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NEWSLETTER

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Please Update Us!– As time goes on, information gets outdated. If your address, phone number or e-mail address have changed since we last encountered, chances are we don't have you up to date in our records. We'd be really grateful if you could drop a quick note to kbowley@lmrlawyers.com with your news, and maybe a few words about what is new with you.

The Top Five Regrets Of The Dying– Bronnie Ware is a writer-songwriter from Australia who has written about her work in palliative care. She writes that she kept hearing the same regrets:

1. *I wish I'd had the courage to live a life true to myself, not the life others expected of me.* (This was the most common regret of all.)
2. *I wish I didn't work so hard.* (This came from every male patient that she nursed.)
3. *I wish I'd had the courage to express my feelings.* (Many people suppressed their feelings in order to keep peace with others. As a result, they settled for a mediocre existence and never became who they were truly capable of becoming.)
4. *I wish I had stayed in touch with my friends.*
5. *I wish that I had let myself be happier.* (Many did not realise until the end that happiness is a choice.)

The Friday Briefing– Free. Fun. Friday. Brief. This little e-tip can land in your inbox first thing Friday morning, always with a tidbit and a tip about making your communication habits more effective and powerful. To subscribe, drop me a quick e-mail and ask to be added to the list! nbowley@lmrlawyers.com

LMR's Employment Law Group– LMR's Barbara Nichols reminds clients that we can advise on a number of different employment issues and that the best results are achieved if we are contacted as soon as difficulties arise. Often, problems can be averted and litigation avoided if we are brought into the picture soon enough.

She goes on to point out that many employment contracts are not enforceable because they have not been updated to reflect current employment law drafting requirements. Both employers and employees should be speaking to us in this regard.

Primary and Secondary Wills– We can't say enough about the value of these devices. Bear in mind that it is well-accepted in Ontario that you can have two (or more) wills and that you are not forced to seek "probate" for assets covered by the secondary will. Cost savings can be very substantial, often tens of thousands of dollars, in addition to the benefits of efficiency and privacy. But many don't understand the rationale.

In a nutshell, the principle is very simple: Most third parties reasonably require proof that they are dealing with the genuine executor of the estate and that he or she has the authority to transact. They want to know that the court has reviewed the will and the evidence, that is, the will has been *proved (probated)*. However, family and close business associates typically won't require such formalities– they are willing to transact with the executor because he is known to them and the transaction at hand is an expected one. For example, the transfer of private company shares to a sibling, the gifting of a grand piano to a child or the cottage to a spouse would not incite curiosity, and court approval would rarely be considered. In such cases it is just foolhardy to pay probate fees if you don't need to do so.

Life is what happens to you while you're busy making other plans. **John Lennon**

"Frivolous and vexatious": the "Really??!" of litigators– Litigators, especially younger ones, adore this expression. Nothing makes you feel more "cool" than intoning earnestly to a judge that your friend's pleadings are "frivolous and vexatious". It's legalese for, shall we say, being full of horse droppings.

Along the same lines is the "Fishing Expedition". You're accusing your friend that his line of questioning is akin to drag net fishing in murky water– he has no idea what's there, but counting on luck.

When judges think a fishing expedition is underway, they'll look up over their half-glasses and ask, "Is this line of questions going anywhere in particular?", at which point you had better have a good answer, or at least say cleverly, "Your Honour, that was actually my last question in this line!"

Your Brand– Sometimes your brand doesn't matter much– whether you sell ABC Coffee, ACB Coffee or BAC Coffee, the folks in your neighbourhood are coming to you because your coffee is tasty, reasonably priced, and you joke with them. But when you want to expand to two, five and twelve shops, and ultimately to thousands, you need some clear identity that is instantly recognized and instantly attractive. You need a signal which will send coffee drinkers into “need” mode for your java. That signal is your brand, and that is the most valuable asset of your business. You need to protect that brand with everything you have.

Brand protection is the whole *raison d'être* of Trademark law. After you have poured so much of your life into developing an identity, and established a distinct and desirable brand, the last thing you want is competitors passing themselves off as you, or worse still, preventing you from using what you have worked so hard to develop!

Is your brand of value? You should be talking to us.

Three Key Principles of Powerful Communication

1. When I'm the listener, I will listen carefully for intent and for content.
2. Before I begin to speak, I will understand my WHY, WHAT and HOW.
3. When I speak, I will strive to be clear, concise and compelling.

These principles apply equally to written and oral communication, and at the enterprise level, in the professional sphere, and with your near and dear.

Sobering Statistics– It's estimated that over half of all adult Canadians do not have wills. It's also estimated that in 2016 over 564,000 Canadians suffered from some form of dementia. Now, if you put these two stats together it becomes obvious that a significant number of Canadians not only do not have wills, but have lost the capacity to do anything about it. If you're OK with having the rules of intestacy apply and want your estate to pay all the tax that the government can squeeze out of it, then there's no problem. But if you want to have something to say about

who gets your estate, and set some ground rules, and minimize tax, then it's a good idea to put your will in place while you still have capacity.

At least as critical, people who don't have wills usually don't have a Power of Attorney for Property or a Power of Attorney for Personal Care. This means that when they lose capacity, they have missed the chance to determine who will look after their finances and their health-related needs. We can work around this, but it costs much more and the choices are not your choices.

The Lie of the “Quick Question”– It actually takes three or four seconds to ask, “Do you have one second for a quick question?” That should be your first clue.

The truly “quick question” needs no wind-up-- you just pop it: “Got change for a twenty?” “Going to the game tonight?”. Those are fair quick questions, and they have quick answers.

But when the questioner needs to soften you up with a preface, there's a catch-- he knows that even if the question may be quick, the answer won't be. That's bad enough. Worse, the questioner will take a positive answer as license to unfurl a conundrum worthy of the Senate. Your time is about to get robbed, and you know it.

For a professional, though, there is a far more sinister threat. More often than not you are being approached with the “quick question” because of your training and experience. Implicit in the “quick question” is that you will deliver an accurate professional opinion in an informal setting at no charge, but one upon which the questioner will rely to make some important decision. (Reprinted from the *Friday Briefing*.)

Suddenly, a New Best Friend: A Key Signal of Elder Abuse– Watch out when your elderly parent, aunt or neighbour suddenly gets a new best friend, especially if that person (or couple) is significantly younger and money is involved in any way, shape or form. The milk of human kindness is a wonderful thing, but when a stranger comes along who is younger and not otherwise a natural companion, prick up your ears. There's a better than even chance that the relationship is not altruistic.

With Mom's blessing, consider having her bank statements delivered to your address, or getting online access, then take the time to review the information. This gives you an opportunity to monitor bank transactions and close the barn door before all the horses have left.

All non-attributed content in this Newsletter was written by Norman Bowley. Please direct all comments and criticism to his attention.