

# THE ASSISTANT



*BC Association of Legal Assistants*

*Issue I-1997, Volume 4*

## LITIGATION SOFTWARE FOR PARALEGALS: USE THESE PROGRAMS TO MAKE YOURSELF A BETTER, MORE VALUABLE MEMBER OF THE LITIGATION TEAM

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Automation has come to the law office in a rush. In just this decade, computers have advanced from being used solely as word processors to working as case managers, contact rolodexes, litigation support tools and a dozen more tasks that would have been unthinkable a few years ago. As the hardware capabilities increase, law firms will be able to use computers to manage complicated litigation matters. To be a top litigation paralegal today, you need to know what litigation software is available and how to use it to your advantage.

As a guide through the maze of new software, the editors of *Law Office Computing*, the premier authority on technology for the legal profession, have surveyed some of the top litigation software available. This feature describes 16 leading litigation programs and previews plans for the software in the coming year. We've focused on programs that can help with litigation support, a broad category that includes case management systems, legal personal information managers and document management programs.

**CASE MANAGEMENT** programs are crucial to the operation of a busy litigation practice. They organize your litigation practice by tracking information central to your cases, like important dates, deadlines, budgets and client information. Generally, these packages have the following features:

**Docketing:** The docketing feature logs the date pleadings arrive (or are filed) and subsequently calculates upcoming court appearances and deadlines. For example, if opposition counsel filed a motion on one day, the docketing program will calculate what the deadline for briefs opposing the motion is.

**Calendaring:** The calendaring feature in a case management system acts as an electronic daily planner, letting you keep track of all your court appearances, meetings, filing dates and other important events.

**Billing:** Many case managers include billing features that you can use to track the time spent on a case and convert that into bills for your clients. While these programs are not fullfledged time and billing programs, for some law offices they are sufficient.

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## FROM THE EDITOR'S DESK

Enclosed in the envelope with your newsletter is a salary survey. Please complete the survey and return it in the postage paid envelope no later than December 15, 1997. All responses will be kept confidential. Results will be published in the February 1998 newsletter.

On another note, BCALA is proud to have IKON Legal Document Services as its official printer.

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## PROGRAMS UPDATE

By Connie Iverson, Programs Chair

We had 108 people attend the BCALA October 8th dinner at Listel O'Doul's Hotel. The topic was an employment update for legal assistants. The featured speakers were Penny Harvey, the Manager of Human Resources at Russell & DuMoulin, Catherine Morton, Manager of the Lower Mainland Litigation Services Department at I.C.B.C. and Betty Garbutt, founder and owner of the Legal Freelance Centre. We were sorry to have to turn people away.

On another happy note, our lecture series is a success. The response has been phenomenal. We are currently planning more lectures for 1998. These will include topics such as: law office technology (software, etc.), structured settlements, wills and estates, enforcing judgments, collections (creditor's remedies), how to obtain an injunction, practice tips from the Land Title Office and many more. If you have any suggestions on topics and/or speakers I would be happy to hear them. Please leave a message at 294-9594.

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## MEMBERSHIP UPDATE

A membership renewal form is enclosed with your newsletter and is due by January 1, 1997. The fee is \$65.00 for Voting and Associate members and \$15.00 for students.

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## THE ASSISTANT

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Rate includes four yearly issues:  
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Contact Ann Halkett for details.

### History and Purpose

The BC Association of Legal Assistants (BCALA) is a voluntary non-profit association formed in 1979 to promote the professional development and continuing education of legal assistants in B.C. If interested in becoming a member contact Glenis Bryson.

### Submissions

Articles for *The Assistant* are gladly accepted. If possible please provide submissions in both hard copy and disk form (formatted for Word Perfect 5.1). The deadline for submissions for the next issue is January 23, 1998. The editor reserves the right to edit articles for brevity and grammar.

### Disclaimer

All opinions or views expressed in *The Assistant* are those of the writers and not necessarily endorsed by BCALA or its directors.

### Subscription

Annual subscription for non-members is \$24.00. Make cheque payable to BC Association of Legal Assistants and mail to the editor's attention at the above address.

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*Document Creation:* Case management programs often offer basic word processing functions that allow you to create letters, memoranda and even short briefs or pleadings.

*Database:* Any system that is going to purport to automate your law office must include a database where client and case information can be stored. The ease with which data can be searched and retrieved is an important element in determining the effectiveness of a case management system.

Case management software lets you keep case data in an easily searchable and customizable format. Another key feature of these programs is the ability to create and output many reports. Case management programs vary in exactly what features they contain, but no matter which one you choose, the day-to-day operation of your practice will become smoother.

#### **Abacus law**

Abacus Law 1.0 (Windows), 11.0 (DOS)  
Abacus Data Systems Inc. (800) 726-3339  
DOS, Windows 95

*Law Office Role:* Abacus Law organizes your case, client and calendar information in one easy-to-use program. Use Abacus Law to assign work to staff members and check on its progress. Abacus Law can also print mailing labels and merge case information with your word processing documents to allow quick and easy form letter creation.

Abacus Law's centralized calendar gives you instant access to your critical dates, appointments and to-do list. It even calendars related events automatically. The Free Time Graphical Display makes scheduling meetings, facilities and group events quick and easy.

*'97 Plans:* Additional releases are scheduled for July and October, each incorporating additional features into Abacus Law.

#### **Amicus Attorney**

Amicus Attorney Pro  
Gavel & Gown Software, Inc.  
(800) 472-2289

Windows 3.1, Windows 95, Windows NT, Macintosh

*Law Office Role:* Amicus Attorney is a law office on a computer. It combines the functions of case management, calendaring, time entry, contact management, conflict checking and telephone management into one integrated and intuitive program. All elements work together, so information entered once is automatically updated everywhere.

Gavel & Gown recently released a new version called Amicus Attorney Pro. This version introduces the "Do" button, which offers intelligent assistance to you on a variety of tasks, including document assembly automation with HotDocs and Word and WordPerfect merge templates. Enhanced case management features include a seamless interface with CompuLaw's Court Rules Software for instant docket calculations.

*'97 Plans:* Gavel and Gown will be releasing Amicus Telephone, an add-on product for the Pro version. Amicus Telephone provides comprehensive computer-telephone integration. It includes Caller ID-based call recognition, call screening, automated viewing of files for incoming calls, long distance recording, TAPI telephone dialling and more. It works with PhoneBlaster, selected voice caller ID modems and Northern Telecom PBS telephone switches.

#### **Case Master III**

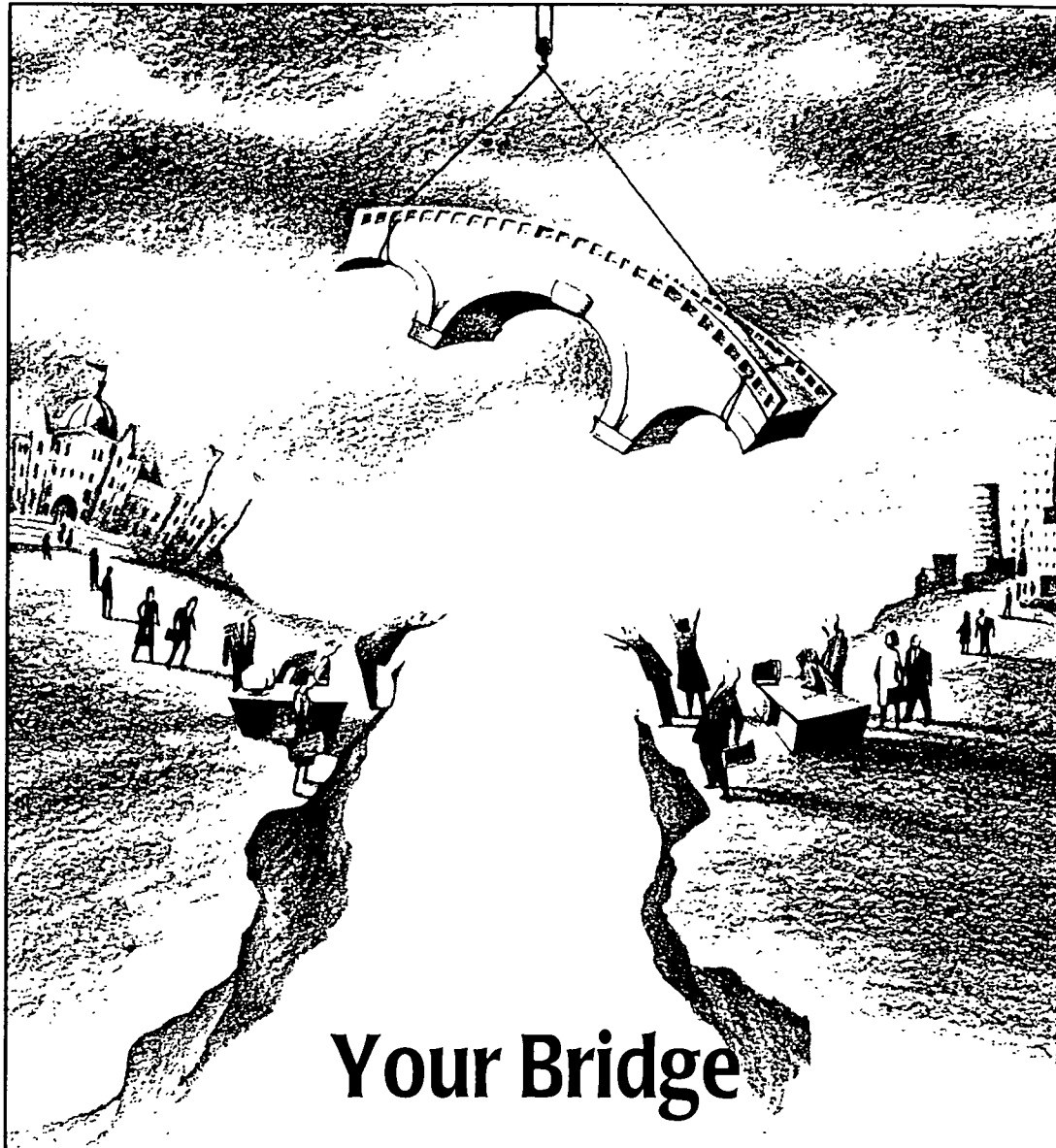
Case Master III 8.1

Software Technology, Inc.  
(800) 478-7111 ext. 539

DOS, Windows 3.1, Windows 95, Windows NT

*Law Office Role:* Case Master III tracks all client and case information. The information is then used to automatically prepare documents and management/status reports. Case Master III includes calendaring with event plan capability. This program also allows for value billing during document assembly and the creation of a calendar tickler. Case Master III automatically tracks documents, performs conflict of interest and statute of limitations checking, and much more.

*Continued on page 5.*



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Case Master III for Windows integrates with HotDocs for Windows Version 3, WordPerfect 6.1 for Windows and Word for Windows versions 6 and 7. Case Master III for DOS integrates with WordPerfect version 5.1. This program also integrates with Software Technology, Inc.'s time and billing software, TABS III. Software Technology, Inc's Web page is <http://www.stilegal.com/lat.html>.

'97 Plans: An enhanced version of Case Master III is expected to be released in 1997. This new version will incorporate suggestions and feedback received from users.

### **CaseTrack**

CaseTrack for Windows 3.3  
Economic Analysis Group, Ltd.  
(202) 663-6931

Windows 3.1, Windows 96, Windows NT

*Law Office Role:* CaseTrack is matter management and legal fee tracking software designed specifically for corporate law departments. It provides attorneys and staff with direct, immediate access to the information needed to manage cases on a day-to-day basis, including the ability to review basic information about each matter; track legal fees by matter and law firm; monitor costs against budget; and keep a running chronology of case status and progress.

CaseTrack modules include matter, firm, chronology, docket, invoice, budget, file management and timekeeping. The software supports taskbased billing and conflict checking, and includes an ad hoc query builder. CaseTrack uses a client/server architecture with Sybase, SQL server and Informix data support.

'97 Plans: Economic Analysis Group is planning to release this year a 32-bit version of CaseTrack, written in Visual Basic 5.0. In addition, three CaseTrack enhancements currently scheduled for this next release include MAPI messaging integration, integration with Microsoft Schedule+ and secure access to data via an Internet Web browser.

### **Chief Legal Officer**

Workgroup 1.7 & Enterprise 1.7 Corprasoft, Inc.

(214) 691-9400

Windows 3.1, Windows 95, Windows NT, OS/2 2.1 or higher

*Law Office Role:* Chief Legal Officer is a case matter management program for in-house legal departments. The software is designed to manage everything you need to know about matters, outside counsel, taskbased billing, budgets, time sheets, legal documents and more. The Workgroup Edition is a full-featured application powered by Sybase SQL anywhere (an easy-to-use client/server database engine) for departments of up to 25 users. The Enterprise Edition has the same features of the Workgroup Edition plus the capability to run on other client/server database engines like Oracle, Sybase or Microsoft SQL Server. The Enterprise Edition is designed to meet the needs of a large law department with a large volume of data.

'97 Plans: Corprasoft has just released Chief Legal Officer *Inet*, an intranet groupware for organizations that wish to combine the unique capabilities of the Internet with traditional matter management software. In addition, all other products are expected to be upgraded in 1997.

### **LawBase**

LawBase 2.0

Synaptec Software, Inc.  
(800) 569-3377

DOS, Windows 3.1, Windows 95, Windows NT, Unix

*Law Office Role:* LawBase is a totally customizable network Case/Matter Database system that lets you enter and maintain information for individual clients or matter records in all formats with up to 999 screens of information per record. It includes features such as Activity Notes, Critical Dates, Calendar and Case History for each matter.

LawBase can interface with other popular law office applications such as time and billing, accounting, document management and litigation support systems, including DOCS Open, Summation and GroupWise. All LawBase versions can integrate directly with the Internet allowing selective distribution of data via a

Web page.

'97 Plans: None. LawBase 2.0 was released in November, 1996.

**DOCUMENT MANAGEMENT** systems are used to track documents produced in disparate formats, from word processing files to spreadsheets to images created by scanning in documents. These programs provide search tools that let you instantly locate documents without becoming lost in a complex directory structure. Document management systems can also perform more complex operations, including archiving or deleting older documents, establishing security rights to restrict access to certain documents and version control, which allows multiple generations of a document to co-exist.

#### PC Docs

DOCS Enterprise Suite  
PC DOCS, Inc.  
(800) 933-3627

Windows 3.1, Windows 95, Windows NT, Macintosh

*Law Office Role:* The DOCS Enterprise Suite combines DOCS Open, DOCS Imaging and DOCS Routing into one integrated product, providing a single source for enterprise document management, ad hoc imaging and serial, parallel or broadcast routing.

DOCS Enterprise Suite adds value to organizations of any size by letting you manage critical corporate data, capture digitized images and route documents to co-workers directly from the DOCS Open desktop or from any integrated application.

'97 Plans: No plans announced for this upcoming year.

#### Worldox

Worldox 96  
World Software Corporation  
(800) 962-6360

Windows 3.1, Windows for Workgroups 3.11,  
Windows 95, Windows NT

*Law Office Role:* Worldox 96 is a complete Windows document manager, supporting Microsoft Office

(versions 95 and 97) and WordPerfect 7.0. It includes ISYS 4.0, a popular text search product. Other features include a Profiling System, Version Control, Document Stamping, Mirror Save & Automatic Restore, and Viewers for Office 95, UUE files and over 150 other file formats. Worldox supports Novell 4.11, Windows NT 4.0 and Banyan networks, among others. Competitive trade-in pricing is also available.

'97 Plans: Worldox 96.1 is in beta testing with Office 97 support, "Check-Out/Check-In", Advanced Archiving and Group Access and Control.

**LEGAL PERSONAL INFORMATION** managers are similar to conventional PIMs, but with additional features tailored to legal practitioners. Some of the special features found in legal PIMs include:

*Integrated calendar and address book:* These two standard features are essential to a good legal PIM, along with a way to link the information in the PIM to other programs, such as case management systems, word processing programs, time and billing applications and other standard law office applications.

*Automatic calendaring:* Many legal PIMs can automatically calculate important deadlines based on particular court rules.

*To-do lists:* A good legal PIM will let you create lists of tasks to be performed; track whether they've been accomplished or not; and carry incomplete tasks over to the next day.

*Ticklers:* Notes that pop up or noises that are made to alert you that a deadline is approaching.

#### Client Manager

Client Manager 3.1  
Software Studios  
(800) 700-0545  
Windows 3.1, Windows 95

*Law Office Role:* Client Manager combines an easy-to-use address book with document generation capabilities to help you manage and standardize client

information and forms production. It brings the power of a database to your word processor by allowing you to create legal documents by pulling information from up to 255 customizable data fields.

'97 Plans: None at this time.

### **InfoAccelerator**

InfoAccelerator 4.1  
Baseline Data Systems, Inc.  
(800) 429-5325  
Windows 3.1, Windows 95

*Law Office Role:* InfoAccelerator is a universal address book that works with the latest version of Word, WordPerfect and AmiPro. InfoAccelerator works within Netscape, Internet Explorer, CompuServe, America Online and Eudora. The program includes a calendar and scheduler, and works with Timeslips, WordPerfect and Word. It contains document tracking and phone logging features, as well as a fast and flexible phone book for keeping track of client address books in every major organizer format. Visit the IA Web site at <http://www.baselineconnect.com>.

'97 Plans: InfoAccelerator 5.0 will support even more Internet products, while allowing data synchronization with the Pilot PIM.

### **Time Matters**

Time Matters 1.98  
Data.txt Corporation  
(800) 328-2898  
Windows 3.1, Windows 95, Windows NT

*Law Office Role:* Time Matters is a full-featured legal personal information manager that includes calendar, tickler and case management components for law offices and legal departments. Time Matters integrates with WordPerfect and Word. It also has a direct real-time link to Timeslips, as well as the Visioneer Paperport for scanning. Time Matters is fully network-capable and comes with great tracking, data security and true group calendars.

Time Matters' specialized legal features includes a

legal date calculator, legal timetable, conflict of interest checking and chaining for rules-based docketing.

'97 Plans: Time Matters will release version 2.0, a 32-bit package that will include long filename support.

**LITIGATION SUPPORT** programs are a broad category of software that emphasize the storage and management of large quantities of documents produced in litigation. Litigation support packages often include the following features and components.

*Imaging software:* Along with a scanner, imaging software lets you convert the stacks of paper common to just about every litigation into electronic images. This makes the transport, indexing and retrieval of important documents much easier.

*Database capabilities:* Once all the paper has been digitized, you need to be able to track and manipulate the documents. The database feature of most litigation support programs allows you to do this.

*Full-text search capabilities:* It's great to reduce the amount of paper in a law office, but only if you can find and retrieve important documents quickly and easily. Full-text searching helps you find the proverbial needle in the haystack. Litigation support programs let you search for information in a variety of ways.

Many of these litigation support programs are also designed for use in a courtroom, where fast access to key information and documents is often a key factor in whether your side wins or loses.

### **AspenView**

AspenView 3.0  
Aspen Systems Corporation  
(800) 545-2327  
Windows 3.1, Windows 95, Windows NT, Unix

*Law Office Role:* Aspen Systems Corporation has specialized in developing advanced technology solutions since 1969. With almost three decades of litigation support services and systems experience,

Aspen provides law firms, law departments and legal counsel with a distinct advantage.

AspenView integrates Aspen's Windows interface for the BRS/Search database system with sophisticated image retrieval, review, annotation and printing utilities. Features include on-demand OCRing to a searchable database, searchable image annotations, image endorsement, high speed production printing, foldering and hypertext links. Aspen View version 3.0 incorporates enhanced display, reporting and printing facilities.

'97 Plans: None announced at this time.

### Concordance

Concordance 6.11

Dataflight Software Inc.

(310) 471-3414

DOS, Windows 3.1, Windows for Workgroups 3.11,  
Windows NT, OS/2

*Law Office Role:* The Concordance Information Retrieval System helps you prepare for trial more quickly and easily by providing you instant access to names, phrases, depositions, documents and records. Version 6.11 focuses on database security and introduces an easier way to search full text: Query-by-Example. Speed is not compromised, whether your data is stored locally on a LAN, at remote locations through the Internet or on CD-ROM.

The full text package features extremely quick retrieval using Boolean search operations. The database capacity is large and is designed for managing corporate-wise document collections. An evaluation copy is available at <http://www.dataflight.com>.

'97 Plans: A Windows 95 version and a more advanced deposition module.

### ISYS

ISYS 4.0/Image/Web

Odyssey Development, Inc.

(800) 992-4797

Windows 3.1, Windows 95, Windows NT

*Law Office Role:* ISYS 4.0, part of the ISYS family of information retrieval products, supports over 40 file formats and indexes your documents, images and other files for quick and easy information retrieval.

ISYS Image expands on the capabilities of ISYS 4.0 with fully-integrated scanning, OCR, indexing and full-text search and retrieval. ISYS Web can be used as a standalone Internet/intranet server or as an add-on to an existing Web server. ISYS Web lets you publish documents on the Web easily without formatting them in HTML.

'97 Plans: None at this time.

### JFS Litigator's Notebook

JFS Litigator's Notebook 2.2

J. Feuerstein Systems

(210) 525-9221

Windows 3.1, Windows 95, Windows NT

*Law Office Role:* JFS Litigator's Notebook is the Lotus Notes-based litigation workgroup software package that lets teams of attorneys build and share online case notebooks. Within the program, information is broken down into Witness, Issue and Topic binders that are modeled after the three-ring case binders that attorneys often compile during case preparation. The Notebook acts as the repository for all critical case information: discovery documents, deposition testimony, witness profiles, memos and pleadings. JFS Litigator's Notebook has installations in over 150 leading law firms and corporate law departments.

'97 Plans: JFS recently announced that JFS Litigator's Notebook and its entire user network, JFSNet, will be available over the IBM Global Network. This alliance will allow law firms and departments that do not have a Notes server to use the IBM Global Network to host JFS Litigator Notebook databases. Remote and registered users will then be able to access databases on the IBM Global Network server in the same manner as if the users were accessing a server located in-house at the law firm or law department. The IBM Global Network is one of the largest secure data networks in the world and is available in 850 cities and 100 countries.



In addition, JFS Litigator's Notebook 4.0 will be released in July. Plans for this new version include a design module and wizard that will allow you to easily customize notebooks for your particular needs.

**Summation Blaze**

**Summation Blaze 4.6**

Summation Legal Technologies, Inc.

(800) 735-7866

DOS, Windows 3.1, Windows 95

*Law Office Role:* Summation Blaze for Windows provides sophisticated transcript and document management tools in one seamlessly integrated easy-to-use program. Summation is an industry leader, and has been used by over 30,000 clients in law firms, corporations and government agencies worldwide.

Because Summation is a truly integrated system, you can search through all transcripts and documents in one easy operation, then quickly zoom from an outline detailing the search results on testimonial or documentary evidence in full context. Summation also lets you display search results sorted by issue, category or date.

'97 Plans: See MORE AUTOMATION OPTIONS, p. 10.

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## MORE AUTOMATION OPTIONS

By Cheryl D. Evans

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Cheryl D. Evans is a litigation support consultant with Evans Training and Consulting in Chandler, Arizona. Because of her extensive experience with the legal assistant's role in litigation support, *Legal Assistant Today* asked for her tips on litigation support software.

As a litigation support consultant, I see many of the problems legal assistants face every day. Since it's my job to find solutions to these programs, here are four of the stickier questions and the legal technology you can use to answer them:

*How can I better manage a case's discovery information while eliminating manual bar code labelling?*

Summation Legal Technologies has released an add-on to its Summation Blaze program called OnPoint. OnPoint lets you print bar codes directly onto documents printed from the Summation database, eliminating the need to print bar code labels and stick them on thousands of pages and freeing you for more important work. The product also simplifies the task of locating the correct bar code for use when the attorney needs it. When you print your list of documents for use with a specific witness, you can print the bar codes right on the list. OnPoint saves several steps in the document coding and retrieval process.

*How can I link OCR'd documents with individual document records so I can take advantage of optical character recognition technology?*

OCRBase, also from Summation, lets you link full-text documents that have been OCR'd to individual database records in your system. Now, you can OCR documents, add them to Summation, then create a linked database record that contains basic information

you can use for sorting and organizing.

For more information on the above products, contact Summation at (800) 735-7866, or visit their Web site at [www.summation.com](http://www.summation.com).

*How can I assemble all of my evidence for easy use in the courtroom, without requiring the attorney to be a technology wizard?*

TrialDirector, from inData Corporation, helps you assemble all of your electronic evidence, such as deposition clips, transcript excerpts, document images and computer animation, for easy access in court. It lets you zoom to a specific area of a scanned document, create searchable notes and display scanned documents in colour. During trial preparation, TrialDirector lets the attorney see the video of a deponent testifying while his or her testimony scrolls in synchronization with his or her voice. As an exhibit is referred to in testimony, an image of it appears in a lower corner of the monitor. More information on the program can be found at [www.indatacorp.com](http://www.indatacorp.com) or by calling (800) 828-8292.

*How can multiple parties in a case share discovery information and access a shared database and images?*

A new service is available that may make it easier to keep everyone on the same page. The Virtual Repository, from Integrated Internet Solutions, is a place where multiple firms on a case can store document images and databases for access by every authorized user. The firms do not have to agree on a single litigation support software or coding system or imaging service bureau; the Repository simply takes the information generated and loads it into a database format that is searchable on the Internet by all parties.

With this system, standard fields can be used for searching and viewing by all users who have access to the Repository. If a firm wants to use customized fields that are only viewable by its attorneys and paralegals, those can be set up by the staff at the Repository. Certain users can be given the authority to edit the database, protecting the data from editing

by inexperienced users. In addition, the Repository requires passwords for system access, and any data that is transferred to or from the Repository is encrypted. In fact, security is such a concern that IIS will not disclose the physical location of the Repository.

The Virtual Repository requires a 28.8 Kbps or faster modem, an Internet account and an Internet browser, such as Netscape Navigator. A demonstration database is available at its Web site, [www.tvr.com](http://www.tvr.com), and its phone number is (303) 290-0809.

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## OCCUPATIONAL TITLE PROTECTION UPDATE

By Glenis Bryson, BCALA Secretary

In September, 1996 BCALA filed an application pursuant to Part 9.1 of the Society Act of British Columbia for occupational title protection for the words "Registered Legal Assistant" and the initials "RLA" with the Registrar of Companies for British Columbia.

The Registrar has completed all searches and contacts with professional bodies who may have had an interest or objection to the protection of the aforesaid word group of letters.

The Registrar has advised that BCALA's application for occupational title protection under the Society Act has been denied at this time because interested parties have raised concerns as to the percentage of members that BCALA represents throughout the province as well as concerns with respect to weak membership requirements for admission.

BCALA directors will be contacting interested parties to discuss strengthening the above concerns and reapplying for occupational title protection at a later date.

A copy of the Registrar of Companies letter is included in the envelope with this newsletter.

## INTERNET LEGAL ASSISTANT COURSE

Capilano College legal assistant courses in the certificate program can now be taken over the Internet. Those living outside the Greater Vancouver Regional District are eligible if they meet the qualifications for acceptance into the legal assistant program. If room permits students living in the Lower Mainland will also be able sign up. The maximum number of students per course is 25. Students take one course per term and pay the same amount as if

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## INDUSTRY CANADA UPDATE

### *New Information Kit on Revivals*

Since the Corporations Directorate of Industry Canada now follows a regular program of dissolving corporations that have failed to file the required annual returns, it is now receiving increasing numbers of applications for revival under the CBCA. It has drafted a new Revival Kit to assist clients in applying for revival. The kit is based on the April 1, 1996 Directorate's Revival Policy and explains what must be filed and what steps the Directorate will take in processing revival applications and why the Directorate takes these steps. Copies of the kit are available from the Publication and Information Unit by telephoning (613) 941-9042, faxing (613) 941-0601 on the Internet at <http://strategis.ic.gc.ca> and choose "Marketplace Services".

### *Reservation of Numeric Names*

The Corporations Directorate is pleased to offer a numeric corporate name reservation service for clients effective October 1, 1997. You may reserve, at any time, a minimum of 10 numeric names to be used for future incorporations, amalgamations or continuances, for up to six months. All numeric names will end with "Canada Inc." A confirmation reserving your numeric names will be sent to you within three working days following your written request and will also include procedures to safeguard the integrity of this service. For more information contact Maurice Seguin, Head of the Document Examination Unit at (613) 941-8111.

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## SPREADSHEETS FOR THE LITIGATION TEAM: HOW TO USE SPREADSHEETS TO GET THROUGH THE MAZE OF TRIAL PREPARATION

By Adam J. Miller

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Litigation support encompasses a broad spectrum of services and products that acquire, analyze, organize and present data and documents for use in a trial. An invaluable part of this spectrum is the spreadsheet. Most commonly used for storing and manipulating numerical data, the spreadsheet has many more uses than that of a number cruncher. It can be used as an organizer, database, word processor, accounting system, graphics package and scheduler. Here you will discover the spreadsheet's value and utility to the litigation team.

### Standard Functions and Applications

The spreadsheet not only holds data, but more importantly, it performs numerous calculations quickly and accurately. On the most basic level, the spreadsheet performs arithmetic functions such as add, subtract, divide, multiply, exponents, square roots, log, etc. The spreadsheet can also perform statistical calculations such as row/column averages, maximum, minimum, standard deviation and median. Other functions include calendaring, finances, data sorting and charting.

Data manipulation is one of the most useful features to

the litigation team because clients or opposing counsel will often provide computer files in a non-spreadsheet or non standard format. Many of these files can be read directly into a spreadsheet (if in ASCII, fixed file length or comma delimited formats), though some files require more manipulation to make them useable. One example would be a report outputted to a file instead of a printer. Spreadsheets have some powerful data manipulation techniques, such as parsing (separating) data based on certain characters, adding textual data together (concatenate), using the "search and replace function to globally edit data together. Once the data is placed in a columnar format, then the spreadsheet becomes much more useful.

Spreadsheets are also invaluable to the litigation team when clients, who now mandate greater control over litigation costs, request periodic production of case budgets and status reports. A workbook or worksheet file can contain a separate worksheet for each major task or litigation team member which can be summarized and updated easily. The summaries can also be linked to word processing packages to provide calculations for textual reports. The spreadsheet can also be used to index library or research materials, to create to do lists, and even to provide a rudimentary time and billing solution.

### Specific Applications for the Litigation Practice

#### *Document and Binder Index*

One of the most useful tools for document-intensive cases is a document index. If there is no index currently being compiled or if there are not enough documents to make it cost-effective to have the documents sent to a service bureau for numbering and indexing, a spreadsheet index will suffice. The typical fields (which would be represented by the columns of the spreadsheet) of information that are used for a basic document index are:

- Beginning document (Bates) numbers;
- Ending document (Bates) numbers;
- Document date;

*Continued on page 15.*



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- Document type (financial, letter, memo, report, invoice, etc.);
- Description ("RE" line); and
- Parties (author and recipient).

When a document index is created, each document has its own "record" of the above fielded information entered into the same row in the spreadsheet.

The ability to hide columns and rows in a spreadsheet enables a person to print several reports from the same worksheet instead of duplicating the worksheet for each report. This ability to show only the information you need consolidates all the information in a single spreadsheet. It also reduces storage space requirements since you do not have to create multiple versions of the spreadsheet for each different report.

This can be extremely helpful in creating a binder index, where the document number fields and description are most important.

#### *Timelines*

A timeline containing a chronological list of events can be prepared either in a textual or a pictorial manner in a spreadsheet. A spreadsheet-generated timeline can assist greatly throughout litigation by updating the information as the case progresses. It is especially helpful to the litigation team when preparing for a deposition or trial to have the events and identify the relevant parties (i.e., witnesses, plaintiffs, defendants, etc.) in a single chronological list. Timelines also serve as effective jury exhibits, especially in complex cases.

#### *Database-Type Uses*

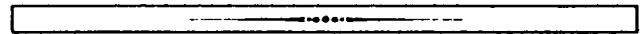
One of the most powerful functions of spreadsheets is its capability to summarize data entered into a Pivot table and/or Query tables.

Spreadsheets also allow the user to change the underlying information and then to re-compute the summary tables, which can save many hours of work compared to computing manually or even using the spreadsheet's subtotal and sorting functions.

#### *Financial Modelling*

One of the most powerful uses of a spreadsheet program is to perform financial modelling. Typically, the analysis of financial information over many time periods (weeks, months or years) is necessary to show trends, calculate "what-if" scenarios and perform damages analysis.

Financial modelling illustrates the real power of spreadsheets - the ability to start with raw data, perform many detailed calculations, and finish with sophisticated summaries. These modelling calculations are performed on separate worksheets "linked" together within the same workbook to ensure that any change made in one worksheet flows to all worksheets linked with the original worksheet. Once the raw data is input, you can perform several different calculations and then use the various results for comparison purposes.



### **CHOOSING THE BEST METHOD**

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#### *Spreadsheets vs. Paper*

Paper or manual spreadsheets were used before the latest computer advancements for bookkeeping, business accounts and data analysis. Maintaining accuracy when adding, changing or performing calculations, however, was always a problem. Also, changing a single figure required hours of recalculating and often resulted in errors. Computer spreadsheets are designed to solve this problem. The calculations are always accurate and if you change a number in a massive spreadsheet, the calculations required to update calculated figures and totals are done in seconds. Spreadsheets also enable the quick and accurate sorting and re-sorting of data to create timelines, indexes and even charts.

#### *Spreadsheets vs. Word Processor Tables*

Many word processors contain spreadsheets, though

they are often referred to as tables. Some advantages of using a word processor's spreadsheet program include familiarity with the program, more polished letter-quality documents, and easier formatting and printing. The down side is that word processor spreadsheets do not manipulate data as well as standalone spreadsheet programs.

If the task requires manipulating and sorting data, a spreadsheet program should be used instead of the word processor. With linking available in many of the Windows-based programs, a quality report can be achieved by copying a picture of a spreadsheet into a word processing package or directly linking to a spreadsheet from a word processor document that will automatically update the document.

#### *Spreadsheets vs. Database*

Spreadsheets can be excellent for analyzing and preparing reports for small volumes of documents. A user should consider the limitations of record capacity, number, type and complexity of the fielded entries, the format of reports, and the number of sorts that will need to be printed when deciding to use a spreadsheet or a document database.

Many people prefer to use spreadsheets for minimal or moderate amounts of data rather than a database to avoid the complexities of setting up a database.

However, for large amounts of data that need extensive analysis or reports, the database is much more appropriate. Generally, a database program should be used in the following scenarios:

- If the user will be analyzing more than 2,000-3,000 documents (about 8,000-12,000 pages), then use a database designed for document indexes and coding. A basic index could be exported to a database program to serve as a starting point for a more complex index.
- If the data needs to be sorted using more than five fields, analyzed with complex relationships, or compared to other sets of data that may not contain the same information or be presented in the same format.

Although spreadsheets can be programmed and manipulated to have look up tables and data forms, and to print Pivot table reports, a database specifically designed for this task (such as Concordance, FolioViews or Summation) should be considered if the task will be extremely complex.



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## BRIEF HISTORY OF COMPUTER SPREADSHEETS

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Lotus 1-2-3, one of the original spreadsheet packages, is perhaps the most well known DOS-based spreadsheet application. Early versions, as with most DOS-based applications, were limited by technology (computer memory, hard drive storage) and difficult interfacing with other programs. Early Lotus users memorized menu keystrokes instead of using a mouse to perform tasks such as printing (/fppg) or setting a column width to 12 wide (/wcs12). This was not the most "user friendly" way to interact with the data.

Spreadsheets became more powerful and user friendly with the introduction of Windows spreadsheets. In October 1987, Microsoft announced Microsoft Excel for Windows which ran under Microsoft Windows 2.0 and Windows/386. This and other popular spreadsheet programs used a graphical user interface with the mouse to achieve a higher level of user

friendliness.

When Excel was introduced, I was an avid DOS-based Lotus user attached to its keystrokes and macros until the company I worked for announced that it was converting to Microsoft Windows and Excel. Little did I know that this change would help me prepare for the Windows revolution, and that all major spreadsheet programs would soon be available in the Windows environment.

Today's spreadsheets have vastly improved capabilities over the DOS-based spreadsheet environment. The most popular packages in use today are Microsoft Excel, Corel Quattro Pro and IBM's Lotus 1-2-3, each of which can be upgraded for around \$100 (U.S), or newly purchased for \$200-\$400 (U.S). Although current packages require large amounts of hard disk space (10-25MBs) and RAM (memory) (minimum of 4 MBs, at least 16 MBs recommended), the advancements in hardware technology and decline in the cost has allowed for more powerful and function-rich spreadsheet programs.

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## STRANGEST AMERICAN LAWS

Internet Extract - Author Unknown

### *Minnesota:*

- It is illegal to tease skunks.
- Every man is Brainerd is required by law to grow a beard.

### *Michigan:*

- A state law stipulates that a woman's hair legally belongs to her husband.
- Under state law dentists are officially classified as "mechanics".
- In Clawson it is legal for a man to "sleep with his pigs, cows, horses, goats and chickens.

### *New York:*

- In NYC "it is disorderly conduct for one man to greet another on the street by placing the end of this thumb against his hip and his nose and wiggling the extended fingers of that hand".

### *North Carolina:*

- It is illegal to have sex in a churchyard.
- It is illegal to make love on the floor of a hotel room between two double beds.

### *Oklahoma:*

- Whale hunting is strictly forbidden.
- People who make "ugly faces" at dogs may be fined and/or jailed.

### *Ohio:*

- In Columbus it is illegal for stores to sell corn flakes on Sunday.
- In Oxford it is illegal for a woman to disrobe in front of a man's picture.
- In Youngstown it is illegal to run out of gas.

### *Oregon:*

- The town of Hood River prohibits the act of juggling without a licence.

### *Montana:*

- If a child burps during a church service in Omaha, his or her parents may be arrested.
- It is illegal for a mother to give her daughter a perm

without a state licence.

### *Florida:*

- Unmarried women who parachute on Sunday's will be jailed.

### *Georgia:*

- In Quitman it is illegal for a chicken to cross the road.
- In Columbus it is illegal to sit on one's porch in an indecent position.

### *Pennsylvania:*

- "Any motorist who sights a team of horses coming toward him must pull well off the road, cover his car with a blanket or canvas that blends with the countryside, and let the horses pass. If the horses appear skittish, the motorist must take his car apart piece by piece, and hide it under the nearest bushes".

### *Rhode Island:*

- It is illegal to throw pickle juice on a trolley.

### *Tennessee:*

- It is illegal to use a lasso to catch a fish.
- In Dyersburg it is illegal for a woman to call a man for a date.
- In Memphis it is illegal for a woman to drive by herself, "a man must walk or run in front of the vehicle, waving a red flag in order to warn approaching pedestrians and motorists".

### *Texas:*

- The entire Encyclopedia Britannica is banned because it contains a formula for making beer at home.
- It is illegal to milk another person's cow.

### *Utah:*

- A husband is responsible for every criminal act committed by his wife in his presence.

*Continued on page 21.*

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*Virginia:*

- In Richmond it is illegal to flip a coin in any eating establishment to determine who buys a cup of coffee.
- In Lebanon it is illegal to kick your wife out of bed.

*Vermont:*

- It is illegal to deny the existence of God.
- It is illegal to whistle underwater.
- Women must obtain written permission from their husbands to wear false teeth.

*Arkansas:*

- A man can legally beat his wife, but no more than once a month.

*California:*

- In L.A. a man may legally beat his wife with a leather strap, as long as it is less than two inches wide, or she gives him permission to use a wider strap.
- It is a misdemeanour to shoot any kind of game from a moving vehicle, unless the target is a whale.

*Massachusetts:*

- It is illegal to wear a goatee without a licence.
- North Andover prohibits its citizens from carrying "space guns".
- In 1659, the state outlawed Christmas.

*Indiana:*

- Monkey's are forbidden to smoke cigarettes in South Bend.

*Illinois:*

- In Chicago it is illegal to take a french poodle to the Opera.
- According to state law, it is illegal to speak English. The officially recognized language is "American".
- In Joliet it is illegal to mispronounce the name Joliet.

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### Case Digests

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**COSTS - Discretion of court - Considerations under Court of Appeal Rule 29(4) and (5) being matters of discretion to be exercised primarily to relieve against impact of litigation rather than personal circumstances of litigants.**

The plaintiff was found 60% at fault for a motor vehicle accident, the defendant 40%. With respect to costs, the Court of Appeal held, applying s.3 of the Negligence Act, that where fault is apportioned but injury or loss was not experienced by one of the parties, costs cannot be awarded to that party in the proportion reflecting the other party's negligence or at all. Accordingly, the plaintiff was not liable to the defendants for any portion of their costs, while they were liable for 40% of hers. Nevertheless, the plaintiff claimed that the outcome of the trial with respect to costs constituted an unjust result because of her needy circumstances. She sought full costs. Held, application dismissed. A discretionary award of the type claimed by the plaintiff sought to elevate needy circumstances to a principle of law. The considerations open to the court under R.29(4) and (5) of the Court of Appeal Rules are matters of discretion to be exercised primarily to relieve the impact of the litigation process as distinct from some form of ancillary treatment reflecting the personal circumstances and characteristics of the litigants. The considerations to be borne in mind should be those that arise from the

nature and conduct of the litigation.

Brown v. Black Top Cabs Ltd., C.A., Goldie, Prowse, Proudfoot, Finch & Hall J.J.A., Doc. Vancouver CA020911, September 25, 1997, 8 pp. [CLE No. 97-10468] // Supplementary to [1997] Civ. L.D. 530; [1997] P. Inj. L.D. 165. // Michael P. Ragona, Q.C. and Barbara L. Devlin, for appellants; Vincent R.K. Orchard and Robert Shaw, for respondent. // Case authorities: Capostinsky (Guardian ad litem of) v. Aurora Cycle Supply Ltd. (1994), 2 B.C.L.R. (3d) 66 (C.A.) - not followed; Flatley v. Denike, [1997] Civ. L.D. 248; [1997] P. Inj. L.D. 67 - applied.

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**HUMAN RIGHTS - Discrimination on basis of sex - Province adopting firefighters' fitness standard more difficult for women to meet than for men - Standard not discriminatory contrary to Human Rights Code.**

In 1988 the Ministry of Forests adopted a U.S. Forest Service "Smoke Jumpers Test" as the standard of physical fitness for its firefighters. In 1991 an arbitrator upheld that standard as a reasonable qualification for the job. In 1995, 35% of the female candidates passed the test on their first attempt, compared to a success rate of nearly 70% among males. There was evidence that due to physiological differences between women and men, the former were less able than the latter to perform the aerobic component of the test. The grievor M. was a ministry firefighter who first attempted the test in 1994. She failed on four attempts. She was suspended and then laid off. An arbitrator held that although the test was reasonably related to M.'s duties and had been fairly administered, it discriminated against women. The arbitrator further found that the employer had not taken steps to accommodate M. to the point of undue hardship. He found a breach of the provincial Human Rights Code and ordered M. reinstated, with compensation. The province appealed. Held, appeal allowed. Where a physical fitness standard is found to be a valid measure of the fitness requirements for a job, and applicants are fairly and reasonably tested against that standard upon their own individual

capabilities and not upon some group related characteristic or stereotype, such as sex, age, or disability, there can be no breach of the Human Rights Code.

British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees' Union, C.A., Cumming, Hollinrake & Braidwood J.J.A., Doc. Vancouver CA022360, July 7, 1997, 12 pp. [CLE No. 97-9901] // Peter A. Gall and Lindsay M. Lyster, for appellant; Kenneth R. Curry and Michelle J. Alman, for respondent. // Principal case authorities: Andrews v. Law Society of British Columbia, [1989] 1 S.C.R. 143 - considered; Large v. Stratford (City), [1995] 3 S.C.R. 733 - considered.

**MORTGAGES - Foreclosure - Order nisi - Mortgagor resisting application for order nisi on basis of its parent company's intertwined claims against mortgagee in Ontario - Chambers judge granting application - Appeal court dismissing mortgagor's appeal.**

L.Co. owned a large tract of land, valued at approximately \$30 million. It owed some \$17 million to the petitioner under a mortgage of the lands, with interest accumulating at the rate of \$100,000 per month. The petitioner applied for an order nisi of foreclosure. L.Co. resisted the application on the ground that its parent company, P.Co., was involved in an action in Ontario in which it was alleging that the mortgage was part of a loan agreement between the petitioner and P.Co., and that the petitioner had breached the agreement resulting in damages of \$300 million to P.Co. The chambers judge granted the order nisi, with an eight-month redemption period. He stated that security documents ought to be enforced according to their tenor, otherwise the commerce of the nation could not be carried on. L.Co. appealed. Held, appeal dismissed.

Per Huddart J.A. (Southin J.A. concurring): Whether, in any given case, a mortgagee should be impeded in pursuing foreclosure is a matter within the discretion

of the judge to be exercised in accordance with principle. The factors to be considered will vary with the reason being put forward to justify the delay. When that reason is a cross-claim by the mortgagor, the factors will include a consideration of the merits of the cross-claim and any economic jeopardy to either party. Here, the case was unusual in that the merits of the cross-claim were not in issue in British Columbia. However, it was open to the chambers judge to consider the merits of the cross-claim insofar as he could on the materials before him. He did not err in granting the order nisi. L.Co. did not establish that refusal of the order was required to do justice between it and the petitioner. There was nothing to prevent L.Co. from applying to extend the redemption period or seeking carriage of any order for sale the court might order.

Per Esson J.A. (dissenting): The approach is one of treating the issue as a matter of discretion requiring competing interests to be balanced. Here, a major factor mitigating in favour of a stay or adjournment was the absence of any jeopardy to the mortgagee. The proceeding should have been adjourned pending disposition of the Ontario action with reasonable provision to protect the petitioner against excessive delay.

Zurich Indemnity Co. of Canada v. Western Delta Lands Inc., C.A., Esson, Southin & Huddart J.J.A., Doc. Vancouver CA021903, July 29, 1997, 27 pp. [CLE No. 97-10088] // Jack Webster, for appellants; Brian Konst and G. Sourisseau, for respondent. // Principal cases considered by majority: Inglis v. Commonwealth Trading Bank of Australia (1972), 126 C.L.R. 161 (Aust. H.C.) - considered; Rogers v. Bank of Montreal (1984), 49 B.C.L.R. 85 (C.A.) - considered; Samuel Keller Ltd. v. Martins Bank, [1970] 3 All E.R. 950 (C.A.) - considered; Zurich Indemnity Co. of Canada v. Reemark Lincoln's Hill Project Ltd. (1992), 73 B.C.L.R. (2d) 234 (S.C.) - considered.



**MOTOR VEHICLES - Licensing - Superintendent of Motor Vehicles having authority to require applicant to undergo medical examination.**

The petitioner had a record of various traffic violations including four 24-hour roadside suspensions. The Superintendent of Motor Vehicles required him to submit to a medical examination with respect to his use of alcohol and drugs. The petitioner's doctor reported in early 1994 that the petitioner had no physical or mental disability related to alcohol use, but recommended that the petitioner be re-checked in three months. The superintendent's medical consultant reviewed the report and recommended a further examination in one year. The petitioner obtained a short-term licence, subject to conditions concerning the payment of outstanding fines. He did not meet the conditions and no licence was issued when the period expired. When he applied for a new licence, he was reminded of the need for a further medical examination. He did not attend. Six weeks later he was stopped while driving and was charged, inter alia, with driving while prohibited. He applied for judicial review, taking the position that the superintendent had no authority to require a medical examination. Held, application dismissed. Sections 24 and 25 of the Motor Vehicle Act refer to the requirement for an applicant to submit to "examinations of his fitness and ability to drive." There is no sound reason why the term "examinations" should refer only to road and written tests and not to medical examinations. Accordingly, the superintendent had the requisite authority. He did not exercise that authority unreasonably in light of the fact that the petitioner's own doctor had recommended a re-check, as had the superintendent's medical advisor, and in light of the risk posed to the public by drinking drivers.

Garrity v. British Columbia, S.C., Lowry J., Doc. Vancouver A964248, July 14, 1997, 10 pp. [CLE No. 97-9966] // Gary W.D. Abrams, for petitioner; Jeff Loenen, for respondents.

**PRACTICE - Evidence - Spoliation - Plaintiff's expert conducting destructive testing on motor vehicle brakes - Court not drawing "spoliation inference" - Evidence admitted.**

The plaintiff sued for damages arising out of a motor vehicle accident. Counsel for the plaintiff sought to introduce an expert's report dealing with the condition of the brakes on the plaintiff's vehicle. Counsel for the third party sought to have the evidence excluded, saying the tests conducted by the expert irretrievably altered the brake system so that neither the third party nor any other party were in a position to conduct further tests. Counsel said that, in addition to the destructive testing, the vehicle was subsequently destroyed so that it was no longer available for testing, to the prejudice of the third party and the defendants. Held, evidence admitted. The concept of spoliation, in a general sense, encompasses the loss, destruction or material alteration of an object or document. The concept is well developed in American jurisprudence although very little attention has been paid to it in Canadian cases. It has been stated that the "spoliation inference" will only be drawn where: the evidence has been destroyed; the evidence was relevant; the legal proceedings were pending; and the destruction was an intentional act of the party or the party's agent indicative of fraud or an intention to suppress the truth. The remedy for spoliation varies depending on the degree of fault found. The application of the defence in British Columbia is still unresolved. Here, the destructive testing, although "intentional," was not indicative of fraud or an intent to suppress the truth and there was no evidence that the later destruction of the motor vehicle came as a result of the plaintiff's "intentional act." While that act was intentional, there was no element of "fraud."

Dyk v. Protec Automotive Repairs, S.C., Burnyeat J., Doc. New Westminster S017898, August 15, 1997, 13 pp. [CLE No. 97-10217] // G.W. Kent Scarborough and Stephen G. Herman, for plaintiff; Audrey Vandervelden, for one defendant; Henry D.M. Edmonds, for one defendant; Wesley D. Mussio, for third party, I.C.B.C. // Case authorities: Dawes v. Jaicaj (1995), 15 B.C.L.R. (3d) 240 (S.C.) - considered; Endean v. Canadian Red Cross Society,

[1997] Civ. L.D. 416; [1997] P. Inj. L.D. 127 - considered; Hinton v. Engineering Products of Canada Ltd. (1986), 16 C.P.C. (2d) 283 (Ont. D.C.) - considered; Kaiser v. Bufton's Flowers Ltd., [1995] B.C.J. No. 878 (S.C.) - considered; Roe v. Warner Auto-Marine Inc. (1996), 93 O.A.C. 145 (Ont. C.A.) - considered; Telenga v. Raymond European Car Services Ltd. (1991), 3 C.P.C. (3d) 79 (Ont. C.J.) - considered.

**PRACTICE - Jury trials - Availability - Statutory third party having no right to jury trial.**

The plaintiff applied to strike out a jury notice filed by the third party I.C.B.C. Held, application allowed. The right to a jury trial in civil proceedings in British Columbia is a substantive common law right rather than a procedural right and the July 1995 amendment to R.1(8), amending the definition of "party of record," does not give a statutory third party insurer the right to a trial by jury.

Patterson v. Rankel, S.C., Davies J., Doc. Chilliwack S0004465, July 16, 1997, 8 pp. [CLE No. 97-10108] // Rex D. Blane, for plaintiff; John C. Lee, for third party, I.C.B.C. // Case authorities: Bhullar v. Atwal (1995), 15 B.C.L.R. (3d) 198 (S.C.) - applied; Cameron v. Service (1993), 77 B.C.L.R. (2d) 317 (S.C.) - applied; Robertson v. Canadian Imperial Bank of Commerce (1994), 32 C.P.C. (3d) 331 (B.C.C.A.) - considered; Waymark v. Barnes (1995), 3 B.C.L.R. (3d) 354 (C.A.) - considered.

**PRACTICE - Witnesses - Expert witnesses - Court dismissing application to disqualify expert witness on basis of conflict of interest.**

The defendants applied to disqualify the plaintiff's expert witness on the basis of his "conflict of interest as it relates to the defendant's patent and the possible business relationship with the plaintiff." The defendants claimed that the witness stood to gain from a manoeuvre undertaken by counsel for the plaintiff,

who had launched a "re-examination" of a patent granted in favour of the personal defendant. The basis for the re-examination was that a patent in favour of the witness had prior claims. Held, application dismissed. An expert witness should, to the greatest extent possible, be a person who is free from bias and interest and who can provide an objective opinion in an area "beyond the ken" of the judge or jury. There can be cases wherein the involvement of the expert is such that his or her evidence may be ruled inadmissible. However, the general rule is that the interest of a witness will only go to the credibility of the witness and the weight of his or her evidence.

Northwest Mettech Corp. v. Metcon Services Ltd., S.C., Thackray J., Doc. Vancouver C955055, July 3, 1997, 8 pp. [CLE No. 97-9930] // Bruce M. Green, for plaintiff; Defendants in person or by a representative; Jamie P. Paez, for defendant university. // Principal case authority: Lee v. Swan (1996), 19 B.C.L.R. (3d) (C.A.) - considered.

**WILLS & ESTATES - Passing of accounts - Consent to executor's accounts and "release and discharge" signed by beneficiaries preventing beneficiary from requiring executor to pass accounts under Trustee Act, s.101(2).**

The beneficiaries of an estate signed a document approving the executor's accounts, waiving the formal passing of the accounts and releasing the executor. They did so after being provided with all relevant information concerning the estate. One of the beneficiaries later obtained an order requiring the executor to pass his accounts. The chambers judge held that although s.101(1) of the Trustee Act contemplates approval of accounts by the beneficiaries without a formal passing of accounts, s.101(2) applies "notwithstanding the above" and allows a beneficiary, among others, to require a formal passing of accounts. The executor appealed. Held, appeal allowed. Section 101(2) is wholly concerned with the timing and frequency of passing accounts and is intended to provide an option to a beneficiary to require the passing of accounts earlier and more often than

s.101(1) provides. Section 101(2) simply does not arise if the beneficiaries have waived the passing of accounts. The process of obtaining approval and consent under s.101(1), which is the practice in most uncomplicated estates, would be rendered uncertain if beneficiaries could change their minds in reliance on s.101(2). If that were possible, the only safe course for executors would be to pass accounts in every case because only then could they confidently bring the estate to a conclusion. That would involve unnecessary cost and delay in many estates. The chambers judge misinterpreted the statute and his order would be set aside.

Mitchell Estate, Re, C.A., Donald, Newbury & Braidwood J.J.A., Doc. Vancouver CA022123, September 19, 1997 (oral), 7 pp. [CLE No. 97-10586] // Appeal from judgment of Harvey J., [1996] Civ. L.D. 464; [1996] Est. L.D. 19. // Thomas G. Keast, and J.D. Fisher, for appellant; A. Davis, for respondent.

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## A PATENT GOLDMINE - PROSPECTING THE INTERNET FOR INTELLECTUAL PROPERTY INFORMATION

By Brad J. Loos

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Intellectual Property (IP) includes the specialties of patent, trademark and copyright law. Even if you are not a "patent paralegal," some basic knowledge of intellectual property is important - especially for litigation and business paralegals. Where to start? Today, you can find a variety of intellectual property information on the Internet. Articles addressing other legal resources available on the Internet prompted me to review the most comprehensive intellectual property sites available on the World Wide Web (Web).

(Note: Pursuing any search lead can be time

consuming. Therefore, it is imperative to formulate a disciplined strategy before you log on. The brief list of patent sites in this column are only a sample of what the Web has to offer. The quality of information on the Internet varies and there are only limited means to substantiate the accuracy of the information. Many sites may move or become inactive as the Web experiences growing pains.)

### Patent Sites

I would be remiss in my review if I failed to mention the most popular and authoritative patent and trademark site: The United States Patent and Trademark Office ([www.uspto.gov](http://www.uspto.gov)).

The Franklin Pierce Law Centre IP Information Mall ([www.fplc.edu/miplibr.htm](http://www.fplc.edu/miplibr.htm)) is also worth visiting. It contains an annotated guide to IP Law, basic U.S. IP information and even the IP Librarian's Research tools and Strategies Center.

The EDS Shadow Patent Office ([www.spo.eds.com/patent.html](http://www.spo.eds.com/patent.html)) is a commercial site that contains a searchable database of U.S. Patents from 1972 to the present (updated weekly).

One of my favourite sites is the EFF IP Online: Patent, Trademark, Copyright Archive ([www.eff.org/pub/Intellectual\\_property](http://www.eff.org/pub/Intellectual_property)). This site is maintained by a non-profit group and includes timely articles regarding IP policies and issues.

STO's Internet Patent Search System at <http://sunsite.unc.edu/patents/intropat.html> provides the opportunity to search patent abstracts by patent number and class/subclass codes.

A limited but interesting collection of patent notes, cases and articles can be found at the U.S. House of Representatives Internet Law Library of Intellectual Property ([www.law.house.gov/105.htm](http://www.law.house.gov/105.htm)).

For links to patent, trademark, copyright and trade secret information, visit the Chicago-Kent Intellectual Property Law Internet Resources at [www.kentlaw.edu/lawlinks/ip.html](http://www.kentlaw.edu/lawlinks/ip.html). This site also includes a sampling of IP articles searchable by keyword.

### Miscellaneous Patent Specialties

Biotechnology patents have become increasingly numerous since the United States Supreme Court ruled that "anything under the sun that is made by man" may be patentable (Diamond v. Chakrabarty, 447 U.S. 303, 309 (1980)). The Biotechnology Information Center ([www.nal.usda.gov/bic](http://www.nal.usda.gov/bic)) contains a fairly comprehensive collection of biotechnology patents (text only) organized alphabetically by title.

Jeff Kuester's Technology Law Resource at [www.kuesterlaw.com](http://www.kuesterlaw.com) - is especially valuable if you seek articles on computer software issues.

### Copyright Sites

The ILT guide to copyright ([//arl.cni.org/scomm/copyright/ILT.html](http://arl.cni.org/scomm/copyright/ILT.html)) is an extremely well-organized site that is a good place to learn about copyright law. Anyone searching the Internet should be aware of the basic information on copyright protection and compliance contained within this site.

The American Communication Association WWW offers links to various IP and copyright sites. (Although I would not recommend initiating a search at this site, it is an interesting place to browse.)

### Trademark Sites

Currently, the number of quality trademark law sites on the Web are disturbingly low. The NYNEX Interactive Yellow Pages at [S7.bigyellow.com/village/travauz.html](http://S7.bigyellow.com/village/travauz.html) can be used to search trademarks in limited regions of the United States. Thomson & Thomson, a familiar name in trademark law, and Master-McNeil, Inc. have sites at [www.thomson-thomson.com](http://www.thomson-thomson.com) and [www.naming.com/naming.html](http://www.naming.com/naming.html), respectively. These are mainly advertising sites which offer substantive search capabilities only after a database description is purchased.

### Beyond the Web

A plethora of knowledge can also be uncovered by utilizing other areas of the Internet besides the Web. Posing questions or contacting authorities via e-mail, interactive seminars, newsgroups or even subject-specific chat rooms may also be effective research tools. Other areas of the Internet that contain useful

legal data include Gopher, Veronica and WAIS.

For additional IP search leads, I suggest pointing your browser to [www.flpc.edu/iptools/w3digest.htm](http://www.flpc.edu/iptools/w3digest.htm) for an excellent review of Armand Zottola III entitled, "Ways in Which an Intellectual Property Professional Can Use the World Wide Web & Gopher Servers on the Internet." Although this article was posted in 1995, it is a helpful supplement to this review.

While the World Wide Web is not ready to replace traditional online legal search services, it is a significant tool that should not be ignored.

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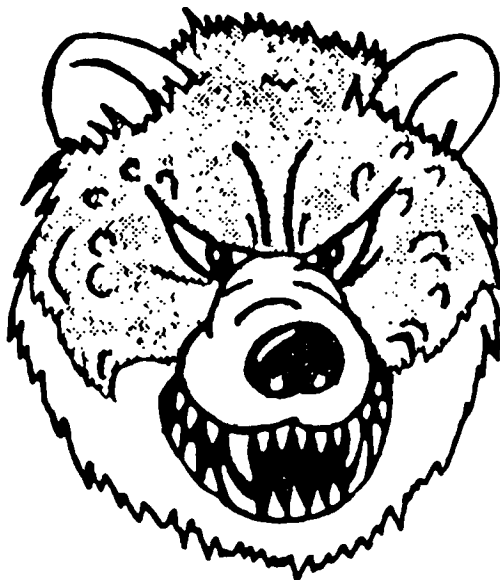
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