge appointed as jurisconsult to the Québec National Assembly

Fasken Martineau, a leading international business law and litigation firm, is proud to announce that Mtre Jean-Louis Baudouin, internationally renowned legal scholar and former judge of the Court of Appeal of Québec, has been appointed as the new jurisconsult to the National Assembly of Québec for a five-year term.

"This well-deserved appointment attests to the fact that the legal qualities and profound judgment of our colleague Jean-Louis are universally recognized," noted Éric Bédard, Managing Partner for the Québec region. "Fasken Martineau is privileged to include him as a member of our team."

Mtre Baudouin is a partner in the Litigation and Dispute Resolution Group. As a result of his thorough knowledge of the law and long trial bench experience, his counsel is notably sought during trial simulations for major cases and in complex arbitration disputes, more particularly in national and international matters.

Valuation methodologies — GENERAL

There are three basic, generally-accepted approaches for valuing a business, business ownership interest or investment:

- Asset-based (Cost) Approach;
- Market Approach; and
- Income Approach.

In certain situations, a combination of two of more of the foregoing approaches may be appropriate.

Asset-Based (Cost) Approach

The Asset-Based Approach is adopted where either (a) liquidation is contemplated because the business is not viable as a going concern, (b) the nature of the business is such that asset values constitute the prime determinant of corporate worth (e.g., vacant land, a portfolio of real estate or marketable securities), or (c) there are no indicated earnings/cash flows to be capitalized.

Market Approach

The Market Approach to valuation uses one or more methods that compare the subject to similar businesses or practices, ownership interests therein and investments that have been transacted. It includes analyses of prior transactions in the ownership of the subject firm, e.g., firm mergers or transactions of partnership interests in the firm.

Income Approach

The Income Approach is a general way of determining a value of a business (or its underlying assets) using one or more methods wherein a value is determined by present-valuing the firm's anticipated earnings or cash flows to a capital amount as of the effective valuation date. The

more common methodologies applied under the Income Approach are:

- Capitalizing the firm's earnings, applying the Earnings Method;
- Discounting the firm's expected future earnings, applying the Discounted Future Earnings Method; and
- Capitalizing the firm's gross fees, applying the Multiple-of-Gross-Fees Method.

Earnings Method

To determine the value of a business applying the Earnings Method, adjusted, normalized, stabilized earnings are substituted for financial statement earnings (which are used simply as a starting point) and then further refined into a level of representative or "maintainable" net earnings.

These adjusted results are then multiplied (capitalized) by a price/earnings multiple (capitalization factor) to arrive at a net present-value (capital sum) as of the valuation date. Net working capital and fixed assets are added. The aggregate so arrived at represents the value of the firm as a whole, i.e., "net worth".

Multiple-of-Gross-Fees Method

This method is most often applied in valuing the types of firms such as law practices and other services firms, including accounting practices, engineering firms, insurance agencies, etc. They have the advantage of attributing a separate value to the goodwill or transferable client list (i.e., the firm's so-called "book of business") without the necessity of adjusting profits over a period of years for extraordinary, non-recurring items, or discretionary overhead expenses. Buyers and sellers of such businesses or practices have developed these generalized methods from their own experience and knowledge, market transactions observed, and have departed from the more conventional methods outlined above.

The Multiple-of-Gross-Fees Method is actually a hybrid in that it employs a combination of the Income Approach and the Market Approach to valuation, by the application of capitalization multiples based on rules-of-thumb observed empirically in market transactions that occurred in the particular industry and the use of a firm's financial data, viz., gross fees.

The multiple is typically judgmental and will vary depending upon the particular characteristics of the practice, as identified below. A different multiple can be applied to each particular source of revenue generated by the firm, depending on factors such as (but not limited to) the level of recurrence of the services (e.g., general corporate practice, litigation, estates, taxation, etc.). Regard must also be had to whether, in a particular fiscal period being used to determine "maintainable gross fees", there might unusual, non-recurring, or extraordinary fee income, say from a one-time, very large mandate.

APPLYING THE MULTIPLE-OF-GROSS-FEES METHOD

The application of this Method in valuing a law practice generally involves the following steps:

(a) * determining a representative level of sustainable gross fees based, in part, on the firm's past performance, but in particular, future revenue-generating potential, pursuant to discussions with the senior managing partner(s);

(b) developing an appropriate price/revenue multiple

(capitalization factor) – see below – to apply to each source of the firm's fee income in (a), considering the degree of risk attached to achieving the said revenue, the firm's future prospects, as well as observed, available law firm transaction multiples in the marketplace, etc.;

(c) capitalizing the gross fees in (a) by applying to each source of fees (categorized by type of legal work) an appropriate revenue multiplier; and

(d) aggregating the net working capital of the firm (cash, accounts receivable and work-in-process, minus accounts payable and current bank advances) to the capitalized maintainable gross fees in (c) to arrive at the fair market value of the firm.

The types of factors that can impact the multiple applied to the firm's gross fee volume – being the most judgmental part of the valuation analysis – would generally include, as appropriate:

- Vendor firm's ability to transfer clients;
- Nature of fees/services;
- Fee schedules;
- Recurrence of engagements/client loyalty;
- Referral base;
- Types of clients (corporate institutional, personal, government);
- Types of services offered (generic or specialized);
- Diversity of client base;
- Sources of new clients;
- Extent and significance of personal contacts and relationships;
- Dependence on significant clients or client groups;
- Competition, including number of other lawyers in the community offering the same service or specialty;
- Size of the firm;
- Ages and health of the senior practitioner(s);
- Degree of a firm's dependence on a partner;
- Quality of practice's personnel;
- Profitability of the practice;
- Bad debt experience;Hourly billing rates and percentage of available time charged to, and collected from, clients for the practitioners/partners and employees (utilization and recovery);
- Location of the practice and its clients;
- Number of years that clients have maintained a professional relationship with the practitioner(s);
- Community involvement of the practitioners;
- History of the practice in the marketplace and reputation of the firm's practitioners for knowledge, expertise and judgment; and
- Visibility (brand) of the practice in the business and professional communities.

The multiples can often range from 0.3 to 1.2, depending on the particular source of revenues (litigation, corporate, taxation, real estate, matrimonial, etc.).

Other types of issues considered during the negotiation process between a vendor and purchaser that may impact the transaction price of a law firm might include:

- Owning vs. leasing the office premises;
- Duration of the existing office lease;
- The impact on future income of relocating the practice;
- Non-recurring revenue and expense items;
- Existence of a non-competition agreement from the vendor;
- Availability of vendor financing;
- Timing of the payments to vendor; etc.

In valuing a law practice, the three categories of players that must be considered in a sale of the practice are: the market of buyers (successors to the practice), the market of vendors (retiring lawyers) and the clients of the practice, including its referral networks. Client retention is critical, as is the ability of the "new firm" to maintain or increase fees, particularly when there is currently resistance to increased fees and a tendency for some lawyers to leave the larger, higher-priced law firms to join smaller – in some cases, "boutique" – firms.

Work-in-Process

Work-in-process ("WIP"), i.e., unbilled professional time, is an asset included in the value of a law firm. (In some cases, a firm might delay billing intentionally for specific reasons.) A careful analysis must be performed on a file-by-file basis. Discounts may be applicable in valuing a firm's WIP due to potential non-realization or non-collectability.

Contingency Fees

Contingency fees (if permitted) can be difficult to value and, in many litigation practices, might comprise a substantial portion of the firm's WIP (or contingency receivable). Needless to say, the professional hours worked on a contingency-fee case often has little, if any, relationship to the client's ultimate award by the tribunal or

the settlement reached. Regard must also be had to the likelihood of an appeal and the potential outcome in the appellate court. Probability discount factors are often applied by the valuator on a case-by-case basis, following discussion with the lawyers on the file (and sometimes with the firm's auditors). Sometimes a "time rule" – measured from the time the case had opened might be applied.

An example of a method that might be applied in valuing an unliquidated contingency-fee file is as follows, considering, of course, the merits of the case:

(a) Estimate the average fee per file (considering size of the file), net of direct expenses;
(b) Assess the firm's success rate or "batting average";
(c) Estimate the firm's overhead percentage per file;
(d) Multiply the number of open contingency files by the net average fee per file in (a) times the firm's batting average in (b);
(e) Deduct the overhead percentage in (c) to obtain the estimated future profit attributable to the contingency-fee case;
(f) Estimate the average length of time that the firm's cases are open (which could be accomplished by comparing a case's start date to its award date for a number of selected files, assuming the relevant data are available);
(g) Calculate the estimated date of completion for each ongoing case by considering its start date to the average length of a case;
(h) Select an appropriate discount rate (present-value rate) to apply to the estimated profit on each contingency file; and
i) Determine the present value of each case by discounting the estimated future profit in (e) by the discount rate in (h) using, as a time factor, the estimated completion date per case.

In performing these steps, consideration must be given to the typical "variables" in any litigation file, from the perspectives of plaintiff and defendant: The merits of the claim; the jurisprudence; the attorneys on each side; the evidence; the expert(s); the likelihood of there being an appeal; the costs; each party's financial means; the counsel who will be pleading in the appellate court; etc.

In estimating the value of a contingency-fee file, each arrangement must be analyzed, including its enforceability. In a recent decision regarding a contingency-fee bonus that was disputed by the client, the Ontario Court of Appeal affirmed the findings of the trial court that a $500,000 bonus to the law firm was neither unfair nor unreasonable.[1]

Part 2 of this article will discuss the different types of intangible assets of a law practice, including the various forms of goodwill: practice goodwill, personal goodwill and individual goodwill.

[1] *Evans Sweeny Bordin LLP v. Zawadzki, 2015 ONCA 756.*

CN donates millions to help Syrian refugees and access justice

Today, accompanied by the Honourable John McCallum, Minister of Immigration, Refugees and Citizenship, announced a $5 million donation to assist communities with the resettlement of Syrian refugees across Canada.

"The humanitarian need is great and time is short to help welcome refugees arriving on our doorstep," said Luc Jobin, executive vice president and chief financial officer of CN. "Canada's business community has always been ready to aid those in need. We encourage other Canadian businesses to join CN in support of refugees looking for a better life."

Minister McCallum said, "This is not a government project; this is a national project. Across the country, Canadians have been saying we need to do more to help Syrian refugees. Today I'd like to commend CN for its generosity in leading the way among Canada's business community. I look forward to seeing others rise to the occasion."

Halifax Mayor Mike Savage, co-chair of the Federation of Canadian Municipalities Task Force on Syrian Refugee Resettlement, said, "CN's support during this humanitarian crisis is a very welcome contribution to help address immediate and short-term needs of the thousands of refugees Canada will welcome in the coming weeks and months. We look forward to working with all orders of government on lasting solutions to the housing affordability crunch so that communities and newcomers are set up for success long-term."

Robert Pace, chairman of the board of directors of CN, said, "CN is very active in helping to build stronger communities. I'm proud that CN is assisting Syrian refugees with their transition to a better life, filled with the same hopes for their families and children that all Canadians share."

In the coming days, CN will join with the Canadian Chamber of Commerce and other Canadian business leaders to direct funds to assist with housing and other needs of Syrian refugees.

CN is a true backbone of the economy whose team of approximately 25,000 railroaders transports more than C$250 billion worth of goods annually for a wide range of business sectors, ranging from resource products to manufactured products to consumer goods, across a rail network of approximately 20,000 route-miles spanning Canada and mid-America. CN " Canadian National Railway Company, along with its operating railway subsidiaries " serves the cities and ports of Vancouver, Prince Rupert, B.C., Montreal, Halifax, New Orleans, and Mobile, Ala., and the metropolitan areas of Toronto, Edmonton, Winnipeg, Calgary, Chicago, Memphis, Detroit, Duluth, Minn./Superior, Wis., and Jackson, Miss., with connections to all points in North America. For more information about CN, visit the company's website at www.cn.ca

Pro Bono Québec and CN will facilitate access to legal services for Syrian refugees

Pro Bono Québec and CN join forces to provide pro bono legal services to Syrian refugees and their immediate family members to facilitate their integration into our Canadian society. "CN is proud to offer a financial contribution of $25,000 for this initiative, and we call upon the legal community in Québec to also contribute", said Mr. Olivier Chouc, CN Vice-President, Law.

CN's financial contribution will allow implementation and achievement of the project, which has as its primary objective to ensure twinning between Syrian refugees and counsels willing to offer free legal services. CN's financial support to Pro Bono Québec and other local projects adds up to CN's $5M donation to the Welcome Fund for Syrian Refugees set out by Manulife and the Community Foundations of Canada announced in December 2015.

Newly arrived Syrian refugees in Québec will have a variety of legal needs, notably in immigration, housing, or access to public services. According to Ms. Nancy Leggett-Bachand, this project fits well within the scope of the organization. "Each year, we offer free legal services to citizens and group of citizens in need. We thank CN for its collaboration in this project which will be beneficial to our new fellow citizens". Syrian refugees will have access to these services starting March 15, 2016.

Las Vegas Defense Group Speeds Delivery of Legal Help with Luxury Car Service

The Las Vegas Defense Group, a criminal defense law firm that defends clients against DUI and other criminal traffic charges, has introduced a new service for visitors and residents facing those charges in Las Vegas: free transportation via a luxury car service to the law firm's offices.

"Being arrested can be one of the traumatic events in a person's life, especially if they are away from home," said Neil Shouse, founding partner at the Las Vegas Defense Group. Â "Offering a luxury car service to bring someone facing criminal traffic charges to our offices so they can receive the help they need immediately is just one of the ways we strive to make our clients as comfortable as possible through a difficult journey."

Who owns the Koh-i-Noor Diamond?

By Olga Shevchenco

This is a story about the Koh-i-Noor, one of the largest diamonds in the world. Its history is intriguing, controversial and currently raising legal questions as well. A number of countries, including India and Pakistan, are claiming ownership of the renowned jewel.

The Koh-i-Noor is one of the most remarkable British Crown Jewels set as it is in the front of the Queen Mother's Crown. At present, the diamond is on view in the Tower of London.

Apparently, its long history dates back to the 13th century when the diamond was found in the Golconda mine in India ("Koh-i-Noor" meaning "Mountain of Light" in Persian). Initially, this large colorless stone weighed 793 carats (158.6 g). After having been cut by a Venetian lapidary, Hortenso Borgia, it became much lighter - 186 carats (37.2 g). For his shoddy workmanship, the lapidary was fined 10,000 rupees. After being re-cut in the 19th century, the diamond now weighs 105.6 carats (21.12 g) and measures 3.6 cm x 3.2 cm x 1.3 cm. What is the value of this unique jewel?

Actually, the value of this exceptional diamond is unknown as it has never been sold, i.e. changed hands in a commercial transaction. While the gem has always either been traded, stolen, gifted, or

Olga Shevchenko
Gemmologue certifiée, EGM Évaluateur de Bijoux et de Pierres
Jewelry Olga (Bijoux de design de perles)
Catherine Malandrino boutique
1472 rue Sherbrooke O, Montréal
info@pearljewelryexpert.com
www.pearljewelryexpert.com
514-884-4980 Sur rendez-vous seulement

been a spoil of war, its size, history and current provenance renders it, well, priceless. Initially, it was in India. In the 18th century, for a short period of time, the Koh-i-Noor was owned by the Shah of Persia, and then by the Emir of Afghanistan. By the early 19th century, the stone had found its way to Lahore, then the capital of the Sikh Empire. After the end of the Second Anglo-Sikh War in 1849, the largest part of the Sikh Empire was created as Punjab province in British India, upon which the diamond fell into the possession of Queen Victoria. Since then it has been worn only by the women of the British royal family. Folklore has it that the Koh-i-Noor brought bad luck to the men who wore it.

Since gaining independence in 1947, India has been demanding the return of the Koh-i-Noor. Pakistan claims ownership to the diamond as well. The response of British Prime Minister David Cameron to

such claims is comprehensive and convincing: "If you say yes to one, you suddenly find the British Museum would be empty." Actually, the response of the British Government has been consistent: the ownership of the Koh-i-Noor diamond is non-negotiable.

Nevertheless, a judge in Lahore recently accepted a petition from a British-trained lawyer asking that the British Crown return the diamond to Pakistan on the grounds that it was originally obtained illegally.

The fate of the Koh-i-Noor? The saga continues – as it has for the last eight centuries.

Common Lawyer Bio Mistakes

We commonly see two mistakes in lawyer bios on firm websites, one related to ease of contact and the other regarding creating immediate credibility for a lawyer.

These are important to address because the most often visited pages on your site in sum, even more than total opens of your Home page, are lawyer bio pages. Also, the most common reasons visitors visit bios is to contact a lawyer to whom they have been referred, or to vet just prior to initial contact. So, a best practice is to make contact via your bio page as easy as possible for a visitor, and hit hard and fast regarding standing in the bar.

To ensure maximum chance of being contacted it's best to have either the lawyer's actual email address as a link (yourname@yourfirm.com) or a link (saying 'email your name', in addition to having the ability to download a vcard). Put this right at the top. Some firms force visitors to open a downloadable vcard. The problem: that means visitors have to click twice more to get to an open email form addressed to you--and several studies show the more often a visitor has to click to complete a transaction, the less likely they are to complete the process.

Visitors looking at your bio make up their mind about your credibility, about your standing in the bar and experience, in seconds. They were told you were right for the job by someone else, and you need to confirm that ASAP. That means badges for Best Lawyers®, Super Lawyers®, and AV® Ratings need to be above the scroll, not down at the bottom of a bio page where they will not be seen by a visitor until that visitor (hopefully) spends time reading through your bona-fides.

These branded peer-review based images, plus a U.S. News Best Law Firm® badge are like pictures and worth 1,000 words each. In less than a second you know the lawyer whose bio you are about to read is top-drawer. We think you should move these up on everyone's bio so they are seen immediately every time a bio gets opened, including on mobile versions of your lawyer bios, if possible.

Yes, designers will say these icons clutter up the graphic beauty of what they are trying to do with your site. And, they probably are correct. After all, the badges were not designed with your website's design or color palette in mind. However, with apologies to all of the fine website designers we know, function over form wins out here.

Justice Scalia's last invitation by Montreal Italian jurists

Montreal Judge Antonio Discepola with Supreme Court Justice Antonin Scalia.

From left to right: Judge Antonio Discepola, Me Biagio Maiorino, Justice Scalia, Me Perry Mazzanti, Me Davide Scalia.
– Source: "IL CITTADINO CANADESE" le 7.3.2007.

By Antonio Discepola

I will let law professors evaluate his outstanding legal mind as a judicial history maker, and to politicians to squabble over when and who will replace him if that is at all possible for such a great man.

My thoughts are turned to the type of person he was and to his humble origins. Like thousands that left an Italy devastated by aerial carpet bombing from his future adoptive country, his father left Sicily in the hope of offering a better life for his future family and married a first generation American italian. Although Justice Scalia was an only child, the modest means of his parents would not permit private schooling like many of his colleagues on the Supreme Court, instead he attended public school and became a parent to 9 children. Troughout his long caree he remained very proud of his origins.

He resisted enormous and constant political and legal pressures to conform to the opinions of the day on controversial subjects.

Too much, however, has been written and said about his controversial dissenting judgments, not enough about his never tiring defense of individual freedoms and the rule of law.

Every year our Association of jurists of Italian origin has the delicate task of choosing an outstanding candidate to honor at our yearly banquet which generates funds for bursaries for law students. After having previously honored Justice F. Iacobucci of our Supreme Court we needed another judicial heavy weight.

During a brain storming meeting I suggested, with very little reflection, (unknown to those present that it was merely a way to lighten up the atmosphere)the name of justice Scalia. I knew very little about his personality but I was fully aware that he must receive hundreds of invitations from all over the world. Why would he accept an invitation from an obscure association as ours; above all in Montreal and its unpredictable weather?

The reaction I received from those present when I suggested his name was the equivalent of suggesting that our

US Supreme Court Justice Antonin Scalia, Me Davide Scalia and Judge Antonio Discepola of Montreal.

next meeting be held on Mars, and I secretly knew they were right. One kind soul, Me Mario Spina, sided with me and quickly added that I be the one to sign the invitation letter which I accepted knowing very well that I would receive a swift refusal and that would be the end of it.

I was wrong, but I paid a heavy price. Over the course of over 30 days I was submitted to a barrage of questions from his assistant as a condition to even consider our invitation. She wanted to know the names of the board members of our association, the name of the persons invited to the banquet, the address where the event was to take place, the menu, what the profits of the evening would be used for, not to use his name for the purpose of selling tickets,if media would be present, no pictures to be taken, etc... On more than one occasion I received a refusal because my answers were not what was expected.

On the last refusal which was to be the definite one, I was given the chance to speak to him personally to reassure him that it was not a media trap, that being a judge myself nothing unbecoming would happen and that all we hoped for was to permit those present,who many were of italian origin like himself, to meet him in a very informal atmosphere,no speech required. And out of despair I added that the name of Montreal had its origins in Monreale, a town in Sicily. He accepted on the spot.

Needless to say that the evening went very well...un bain de foule...a magical moment, he never got the chance to sit down, he strolled amid those present as if meeting old friends. He also met Mr. Sam Scalia whose origins were from a town close to where Justice Scalia's father was born.

Last month our association decided to try our luck a second time and invite him to this year's banquet. Unfortunately it was not to be. He will be greatly missed. I for one will remember him by quoting Justice J. Roberts: "Scalia was the umpire who got into fistfights with players, coaches, fans, and every so often threw a bat at the guy selling popcorn". French translation: "Faut brasser la cage" even as jurists and above all as judges who have the least to loose.

Listing all of your lawyers on the letterhead makes the wrong impression

The trend for many years has been to eliminate listing all lawyers on firm letterhead. For at least 25 years of which we are aware the move has been to personalized stationery with direct dial numbers shown.

The practice of listing all lawyers is quite dated, and fits an era when law firms were all much, much smaller, and none, literally none, were more than 100 lawyers, as I remember being told. Some folks older than I may be able to peg the date the first law firm hit 100 lawyers, but I think it was sometime in the early 1960's. It seems inconsistent that firms that want to show they are current as to their legal knowledge and use of technology would hold on to a dated, arguably antiquated, practice like this. Such letterhead makes exactly the wrong impression upon receipt.

With an estimated 80% of all business communication via email now, letterhead design is not the mission-critical decision it once was to a firm. Look at it another way: if it made sense to list every lawyer in correspondence why is no firm using a template and listing all lawyers at the top of all of its emails? That would be, well, silly. Email started popping up commonly in 1996/1997, with the advent of Hotmail. That's 20 years ago, so the practice of listing lawyers is arguably nearly two decades out-of-date.

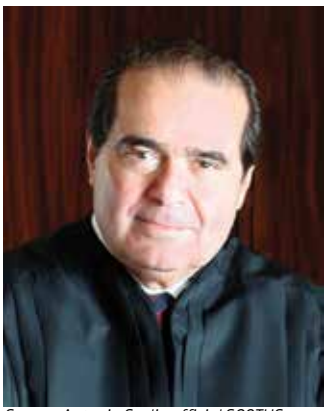
Remembering Scalia

By Andrew Cohen

Let's now try to be as clear about Antonin Scalia in death as he tried to be in life. He surely was a hero to a hundred million conservatives who saw his originalist approach to constitutional doctrine as a bulwark against the forces of demographic and cultural change. Yet he surely was a villain to a hundred million liberals who saw him as an eternally angry man, often a bully, seeking forever to thwart progress and equality. That he was both these things at the same time for so long explains why he was a transcendent Supreme Court justice, a man whose many philosophies will be cited, in court and beyond, for centuries to come.

Having covered his work on the Court for nearly two decades, I came gradually to understand the nature of the dissonance and contradictions he created and nurtured on the American scene. For he was, above all else, an operator, a former bureaucrat who was so much smarter than everyone else around him, and so eager to exert that intellect in blunt tones, that he figured out how to mesh his partisan ideology with a constitutional doctrine at precisely the right time in history to make both stick. He deserves immense credit for this. He was a potent activist who decried activism; a man with an agenda who used an anti-agenda doctrine as the patina of his intellectual life.

By this I do not mean to suggest that he did not ardently believe what he said. If ever there were a public official who said what he meant and meant what he said it was Antonin Scalia. I simply mean that he took with him to the federal bench, first on the D.C. Circuit Court of Appeals and later to the Supreme Court itself, the same crusades he had fought from his first nomination to the Nixon administration. To his credit, he never hid that; not in his majority opinions, or in his famous dissents, or in his public remarks at countless speaking engagements over the years. He was a conservative Republican who never stopped being a partisan politician just because he wore a robe.



Source: Antonin Scalia official SCOTUS

Yet for such a partisan justice he was not a successful judicial politician. Many biographers and others have noted that he alienated fellow Republican appointees Sandra Day O'Connor and Anthony Kennedy, whose votes he needed in some of the 5-4 cases he lost. As consequential as Justice Scalia was during his three decades at the Court--a colossus, we all can agree-- he surely would have been more so had he more capably cultivated those colleagues. But then, I suppose, he would not have been Scalia, a man forever certain that he was right even when he was patently wrong.

He was, indeed, self-righteous in the old-fashioned way. Instead of merely voting to gut the Voting Rights Act a few years ago in Shelby County v. Holder he chose also to mock the epic federal law by calling it a "racial entitlement" for blacks. Instead of merely voting down challenges to the death penalty one case after the other over the decades he chose to declare, in Kansas v. Marsh, that no one had ever proved that America had ever executed an innocent man. Instead of merely expanding first amendment religious protections whenever he could he practically campaigned for more religion in public life.

He wrote a stirring dissent in Hamdi v. Rumsfeld defending the Great Writ of habeas corpus but both before and after that 2004 case he stood by while the force of the Great Writ was undermined in countless cases involving domestic criminal defendants thanks to a terrible Clinton-era statute, the Antiterrorism and Effective Death Penalty Act which he consistently endorsed. He was in favor of vast executive branch power during the Nixon and Bush presidencies but opposed

to it during both the Clinton and Obama administrations. He helped put George W. Bush into the White House, in a decision that forever taints the Court, and then told the nation to "get over it."

He was at his candid best when he was railing against legislators for drafting and enacting laws that were so ambiguous that they needed intense judicial interpretation. When he called out lawmakers for being cowards in that sense he was speaking for every judge, everywhere, who struggled to make sense of the mishmash (Scalia might have called it "argle bargle") of legislation. He was at his worst when he was hectoring people, often young people, who had the temerity to ask him tough questions that he did not want to answer.

His friendship with Justice Ruth Bader Ginsburg always is cited as an example of Justice Scalia's personal appeal; his ability, off the bench, to fraternize with those whose political and legal views he abhorred. But that quaint Beltway friendship, and the fact that Justice Scalia was by all accounts entertaining at cocktail parties, didn't help the millions of litigants—employees, minorities, the poor, etc.-- whose lives were made measurably worse by the votes he issued in his decades on the Court. For those people, through the years, Justice Scalia's hoary notion of constitutional "originalism" was merely another lawyer's word that meant that they were going to lose.

A hundred years from now historians of all stripes will remember Justice Scalia as the anchor and avatar of one of the most conservative courts in American history; as the man who filled in the walls and floors and ceilings of the ideological foundation started by Chief Justices William Rehnquist and Warren Burger toward the end of the 20th Century. I bet our grandchildren and great-grandchildren will be as divided as we have been over whether his dogged work over the years was in the end good or bad for the country.

The views expressed are the author's own and not necessarily those of the Brennan Center for Justice.

ABOUT ANDREW COHEN

Andrew Cohen is a fellow at the Brennan Center for Justice. He is also the Commentary and Analysis Editor at The Marshall Project, legal analyst for 60 Minutes, and chief analyst and legal editor for CBS Radio News. Andrew Cohen is from Montreal. Andrew Cohen of the Brennan Centre for Justice, a Montreal-born scholar. Published with permission from the Brennan Centre for Justice of New York University. School of Law. The author Andrew Cohen is from Montreal

The International Alliance of Law Firms Expands Into Western Australia Civic Legal Joins as Newest Member

The International Alliance of Law Firms is pleased to announce that Civic Legal, based in Perth, Australia has been admitted as our Western Australian member. Civic Legal is a premier boutique commercial law firm providing high quality legal services to the commercial, property, and local government sectors of Western Australia.

This 16-person law firm has a thriving practice in the areas of dispute resolution, including litigation, representation in the State Administrative Tribunal (SAT), contracts, workers' compensation, employment, insurance and risk management, corporate and commercial matters, local government law, native title, mining and resources, building and construction, and environmental law.

"Civic Legal will be an excellent addition to our group of law firms," says Michael Herbst, Alliance president. "The firm's well-established international ties in the Asia-Pacific region will benefit clients who do business in this area of the world."

Since 2005, Civic Legal has been a well-known fixture of the legal profession in Western Australia. They have strong links to Asia with business, investment, and legal relationships throughout Singapore, Malaysia, and China. Anthony Quahe, Managing Principal of Civic Legal, is Singapore-born, speaks some Hokkien and Mandarin, and is the current President of the Singapore Chamber of Commerce of Western Australia, of which the firm is a gold sponsor.

"We are pleased to become part of such an esteemed network of law firms," says Anthony Quahe, "Our culture of providing responsive, high quality legal advice combined with our international contacts will benefit clients with needs in Western Australia and throughout Asia."

For more information regarding Civic Legal, visit www.civiclegal.com.au.

Latest trademark success leads former Suffolk professor and a team of Suffolk alumni to form specialty law firm

Suffolk University Law School students helped secure a victory for a small-business client whose use of the MonsterFishKeepers name was opposed by the Monster Beverage Corp.

The holding company for the Monster energy drink empire maintained that it owns the word "Monster," but the U.S. Trademark Trial and Appeal Board disagreed, dismissing the company's opposition to the name that businessman Li-Wei Chih of Silver Spring, Md., uses for his MonsterFishKeepers.com tropical aquarium website. Chih had sought to register the brand name for use on apparel.

Students from Suffolk Law's Intellectual Property & Entrepreneurship Clinic worked on the case for more than three years under the direction of former clinic director Eve Brown. Brown and Intellectual Property Clinic students also won a trademark case against Nautica in October 2015 on behalf of another small business, Nautigirl Brands, LLC. Brown refers to both Monster and Nautica as "trademark bullies."

Triumphs spur new legal venture

Their success in these cases has led to the formation of Bricolage Law, a legal services organization comprised of several intellectual property clinic graduates and their former professors: attorney Brown and entrepreneurship consultant Paul Nagy. The new firm will represent small, independent businesses of moderate means in intellectual property and business-law related matters.

"The goal is to fill the gap between clinic-eligible clients who cannot afford any legal fees and the highly profitable large corporations that can afford biglaw," said Brown.

"There is, unfortunately, a massive population of small-business owners in the middle who don't qualify for pro bono help but need sophisticated, experienced legal assistance to keep them afloat," said Brown, who currently directs an Entrepreneurship & Intellectual Property Clinic at Boston University School of Law. "Clinic alumni are uniquely and perfectly situated to offer this help, since they have all been specially trained in providing this type of counsel, have a deep understanding of both law and business, and have proven dedication to and passion in the field."

Ragini Shah, Clinical Professor of Law and Director of Clinical Programs said: "The IP clinic's success in pursuing these cases demonstrates the power of practical legal experience in preparing students for practice while helping clients who might otherwise be unrepresented. And our alumni's founding of Bricolage Law as an offshoot of the clinic shows both entrepreneurial spirit and a commitment to serving these clients."

The Monster case

Monster Energy's claims that it owns a "family" of trademarks all using the word "Monster" was struck down by the U.S. Trademark Trial and Appeal Board ruling.

"In defeating the world's Number One trademark bully;" the students are helping MonsterFishKeepers and hundreds of other small businesses faced with Monster Energy's "overreaching argument that it owns the word 'Monster,'" said Brown.

"Monster Energy's claim that they are so famous that they should be able to exclude anyone else from using "monster" was struck down," she said. "Monster Energy was deemed to be famous only for energy drinks, which will again negatively impact their ability to prevent others from using the word in other categories."

The board did rule that the MonsterFishKeepers logo, which featured an M with a devil's horns and tail, was too similar to the beverage company's logo.

Chih's MonsterFishKeepers forum featured a Feb 1 post saying: "I have been battling my MonsterFishKeepers trademark with Monster Energy since 2012. As of today I can say I've beaten the monster! Monster Energy now has a ruling against its ludicrous and overreaching argument that it owns the word 'Monster.' Hope this ruling will help the hundreds of other small businesses being bullied by them."

The blog post then goes on to thank Brown and Suffolk University.

The Suffolk Law students involved in the case, some of whom have graduated, include:

Carl Alexander Chiulli, '13
Jerome Daniel Duval, '13
Laura Lipinski, '14
Casey Parent, '14
Maria Jose Rivera, '15
Emmanuel Gonzalez, '15
Meaghen Kenney, '16

"The future holds promising collaborations between the Law School and its alumni in the battle for access to justice for small business," said Brown.

Marc-André Blanchard to become Canada's Ambassador to the United Nations

McCarthy Tétrault proudly confirms its Chair and Chief Executive Officer Marc-André Blanchard has been appointed by the Minister of Foreign Affairs, the Honourable Stéphane Dion, to become Ambassador to the United Nations, effective April 1, 2016.

"The United Nations is where the world comes together. Being asked to lead Canada's mission to the United Nations is an immense honour, particularly at a time when Canada has re-committed itself to multilateral diplomacy and to engage more widely on the international scene." said Marc-André Blanchard. "It's been my privilege to work at McCarthy Tétrault since 1997 and lead the firm for the last six years. I now look forward to directing my energies towards my new role at the United Nations, an institution our government recognizes as having a vitally important role to play on the global stage."

McCarthy Tétrault's Board of Partners has begun a process for selecting the firm's next CEO to continue the excellent leadership Mr. Blanchard has provided since January 2010.

"The appointment of our Chair and CEO to such an important position is something about which our entire firm should be proud," said Jean Charest, partner and strategic advisor to McCarthy Tétrault. "This appointment is a tribute to our firm's focus on being the most relevant and trusted advisor to our clients."

McCarthy Tétrault wishes Mr. Blanchard every success during his tenure as Canada's Ambassador to the United Nations.

Judge Appeals IRP6 Case To Obama For Clemency

Former Hurricane Carter Judge Asks Obama To Free African-American and Italian American Tech Execs, says Advocacy Group A Just Cause.

Former federal judge H. Lee Sarokin petitions President Obama for clemency on behalf of technology executives known as the IRP6. In a letter to Obama, Sarokin makes the case that the six executives were prosecuted, wrongly-convicted and imprisoned for a failure to pay corporate bills. Sarokin challenges the prosecution's inconsistent theories, race, constitutional violations and harsh sentencing. The family of the IRP6 has launched a change.org petition (www.change.org/search?q=Irp6 or https://t.co/jab5TqU00s) and Twitter campaign with the hashtag #Imprisnd4Debt to support Sarokin in freeing their loved ones.

Judge Sarokin, a Harvard Law graduate, was first appointed to the federal bench by President Jimmy Carter and subsequently to the U.S. 3rd Circuit Court of Appeals by President Clinton. Sarokin is best-known for overturning the triple-murder conviction of famous boxer Rubin "Hurricane" Carter who was portrayed by Denzel Washington in the movie "Hurricane Carter." Sarokin has spoken at length about the IRP6 injustice in 5 articles on the Huffington Post website. Sarokin also wrote a play titled "The Race Card Face Up" to stir up publicity for the IRP6 case. On November 2, 2015, Sarokin attended a reading of his play at the Northcoast Repository Theater in Solana Beach, CA. According to the San Diego Union Tribune, Sarokin, was moved to tears, telling the audience that he felt a "deep conviction" to help free the men whose sentencing he feels was racially motivated.

"Each new revelation in this case has prompted me to speak out," said Sarokin in the Huffington Post about the IRP6 case. "I have concluded that the defendants may well be innocent and that there is strong evidence that their constitutional rights were violated in any event," added Sarokin. "Why did these defendants with no criminal records, no risk of flight, convicted of a non-violent crime receive such harsh sentences -7 to 11 years?" questioned Sarokin. "The government proved that the defendants incurred debts and did not pay them," added Sarokin. Not to mention, the government "made it impossible for them to fulfill their obligations," charged Sarokin. Other experts agree with Sarokin about the IRP6 case, including the previous head of the FBI in Denver, Richard Powers, where in court documents, Powers states in a letter that the matter would be "best handled civilly.

A former Renown attorney for the Judiciary for the House of Representatives in Congress stated and I quote, "I am deeply saddened for the way this case was handled, and if anything and that is a big IF, it should have been a civil case only for debt."

Dr. Alan Bean, Executive Director of the Friends of Justice, conducted a six-month investigation into the IRP6 case, asked "Why did the U.S. Attorney's Office waste taxpayers' dollars criminalizing a debt collection case." Bean also said in his report of findings that the government concocted a "bogus business" theory to criminalize debt. After conducting over a hundred interviews and exhaustively reviewing court records, Bean concluded: "The IRP6 case departs from the typical failed-scam scenario for the simplest of reasons: the government's case can't stand up to scrutiny. The fraud alleged in the federal indictment is a mirage. The bogus business theory is bogus."

It is so unfair that our fathers are in prison for debt," says Kea Banks, daughter of David Banks (IRP6). "I can't begin to explain the never-ending pain in my heart from the loss of my Dad," laments Banks. "All of the children would like to meet with President Obama but he's probably too busy for us," says Banks. "But us children are working on launching our own social media campaigns to help our Dads," adds Banks. "We are asking the public and the media to help us expose the horrible injustice done to our fathers by signing our petition at www.change.org/search?q=Irp6 or https://t.co/jab5TqU00s and using the Twitter hashtag #Imprisnd4Debt to share with others online," concludes Banks.

On October 19, 2015, at a Senate Judiciary Committee hearing on Sentencing Reform and Corrections Act, Deputy Attorney General Sally Quillian Yates discussed the need to address the terrible "human costs" of one in nine African-American children having a parent in prison. "Touché'" says Cliff Stewart of A Just Cause. "I hope President Obama hears the cries of Kea Banks and the other children of the IRP6," adds Stewart. "President Obama, please send these men home to their families and end this horrible injustice," implores Stewart.

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Justice Scalia's Death Highlights Importance of Persuasive, Informative and Accessible Legal Writing

Baylor Law School Professors Discuss Current State of Legal Writing, Share Writing Tips

Legal scholars and political pundits who debate the legacy of recently deceased Supreme Court Justice Antonin Scalia say much of his historical significance is found in his prolific writings and judicial opinions.

Baylor Law School's Matthew Cordon, J.D., professor and director of the school's Legal Writing Center, and Scott Fraley, J.D., professor and director of legal writing, agree that the power of Scalia's writing stems from his abilities to make his words accessible to readers, including the public. They say the next generation of lawyers can learn a thing or two from talented legal writers like Scalia because most of today's legal decisions are made based on the written word instead of oral arguments.

(Read this story online at Justice Scalia's Death Highlights Importance of Persuasive, Informative and Accessible Legal Writing.)

"In most professions, readers have neither the time nor the interest to dissect complex prose that is supposed to convey a message," Cordon said. "The more skilled writer will instead explain complex and sophisticated topics using a style that makes the reader's job more effortless."

"We all can learn Scalia's lessons of clarity, brevity and invention," Fraley added. "He wrote for the man on the street, in language almost anyone could understand, even when making the most sophisticated legal points. He was a master of the use of metaphor, frequently either inventing his own metaphors or taking old ones and turning them on their heads. He loved to invent new words and phrases."

In the following Q&A, Fraley and Cordon discuss the importance and power of persuasive and informative writing in today's legal process.

Q: How important is the written word to our legal system and to U.S. history?

Fraley: The written word is simply crucial to our way of life. Our laws are based on language, its application and its interpretation. Our history is a written one, from the Founders' documents through the Constitution and legal opinions and precedent. The written word is why we have a society of laws, not of man.

Cordon: Its importance is increasing. In litigation, fewer cases today wind up going to trial compared with the past, and courts resolve an increasingly higher percentage of cases based solely on the parties' writings rather than on oral arguments.

Q: Legal writing is often characterized as "dense," "dry" and "inaccessible" to the common reader. What are law schools like Baylor doing to change that?

Fraley: Baylor is teaching its law students to write in plain English when appropriate and to avoid "legalese" where possible. "Legalese" is arcane language that has an everyday English equivalent. We want our students, like Scalia,

to strive for clarity, brevity and accessibility.

Cordon: Any lawyer must be sensitive to "legal terms of art" – terms that have independent legal meanings. We otherwise want to avoid words such as "heretofore" and "hereinafter" (among many other examples), as well as unnecessarily long, complicated and complex sentences. We want students to write shorter sentences that emphasize, when possible, actors and actions. The result is that any reader can follow the reasoning supplied by the writing.

Q: Why is Baylor Law School, through the recent creation of its Legal Writing Center, placing so much emphasis on legal writing?

Fraley: The consensus exists that attorneys – especially young ones – do not write well as a group. Our alumni have told us as much. Although Baylor continues to produce many fine writers, the general level of legal writing needs to improve. To address this need, we are implementing a unique three-year writing program designed to involve rigor, consistent training and generous feedback. Our goal is to produce lawyers who are effective written advocates for their clients, no matter what their area of practice.

Cordon: Baylor Law School has had a long history of producing effective advocates, and the Baylor training is especially evident when Baylor lawyers stand up to speak in a courtroom. We want our students' written advocacy skills to match the oral advocacy skills that Baylor lawyers can demonstrate. Our top students have tended to perform well in the context of legal writing in the past, but we want all of our students to be able to demonstrate a high level of writing skill when they enter practice.

Q: How much of a lawyer's time is spent writing?

Fraley: Most lawyers spend far more time writing and drafting than arguing in court. This fact is especially true of young attorneys, whose seniors frequently judge them by their written work product. A small percentage of lawsuits proceed to trial, and a relatively small number of appeals reach oral argument. Transactional work involves careful crafting of documents. The practice of law is thus increasingly dependent on the written word.

Cordon: The percentage of time spent writing is greater than a layperson or even a typical beginning law student would expect. Many different factors lead students to enroll in law school, but the need for another writing outlet is usually not one of those factors. Many of these students will, nevertheless, develop their professional reputations largely based on their writing proficiencies.

Q: What are some tips you often share with writers?

Fraley: We advise writers to avoid passive voice; employ active, powerful verbs as opposed to "be" verbs; be mindful of grammar and punctuation; write in plain English; and keep subject and verb close together. Basic tips like these will help improve any writer's work product.

Cordon: Write so that the document serves its purpose, whether that purpose is to inform, to persuade or otherwise. The goal is never to demonstrate how smart the writer is. If the writer can use a style that makes the writing accessible to the busiest of readers, the writer will effectively demonstrate intelligence, and the reader will appreciate the effort.

ABOUT SCOTT FRALEY, J.D.

Scott Fraley is an honors graduate of the Plan II program at the University of Texas at Austin. He has a J.D. from the University of Texas School of Law, where he served on the law review. Fraley has an M.A. in rhetoric and writing from the University of Texas at Dallas, where he is currently working on his Ph.D. He is Baylor Law School's director of legal writing.

ABOUT MATTHEW CORDON, J.D.

Matt Cordon, J.D., is a professor of law and serves as director of Baylor Law School's Legal Writing Center, where he teaches courses in legal analysis, research, and communications and advanced legal research. He is the co-author of three books and the author of numerous articles, book chapters and essays. He previously received a national award for Outstanding Article by the American Association of Law Libraries, and he was designated as Outstanding Professor for Scholarship by Baylor University.

ABOUT BAYLOR UNIVERSITY

Baylor University is a private Christian University and a nationally ranked research institution. The University provides a vibrant campus community for more than 16,000 students by blending interdisciplinary research with an international reputation for educational excellence and a faculty commitment to teaching and scholarship. Chartered in 1845 by the Republic of Texas through the efforts of Baptist pioneers, Baylor is the oldest continually operating University in Texas. Located in Waco, Baylor welcomes students from all 50 states and more than 80 countries to study a broad range of degrees among its 12 nationally recognized academic divisions.

Employment among lawyers
A study by the Young Bar of Montreal

At all times, be it throughout history or popular culture, lawyers were portrayed as successful, unfriendly and opportunistic people. The study by the Young Bar of Montreal (YBM) demonstrates just the opposite: Today's young lawyer is faced with unprecedented challenges. To alleviate this situation, several lawyers leave the profession, return to school to pursue advanced studies in the hopes of standing out or launch their own solo practice while waiting for the next opportunity.

The YBM proudly presents the final Report on the employment situation among young lawyers in Quebec (the "Report") featuring Quebec law schools, the Quebec Bar, l'École du Barreau du Québec and all the lawyers of ten years or less of practice in Québec. The report sheds light on an employment situation that is deteriorating in the North American legal community. It describes the causes, consequences and offers seven (7) practical ways to improve things in the short term.

The Quebec Province is getting dangerously close to a critical threshold of the ratio of lawyers per 100,000 inhabitants, which has been exceeded in Ontario (339) and the United States (396). As indicated by Me Caroline Larouche, President of the Young Bar of Montreal: "The conclusion is simple: things must change. First attitudes, then the culture of the legal profession. Although the YBM addresses the issue in an alarming manner, we nonetheless remain optimistic about our ability to improve the situation. The open-mindedness of the stakeholders is reassuring and you can rest assured that the YBM will diligently follow-up on the recommendations contained in the final Report, as they are crucial."

Subsidized by Emploi-Québec for the island of Montreal, the Report is an initiative of the YBM to get the word out and raise awareness to all stakeholders from the legal community of the importance of concerted action to improve the situation as quickly as possible.

A few important quotes from the Report...

- "It is clear that a rise in the number of lawyers does not make justice more accessible. Throughout North America, there have never been so many lawyers and such a lack of accessibility to the justice system."
- "We are also starting to note some signs of a drop in demand for lawyers in their traditional roles or, in other words, a discrepancy between legal supply and demand. This consequence, due to structural problems we are aware of, particularly wait times, procedural abuse, and general loss of faith in the system, is palpable."
- "It is important to play down the idea of quotas because they already exist de facto, both in terms of university admissions and at the Bar School."
- "Statistics taken from the Quebec Bar reflect that lawyers' salaries have been stagnant for several years and that pay for articling positions is decreasing."
- "We find that the average weekly salary hardly changed between 2004-2008 and 2013-2015, after a slight increase of $14 between 2004-2008 and 2009-2012. However, between 2004 and 2014, the consumer price index (CPI) in Quebec increased by 19.6%. In 2004 dollars, the actual salary in 2013-2015 is $543. To put it differently, one would have had to earn $777 in 2014 to maintain the same purchasing power as in 2004."
- "Universities need to commit to offering management training to their students in administration, entrepreneurship, marketing and accounting. One out of three lawyers practices in a firm with less than 10 lawyers."
- "Teaching programs need to reflect the diversity of practices and changes in legal demand. The law needs to be taught differently than it was 100 years ago to account for the new reality of the market."

A.G. Schneiderman-Led State & Federal working group announces $3.2 Billion settlement with Morgan Stanley

Settlement Includes $550 Million For New York, Including Millions To Help New Yorkers Avoid Foreclosure And Rebuild Their Communities; Significant Resources Dedicated To Transforming Code Enforcement Systems And Combating Proliferation Of Zombie Homes

Settlement Addresses Misconduct That Contributed To The 2008 Financial Crisis

Schneiderman: Today's Settlement Is Another Victory In Our Effort To Help New Yorkers Rebuild And Hold Banks Accountable

Attorney General Eric T. Schneiderman today joined members of the state and federal working group he co-chairs to announce a $3.2 billion settlement with Morgan Stanley over the bank's deceptive practices leading up to the financial crisis. The settlement includes $550 million – $400 million worth of consumer relief and $150 million in cash – that will be allocated to New York State.

The resolution requires Morgan Stanley to provide significant community-level relief to New Yorkers, including loan reductions to help residents avoid foreclosure, and funds to spur the construction of more affordable housing. Additional resources will be dedicated to helping communities transform their code enforcement systems, invest in land banks, and purchase distressed properties to keep them out of the hands of predatory investors.

The settlement was negotiated through the Residential Mortgage-Backed Securities Working Group, a joint state and federal working group formed in 2012 to share resources and continue investigating wrongdoing in the mortgage-backed securities market prior to the financial crisis.

"Today's agreement is another victory in our efforts to help New Yorkers rebuild in the wake of the financial devastation caused by major banks," said Attorney General Schneiderman. "Today's settlement will deliver resources to the families and communities that need them the most, while

helping New Yorkers avoid foreclosure, and spurring the construction of more affordable housing units statewide."

The settlement includes an agreed-upon statement of facts that describes how Morgan Stanley made multiple representations to RMBS investors about the quality of the mortgage loans it securitized and sold to investors, and its process for screening out questionable loans. Contrary to those representations, Morgan Stanley securitized and sold RMBS with underlying mortgage loans that it knew had material defects.

In the statement of facts, Morgan Stanley acknowledged that it increased the acceptable risk levels for loans in its securitized pools. This allowed Morgan Stanley to purchase various loans with loan-to-value (LTV) ratios over 100%, i.e. loans that were "underwater." In a May 31, 2006 email, the head of Morgan Stanley's team tasked with doing due diligence on the value of properties underlying the mortgage loans asked a colleague, "please do not mention the 'slightly higher risk tolerance' in these communications. We are running under the radar and do not want to document these types of things."

In another email on November 21, 2006, a member of the Morgan Stanley due diligence team forwarded a list of questionable loans, seeking review and approval to purchase them and adding "I assume you will want to do your 'magic' on this one?" In another similar instance from July 2006, the head of Morgan Stanley's valuation due diligence cleared dozens of risky loans for purchase after less than one minute of review per loan file.

In the settlement, Morgan Stanley also acknowledged that it securitized certain loans that neither complied with underwriting guidelines nor had adequate compensating factors. Morgan Stanley also purchased and securitized many loans which its credit and compliance team recommended not be purchased, after its finance team decided that the loans had "acceptable risk." Furthermore, Morgan Stanley allowed loans that it knew were risky to be purchased and securitized without a loan file review for credit and compliance.

In his 2012 State of the Union address, President Obama announced the formation of the RMBS Working Group. The collaboration brought together the Department of Justice, other federal entities, and several state law enforcement officials – co-chaired by Attorney General Schneiderman – to investigate those responsible for misconduct contributing to the financial crisis through the pooling of loans and sale of residential mortgage-backed securities.

Under the settlement, Morgan Stanley will be required to provide a minimum of $400 million in creditable consumer relief directly to struggling families and communities across the state. The settlement includes a menu of options for consumer relief to be provided, and different categories of relief are credited at different rates toward the bank's $400 million obligation. Creditable dollars will go toward the creation and preservation of affordable rental housing, land banks, code enforcement, communities purchasing distressed properties, and principal reductions for homeowners.

"Mayors across the state have been dealing with the impact of the financial crisis for years now. The settlement funds will have a huge impact, helping homeowners who continue to struggle and are in need of mortgage relief" said Tom Roach mayor of the city of White Plains and Vice President of the New York Conference of Mayors. "Applying the settlement proceeds to fund land banks, affordable housing and enhanced code enforcement will have a direct impact on the quality of life of those most affected by the financial meltdown and be of great assistance to our municipalities."

"The Center for NYC Neighborhoods applauds Attorney General Eric Schneiderman for standing with New Yorkers at risk of foreclosure. This settlement will help to ensure that our neighbors' homes do not fall into the hands of predatory investors. With innovative programs like these, we can finally put the housing crisis behind us and work toward a stronger, more affordable New York," said Christie Peale, Executive Director of the Center for NYC Neighborhoods.

"Attorney General Schneiderman's use of these settlement dollars to investment in communities hardest hit by the foreclosure crisis, has significantly accelerated the recovery efforts of cities across New York who are still struggling to move past this crisis. Without these critical funds, our organization would not be able to make such broad revitalization impacts on such a short timeline," said Madeline Fletcher, Executive Director of Newburgh Land Bank.

This matter was led by Senior Enforcement Counsel for Economic Justice Steven Glassman and Assistant Attorney General Tanya Trakht. The Division of Economic Justice is led by Karla G. Sanchez.


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