

BOWLEY • CUFFARI NEWSLETTER

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Straw Men In the civil courts of mediaeval England you didn't always see the real players. If Lord Fussworthy was having a spot of legal trouble with a former mistress and didn't relish the publicity of the trial, he would seek someone to stand in for him. For a small fee, such men were available. Most bore the professional name "John Doe" and were found loitering outside the courts with a telltale straw sticking out of their shoe— the original straw men!

Legal Goons The NHL has its goons and so does the Law Society. Notwithstanding the Ottawa Citizen's inflamed rhetoric, dirty lawyers really aren't a big issue. Goons are. These are the real "bad guys" because they gum up the works. Goon lawyers are those whose trademarks are routine discourtesy and perpetual belligerence. We encounter them all too often. Exactly as a dirty hockey team spoils the game, goon lawyers just ruin things for everyone. They run up the temperature and run up the costs. The whole process slows down, justice falls into disrepute and, frankly, a lot of joy is taken out of the practice of law.

Ironically, many litigants seek out counsel who are rude and abrasive, mistakenly believing these to be the marks of "a fighter". After a series of disappointments and massive legal bills, they learn that the boor is not a brilliant barrister, he's just a boor. Great lawyering is not about tantrums, its about hard work and skill.

"Every Dog is Allowed One Bite" The truth is, every dog had better watch his mouth. More correctly, his owner had better. The *Dog Owner's Liability Act* provides that the "...owner of a dog is liable for damages resulting from a bite or attack by the dog on another person or domestic animal." It further says that "... liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner..." The

good news, though, is that the dog is free to bite anyone in the process of committing a crime. Just be sure Fido knows the difference!

Wills Checklist Is your will in good shape? Score yourself against the following:

1. If you've married since your will was signed (unless it was drafted "in contemplation of the marriage"), the will is invalid.
2. If you've divorced since the will, it's invalid.
3. If you've separated since the will, it's valid but probably doesn't work for you!
4. If you had no children when you signed your will and now you do, it's time for a change.
5. If your children were infants and now they're grown, it's also time for a change.
6. If your financial circumstances have changed dramatically, its time for a review.
7. If the will is more than five years old, it's time for you to review it. More than ten years, it's time for your lawyer to review it!
8. If you have no will and you're married, have property or children, you're living dangerously.
9. If you have a will but don't have a Continuing Power of Attorney for Property and a Power of Attorney for Personal Care (the so-called living wills), you're in a high-risk situation.

"Reputation is what men and women think of us, character is what God and the angels know of us."

Thomas Paine

Featured Client Quality product, progressive management and inspired media relations are a winning combination for **ACE/ClearDefense**. Ottawa's own high-tech window film company sells an amazing product that protects against bullets and explosives all around the world. Winner of the prestigious Canada Post's "50 Best Managed Private Companies" award for 1998, ACE/Clear is a business on the move.

Keeping On Side Section 94 of the *Ontario Business Corporations Act* requires that a new corporation hold its first annual meeting within eighteen months of incorporation and thereafter not less than fifteen months from the preceding meeting. *Canada Business Corporations Act* companies have similar rules. Check your minute book!

Small Claims Seminars We're always happy to conduct seminars. If there is sufficient interest, we would offer an evening seminar to teach clients how to use the Small Claims Court for collections and other purposes. If you're interested, call Karen and we'll co-ordinate a time and place. Cost would be \$15.00, to be donated to a charity.

Keeping Track Joe Cuffari has now been with EDS Canada for over eight months. The job is tough and demanding, but not surprisingly, Joe has already become one of the top performers. Judge Cam McArthur continues on the bench of the Tax Court and advises that he enjoys it enormously. Pat Devine (ably assisted by Marg) maintains his busy practice at 344 Frank Street. Mary MacMillan (Mary Brennan to those who go "away back") and Sue Rochon are judicial secretaries and, from all accounts, are much valued in their jobs.

New faces include freelancer Mary-Anne Leang and law student Jeff Campbell. Jeff, a former pastor, is a third-year student at Ottawa U. We look forward to his assistance.

Back with us is Rhonda Loye (from Carling Avenue days) with undiminished speed, precision and good humor. Finally, a tip of the hat to Bonnie and Norma

of Terra Abstracts and to the great gang at Dye & Durham.

Construction Liens Some wag said, "Canada has two seasons: winter and construction." Somebody could add to that, "With construction come the liens." Remember that if you've done work or supplied material and haven't been paid, you can (and should) register a lien to protect your rights. But also remember that the lien must be registered within 45 days of substantial completion of the project. If you miss the date, you're out of luck. Totally. So, as a good rule of thumb, once you're past 35 days, quickly get your paperwork together and call your lawyer. Timeliness is everything. Please, please, please—do us and yourself a huge favor by not leaving everything to the last minute!

Good Fences Make Good Neighbors Fences help define what's yours and what's mine and they also keep our kids and dogs from running into the wrong yard. In the same fashion, good agreements set out boundaries and keep our personal difficulties from interfering with the lives of the other parties. Partnership agreements, shareholders' agreements, marriage contracts, distributorship agreements..... if properly drafted set out the rules of the game and provide mechanisms for dealing with problem situations. A handshake is fine when everyone's in love, but not worth much when the guns come out. Invariably, a properly drafted agreement obtained at the outset of a relationship costs a tiny fraction of litigation at the end of it. Don't be penny wise and pound foolish.

New Courts What's in a name? In the case of the courts of Ontario, perhaps a little more precision. Henceforth (and until the next name change) the former General Division will be the Superior Court of Justice and the old Provincial Division will be the Ontario Court of Justice.

"Above all else, guard your heart, for it is the wellspring of life."
Proverbs 4:23