



Keeping Tabs

Monthly News from The Young Advocates' Standing Committee

New Year, New Me | Interview | YASC Pub Nights
5 Tips For Success | Upcoming Events



Toronto Pub Night January 2017

CHAIR CHAT

BY: DANIEL NAYMARK,
NAYMARK LAW



New Year, new leaf, new issue of Keeping Tabs. Time to dust off the treadmills and promise yourself that you'll actually read the Ontario Reports this year. Or take inspiration from other advocates' 2017 resolutions outlined on page 2.

At TAS's Fall Forum this October, The Honourable Thomas Cromwell gave a captivating keynote speech with advice for young advocates. The text of his remarks are in this issue and well worth a read.

In keeping with Justice Cromwell's insights about the importance of mentoring and getting out of the office, YASC is kicking off the year with a slew of events across the country. In Toronto on January 24, we have a Fireside Chat exclusively for public sector advocates, featuring The Honourable Andromache Karakatsanis, *Supreme Court of Canada*. and our mentoring dinner series at Campbell House returns February 16 with the theme of *Build it and They Will Come*, focusing on establishing a good reputation. We are holding a pub night in Calgary on January 26, a Wine & Cheese with the Bench event in Kingston on February 2, and a new Bench & Bar event in Ottawa on February 9, in which advocates will skate the Rideau Canal and then hit the pub with members of the bench. (I advocated for the other way around, but was outvoted.)

Daniel

The Young Advocates' Standing Committee ("YASC") is a standing committee of The Advocates' Society with a mandate to be a voice for young advocates (advocates who are ten years of call or fewer) within the Society and within the profession. We do this through networking/mentoring events, by publishing articles by and for young advocates, and by raising issues of concern to young advocates as we work with the Society's Board of Directors.

The opinions expressed by individual authors are their own and do not necessarily reflect the policies of The Advocates' Society.



NEW YEAR, NEW ME



A few TAS members shared their new year's resolutions for 2017.

"I resolve not to watch CNN before trying to get to sleep."

-Brad Berg (Blakes LLP/Toronto)

"This year I resolve to be better at not working when I'm not working."

-Ted Bergeron (Bergeron Clifford LLP/Kingston)

"I resolve not to make any resolutions I won't keep".

-Meaghan Boisvert (Miller Maki LLP/Sudbury)

"I resolve not to use Red Bull to improve the quality of my work!"

-Jonathan Collings

(Low Murchison Radnoff LLP/Ottawa)

"I resolve to work at least one Taylor Swift song lyric tastefully into a brief."

-Victoria Crosbie (McInnes Cooper/Halifax)

"I resolve to spend less time with my BlackBerry and more time with my family (yes, I still have a BlackBerry)."

-Erin Durant (BLG/Ottawa)

"Less chocolate chunk cookies in my desk drawer, more apples."

-Emily Y. Fan (Lerners LLP/Toronto)

"I resolve to hit 10,000 steps a day."

-Atrisha Lewis (McCarthy Tétrault LLP/Toronto)

"This year I resolve to finally learn how to delegate – and actually do it."

-Kristin Muszynski

(Templeman Menninga LLP/Kingston)

"I resolve to stop making the hashtag symbol with my hands when I say the word 'hashtag.'"

-Megan Savard (Addario Law Group/Toronto)

"I resolve to meet my instagram potential. Follow me!"

-Dan Zacks (Clyde & Co/Toronto)

Tweet your resolutions to [@Advocates_Soc](#) with [#AdvoRes2017](#)

You Have Questions

They Have Answers

Toronto Mentoring Dinner Series '17

Thurs, Feb 16, 2017
@ Campbell House



Skate the Canal Feb. 9, 2017, Ottawa

Join members of the bench and bar for skating on the Rideau Canal followed by drinks and socializing at the Canal Ritz Restaurant.

Click [HERE](#) for more information



Interview with Lisa Filgiano, Miller Thomson LLP

BY: SHANNON BEDDOE,
MARTHA MCCARTHY & COMPANY



1

Q: Why did you become a litigator or advocate?

A: Truthfully, by fluke. I never planned to be a litigator. After articling, I spent a year in the U.K. completing my LL.M. and returned home in 2009. Given the recession, it seemed like the only positions available for first years were in litigation.

One of my first pieces of advocacy was convincing a law firm that, despite successfully dodging my litigation rotation during articling, I was the right candidate for a first year litigation position. It was arguably my first win. For me, at least, the recession had a silver lining.

2

Q: What do you like most about the practice of law?

A: The stories. Each of my clients' lives and the circumstances that lead them to my office are unique and interesting. As an estate litigator, I often meet clients at a very emotionally stressful time. As their advocate, I strive to provide them with guidance and relieve some of the inherent stress that results from litigation, especially when it involves families feuding in the immediate aftermath of the loss of a loved one.

3

Q: Which living lawyer do you most admire?

A: Chief Justice Beverley McLachlin.

4

Q: What is your greatest extravagance in your everyday life?

A: Equinox. It's my all-in-one gym, with eucalyptus scented towels and a juice/smoothie bar. The workout is only part of the experience!

5

Q: What is the latest non-legal book you've read?

A: Stone Mattress by Margaret Atwood.

6

Q: How would your colleagues describe you?

A: I am committed and hardworking. Also, I am a glass half full type of person and like to bring a positive attitude to my day to day life, whether at work or at home.

7

Q: What would you consider your greatest achievement?

A: In 2013, I acted as a designated representative for a young Congolese girl seeking refugee status in Canada. Her story, as with many others in her situation, was horrific, yet she remains one of the warmest and kindest people I have ever met. As a designated representative, I was able to assist her in locating her family, help her through the procedural maze of refugee claims and advocate on her behalf at the hearing. Thankfully, her application was successful.

8

Q: What is your favourite case?

A: Among recent cases, *Carter v. Canada (Attorney General)*, [2015] 1 S.C.R. 331. The issue of medically assisted dying is polarizing, yet it affects so many of us (as the person seeking it, as a family member, as a health care provider, etc.) I thought the Court addressed this difficult issue with strong legal analysis and consideration for the concerns raised by public interest organizations.

9

Q: Which talent would you most like to have?

A: Photographic memory.

10

Q: Who or what is the greatest love of your life?

A: My big, warm and endlessly supportive family.

11

Q: What is your favourite drink?



A: Coffee, coffee, coffee.
In the evening, an old fashioned or a glass of Chardonnay.

12

Q: If you weren't a lawyer, what would you be?

A: A professional traveler/adventure-seeker.

13

Q: What is your most distinctive characteristic?

A: I have often been told it's my laugh. I can't help it – if it's funny, I will laugh (loudly)!

14

Q: From whom have you learned the most about the practice of law?

A: I am grateful for the many mentors, particularly female advocates who have helped me become the lawyer I am today. Early in my career, I was fortunate to work with Sally Bryant, who has since retired. Sally's practice involved many cases of professionals with mental health and addiction issues facing disciplinary proceedings. Aside from being an excellent lawyer, Sally taught me the importance of compassion and empathy when dealing with clients in vulnerable situations.

15

Q: What unique knowledge have you gleaned in your practice that you can share with other young advocates?

A: No one starts their practice as a seasoned advocate. Spend as much time as you can watching and learning from your mentors, co-counsel and opposing counsel, whether in a courtroom, an examination for discovery, a boardroom or even on a conference call. Proactively seek feedback and, with time, you will develop your own personal style and become the most effective advocate you can be. ■

TAS Gives Back 2017

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at 4 Universities across Canada



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YASC PUB NIGHTS

TORONTO PUB NIGHT



Toronto Pub Night Sponsored by:



BARRIE PUB NIGHT

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CARROLL HEYD CHOWN LLP
Litigation. It's what we do.



Motions Advocacy

Hear candid advice from experienced counsel and the bench on how to effectively prepare oral and written submissions.

Tuesday, February 7, 2017
9:00 a.m. – 4:30 p.m.
The Advocates' Society Education Centre
Toronto, ON.

[Click here for more information](#) ▶

Fall Forum 2016 Keynote Address from The Honourable Thomas A. Cromwell

It's been said that a judge is a lawyer with a promising career behind him. I'm not sure where that leaves a retired judge. And so I am a bit reluctant to offer you much in the line of career advice—all the more so given that I sent out my last bill in 1997. But I gather that the organizers thought—or at least hoped—that I've picked up one or two things worth sharing with you about how to survive and thrive in a changing profession. So here goes.

I would like to offer you five brief thoughts reflecting my own experience. But I do this only in the spirit of sharing my experience, for whatever it may be worth to you. After all, you are the people best placed to plan your own careers and to decide what works for you.

POINT 1: Get into (or at least near) the action

I am sure it is not exactly a news flash that litigators need to spend time in court and before tribunals. But I worry that even young lawyers who have been out for more than five years have had very little actual court experience. We all know about the “vanishing trial” and understand the economics working against going to court as a junior. I am told by some of my former law clerks that litigators at big New York City firms have to leave the firm for a while to work as prosecutors in order to get court experience before they will be considered for partnership.

I practised only briefly before becoming a full time law teacher. But I was lucky to get a lot of court time, starting with my articles at what is now WeirFoulds LLP nearly 40 years ago. My first three weeks of articles

were spent carrying the bags for one of the most senior partners for an expropriation hearing before the Land Compensation Board, as it was then known. I learned more about cross-examining experts watching my leader do it than you could learn in a year of workshops. Then I fell into the orbit of Bryan Finlay, who quickly became my mentor and eventually a life-long friend. I spend a lot of time in court with Bryan, in everything from a divorce trial to various civil trials and motions and lots of discoveries and cross-examinations. I spent a couple of weeks at a Municipal Board hearing with another partner and various motions and examinations with many others.

I then opened my own firm with two law school friends in my home town of Kingston. And although I wasn't handling very big cases, I was in court at least three times a week, often more. Mondays and Tuesdays were Provincial Court criminal days, Wednesday was Family Court, Thursday was motions before the local judge of the Supreme Court and Friday was often more criminal. I was called to the bar in April and did two criminal jury trials in May. Needless to say, most of what I learned, I learned the hard way. But senior lawyers and the judges were also very helpful and offered good advice and even better examples. And the variety was amazing. I did everything from labour

arbitrations to family cases to criminal and civil trials. It is amazing what a good teacher sheer terror can be.

I expect that you all know that you need to get hearing time, and I expect that some—hopefully many of you—are getting it. For those who aren't, let me leave you with a couple of thoughts.

You have to be demanding about the type of work that you are getting. If you are stuck at your desk all of the time, you need to think about why that is and what you can do about it. There is a lot of truth to the old saying that the squeaky wheel gets the grease. I got a lot of court time in my articles because I was willing to put in the extra hours so that I did lots of other work that was expected of me in addition to spending many days in court. That was the trade-off that was necessary at that time. So perhaps you have to be both the “squeaky wheel” and the “willing horse.” But one thing is for sure—getting that sort of hands-on experience is an investment in your career.

In practice, I was willing to do pretty low-level work provided it got me into court. I imagine that there are ways for you to do some more routine types of matters that your firm generally handles. But every court or tribunal hearing is a learning experience that will enrich all of your practice.



The Honourable Thomas A. Cromwell

5 TIPS FOR SUCCESS

POINT 2: Find and keep mentors

Whenever I talk to young lawyers, I hear about how anxious they are to have mentors. The turn-out at this fall forum is also strong evidence of that desire. And so I won't spend any time trying to convince you that finding and keeping mentors is essential to a successful litigation career.

But knowing it is important and doing it are two different things. Again, I suggest that you have to be a bit demanding—you need to be that combination of the squeaky wheel and willing horse. I also suggest that a good mentoring relationship is not something that can be rushed. That sort of relationship is based on trust and admiration flowing both ways, and those things take time to develop. You need to take time to find someone whose work you admire and whose judgment you trust. And a mentor will only engage at the needed level with someone about whom he or she feels the same way.

I found that some lawyers always had time for my questions—as long as they were thought out and demonstrated that you were engaged with the work and not just trying to find a shortcut. Others always seemed too busy to provide any meaningful responses to questions—sometimes even about their own files. I spent my time trying to get to know the former group—and ended up with great mentors. I also tried to be ready to go the extra mile for those people and I found that they more than did the same for me.

I don't know much about the working realities of law firms today. But I do know that the mentor-mentee relationship is a very personal one. You need to find those whom you admire and trust and hope that you instill in them that same reaction to you.

POINT 3: Become your own teacher

I suggest that it is very important to learn to become your own teacher

throughout your career. You need to be able to look at what you are doing critically and learn from what you see others doing—both good and bad.

There is a certain truth to the old saying that “good judgment comes from experience” but that “experience often comes from bad judgment.”

I had this drilled into me early. After every hearing or examination, Bryan Finlay would always sit down and say, “Now, what did we learn from that?” We would talk about what we had done—the good, the bad and the ugly (I of course was always responsible for the bad and the ugly ...). And then we would talk about what our opponents had done. As a result of that practice, it became second-nature for me to do this and I've tried to do it throughout my career. Often, the lesson learned was something like “I will never try that again ...”. But even that is a lesson worth learning.

Every experience has a lot of lessons to teach, but it will only do so if we reflect on that experience. As the American philosopher, psychologist, and educational reformer John Dewey put it: “We do not learn from experience ... we learn from reflecting on experience.” In other words, experience on its own teaches nothing. I am sure we all know very experienced lawyers who are really bad. They have learned little from their experience. Experience only teaches us something if we try to understand why we had the experience that we did. The sooner you learn to reflect on your experience, the sooner you will start learning from it.

POINT 4: You need to learn resilience

The word “resilient” refers to the quality of resuming the original shape after bending, stretching or compression. But of course in everyday life, the quality of resilience is the quality that allows one to recover from setbacks and to keep going when the going is tough.

You need to be resilient in the legal profession. When you are trounced in

court or when a professional ambition is denied to you, you need the ability to pull yourself together and keep moving. These sorts of things happen to all lawyers, but if you put your troubles in perspective, deal with them maturely and focus on the future, all will be well.

Remember that your own commitment to justice and excellence in your work is far more important than the petty annoyances and reversals that inevitably creep into to everyone's professional life. When things go wrong—and they will—learn from the experience, but don't brood. Pick yourself up and get on with it. Try to remember that even the people whose accomplishments you most admire had their own challenges and reversals. But they got through them and so will you.

Resilience is an especially important quality in a stressful occupation like ours. We can't avoid the stress. But we can learn to deal with it effectively—and that is why resilience is such an important quality in a good lawyer. Some writers refer to this as “stress-hardiness”—which is also a good word. The important point is that we can't avoid some of the stress—what we have to do is to withstand and come back from stress.

There was a time when we tended not to discuss stress. We are, after all, strong warriors for our clients and worrying about stress could be seen as some sort of weakness. I think that times have changed for the better in this regard. But I do want to remind you that there is no weakness in discussing stress or in seeking some support in dealing with it. And it is important not to wait to get some help until stress is actually interfering with your career. Stress can be cumulative and it can result in a type of traumatic injury. The longer it goes unaddressed, the more serious the injury.

Most successful lawyers whom I know have developed a way of compartmentalizing their work and keeping a measure of professional detachment from it. I am not exactly

5 TIPS FOR SUCCESS

sure how this occurs, but I know that it is essential to our well-being. You somehow have to find a way to care deeply about what you are doing, but to do that without letting that caring leading to an obsession with work, or to feelings of helplessness or inadequacy.

There is a lot of stress for most lawyers in the early years of their careers. At the same time as you are under pressure to meet billing targets and bring in business, many are also dealing with the insatiable demands of the mortgage and the pressing and often totally unpredictable needs of young children. So I suggest that younger lawyers need to take their stress-hardiness—in other words, their resilience—very seriously.

Few things are more important in our profession than resilience and if you feel that you lack that, I encourage you to get some help with building it up.

FINALLY: Get outside your practice and your office.

Every successful lawyer whom I know is active in his or her community in one way or another. Whether its

coaching a sports team, or helping on a community or church committee or volunteering at the food bank, lawyers are great community people. They do this out of a desire to help others, but they also recognize that it makes them better lawyers and happier people. I know it is hard to find the time. But I can assure you that many lawyers who are as busy as you are find that time—as I am sure many of you do. It can be done and I urge you to do so.

I have always been a “joiner” and I ended up being president of 4 national organizations. I have done lots of work with the CBA, the Canadian Association of Law Teachers, the Canadian Institute for the Administration of Justice, the Canadian Forum for Civil Justice, The Action Committee on Access to Justice, and lots of other things. But I can tell you that I got far more out of that work than I put into it. You tend to enlarge your professional circle of colleagues and friends and also to see your own problems and challenges in a better perspective. This sort of work enriches your life and helps to keep you fresh and engaged.

Everyone needs to find their own way to serve the community in a way that is fulfilling and a source of satisfaction. But let me encourage you to think

about one possibility. I believe that access to justice is the biggest challenge facing the legal system today. And that challenge also brings the legal system directly into contact with people in need. So I hope that you will consider getting involved in the wonderful work that is taking place here in Ontario and virtually everywhere in Canada to try to improve access to justice. We have just concluded the access to justice week sponsored by the Action Group here in Ontario. There is no end of opportunities for volunteer work—whether it’s doing *pro bono* work or helping a public legal education group or doing school talks.

Getting involved will not only help improve access to justice, it will give you a sense of achievement and accomplishment.

So there you have it—a few things to think about from a guy with a promising career behind him. It is an honour and pleasure to be here and I’m looking forward to having a chance to meet more of you personally tomorrow and to have some informal exchange during the mentoring sessions. I am hoping to rejoin the profession when I finish up my work at the Court, so I’m looking forward to getting all of your tips! ■

Upcoming Events



YASC Pub Night
(Calgary)

Jan 26, 2017



President’s Reception
(Ottawa)

Feb 2, 2017



Wine & Cheese with
The Bench
(Kingston)

Feb 2, 2017



Motions Advocacy
(Toronto)

Feb 7, 2017



Skate The Canal
(Ottawa)

Feb 9, 2017