

BOWLEY·CUFFARI NEWSLETTER

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Proud to be Canadian, eh? Take a test!

Which of these will you see in a Canadian court?

- barristers in wigs
- barristers in gowns
- counsel "approaching the bench"
- counsel shouting "Objection!"
- a gavel
- judges in gowns
- judges addressed as "M' Lord"
- District Attorneys
- six-person jury

Lose your wallet? Try this excellent website:

http://canada.gc.ca/programs/wallet/wallet_e.html

Useful tips, links to credit card issuers and provincial license departments etc. make this site a gem.

"More cross-examinations are suicidal than homicidal."

Francis L. Wellman

Looking for business trouble? Life a little tedious? Need a little excitement? Try some of these to get your adrenaline running:

- start your business without a plan
- even if you have a plan, don't bother with licensing or government approval.
- conduct your business without written contracts. The bigger the deal, the more exciting this will be.
- once you're in business, wait until you're strapped for cash before you talk to the bank about an operating line. They'll be impressed!
- wait until you've had a couple of losses or at least a few good 'scares before you consult your insurance agent. Think of all the premiums you can save!
- same goes for your accountant. You have no idea how much they look forward to

green garbage bags full of cryptic notes.

- ditto for lawyers. Why pay your lawyer hundreds to prevent a mess when he can make thousands getting you out of one (or trying). Wait until you've got a real zinger.
- avoid computers like the plague. If you must have one, let everyone in the office use it, and if you have more than one, don't network them. If you must network, at least give everyone unrestricted access to every area on every hard drive.
- firewalls? What are firewalls?
- backups are for wimps. If you insist on backups, never take the tape out of the drive.
- don't even talk about a disaster plan. Even uttering the words is bad luck.

Night court? Banker's hours?

Ontario Attorney General Jim Flaherty says that the courts need to keep more realistic hours and provide better service to the public. Couldn't agree more!

However, the underlying innuendo that judges work "banking hours" is unfortunate and not true. Flaherty, a lawyer by trade, should know that judges don't go home after the trial is over. They go back to the office and read all the material for the next day. Believe me, there's a ton of it. They're lucky to get away before 7:30 or 8:00 in the evening. Beating on the judges won't help the system.

What *will* provide better service for the public? How about a few more judges, a lot more staff, a little less political correctness, and a whole lot less tinkering with the rules and the forms. Let's keep the rhetoric down. The system works pretty well, but we could use a few more resources.

"Bad men, like good men, are entitled to be tried and sentenced in accordance with law..."

Green v United States, 365 US 301

Canadian, eh? The answers: In Canada, if a barrister wears a wig it's because he's got something to hide. The Brits, the Aussies and some other common law jurisdictions still maintain the legal wig, but the practice never really took in this country. Robes, or gowns, on the other hand, are very much part of our legal culture.

Gowned or not, we are never asked to "approach the bench". If the judge has a point to make to counsel, he will either make it in open court or he will adjourn and "invite" counsel to his chambers.

No Canadian counsel (except perhaps the very green) would dream of leaping to his feet shouting, "Objection!!!!!!" First, it's tacky. Second, like crying wolf, objecting should be saved for the real thing, and even then it should be done with aplomb.

The Canadian judge has no gavel on his bench and, if addressed as "M'Lord" is going to look somewhat bemused. Judges almost everywhere gown, but unlike their American counterparts, our judges enjoy colourful sashes to identify the particular court, and our Supremes in their ermine-trimmed scarlet are positively stunning in comparison to the sober black robes of the Americans.

Finally, if you show up at court looking for the DA, they'll know you've been watching too much TV.

Oh, yeah... the six person jury was a trick question. In Canada, and most other common-law jurisdictions, a criminal jury is twelve and a civil jury is six. Give yourself an extra ten points if you got that one!

Jeff Campbell who worked with us while at law school is articling in Niagara Falls. He's working long hard hours on personal injury cases --- and loving it!

Small Claims to \$10,000.00 as of April 1. Unless a limitation period is running (call us if you're not sure) hold off that \$8,900.00 claim! Even better, the Superior Court Simplified Procedure will soon go from a \$25,000.00 limit to \$50,000.00.

Tenant's insurance: It is hard to believe how often we encounter tenants (residential and business) who don't have a shred of insurance on their rented premises. Since they don't own the place, they say, why should they insure? Well, ask yourself who's going to pay in the following quarter-million-dollar-plus lawsuit scenarios:

- you have a kitchen grease fire. It escapes, reducing your unit and the neighbouring ones to charred shells. It's your problem, not the landlord's.
- a visitor trips over a loose electric cord and suffers a comminuted ulnar fracture with severe damage to the articular surfaces of the carpals. Until the accident, the visitor was a concert pianist.
- you have a little wine and cheese party for some of your best customers. One of them guzzles all your best red wine and staggers off. He never makes it home, nor do the occupants of the car he broadsides.

The list could go on, but you get the point.

"Our deepest fear is not that we are inadequate. Our deepest fear is that we are powerful beyond measure. It is our light, not our darkness that most frightens us. We ask ourselves, "Who am I to be brilliant, gorgeous, talented and fabulous?" Actually, who are you not to be?

You are a child of God. Your playing small doesn't serve the world. There's nothing enlightening about shrinking so that other people won't feel insecure around you. We are born to manifest the glory of God that is within us. It's not just in some of us; it's in everyone. And as we let our light shine, we unconsciously give other people permission to do the same. As we are liberated from our fear, our presence automatically liberates others."

Nelson Mandela
Inaugural speech, 1994