



The Institute
of Law Clerks
of Ontario

LAW CLERKS' REVIEW

This issue:

Page 3

Be Memorable...
for all the Right Reasons

Page 4

A Henson Trust
Alternative

Page 6

Project Management:
Managing the
Changing Roles
of Law Clerks

Page 8

Rethink
Work-Life Balance

President's Message

With the holidays and New Year just around the corner, I reflect on another very productive year for ILCO.

The launch of our new website brought with it increased visits to the site that have far surpassed our expectations. ILCO also engaged its members through our new social media platforms, which provided up-to-date information about ILCO events and programs. We encourage our members to visit ILCO's Facebook, Twitter, and LinkedIn pages frequently to review our current offerings.

The introduction of ILCO courses and continuing legal education seminars by Webinar has provided us with the ability to reach those outside the Toronto area, which continues to allow law clerks to achieve their career goals through the knowledge and skills required to maintain the highest standards of practice.

ILCO's success is largely based on the support of our members and volunteers. Through the efforts of our volunteers, who have given countless hours of energy and time, we have been able to build a

strong organization that in turn provides top rate educational programs and networking opportunity for our members. It is our intention to continue to grow and make ILCO better every year. I would like to take this opportunity to offer my sincere gratitude to each director and committee member for their countless hours of dedication to ILCO throughout this past year.

As a not-for-profit organization we also rely on sponsors and the generosity of the legal community to support our events and programs. We would like to thank these sponsors and supporters, as only with their support have we been able to exceed our goals in 2012. We look forward to their continued support in 2013.

Last, but certainly not least, I would like to thank the ILCO office staff for their outstanding efforts during this past year.

On behalf of your board of directors and the office staff, I wish you and your family a joyous holiday filled with peace and happiness.

Rose Kottis
President



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ILCO OUT AND ABOUT ...

ILCO was proud to participate and exhibit at the following events this year:

Ontario Bar Association (OBA) Conference - February 2012
The Westin Harbour Castle Conference Centre
Toronto, Ontario

The Law Office Management Association's (TLOMA) Annual Conference - October 2012
Deerhurst Resort
Huntsville, Ontario

Remember to join us on our social media pages for further information regarding ILCO events and seminars:

SAVE THE DATE!



Plans for ILCO's 23rd annual conference are well underway! Mark your calendar with next year's conference dates and location - **May 8 to May 11, 2013** at the Blue Mountain Conference Centre, Collingwood, Ontario. Attendee information has now been posted at the ILCO website, and the conference brochure is set to be mailed for mid-January. We hope to see you there!



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BE MEMORABLE.... FOR ALL THE RIGHT REASONS

by Mirella Zanatta

Have you ever noticed people who walk into a room and look like they own it? They are dressed impeccably, exude confidence, and possess a certain aura. Were they born this way? Do they have a stylist? How do they do it? I'll let you in on a little secret; you can learn to do this too. Self-discovery is the key to unlock your best self and let it shine. When you radiate strength through your attire, body language, and voice, you indicate that you are deserving of respect and capable of higher levels of responsibility. You emanate confidence and your life improves on many levels.

When it comes to dressing our bodies, there are 3 things to consider. **1. Colour** Pick colours that you know work with your skin tone and hair colour. If you don't know your best colours, consider having a professional analysis. You will learn whether to wear cool or warm tones, as well as your WOW colours. The ones the make you look and feel great, and receive a lot of compliments when you wear them. **2. Body Type** Our bodies come in many shapes and sizes, but at the end of the day we all wish we had that hourglass figure. If you choose the right styles for your body shape, bone structure and height, you will accentuate your best features while minimizing your less favourable ones. You may also be able to achieve that hourglass look by simply wearing the best cuts for your shape. **3. Personality** Dramatic, romantic, classic, natural, creative, or elegant sporty. Your clothes need to be a reflection of who you really are, or you will feel uncomfortable and insecure. When you know you are wearing clothes you love that accentuate your assets you will look and feel amazing, and exude selfconfidence.

Your visual appearance should positively support your message and reflect your level of competence, your body language can be a dead give-away of anxiety. **1. Breathe** Prior to entering the event, take a moment to be still and relax. Take a deep breath and repeat a positive mantra (e.g. I am a capable, valuable asset with a great deal to offer). Focusing on a positive outcome will make it that much more likely to occur, and prevents those nervous, uncertain jitters which make you appear weak and insecure. **2. Be Prepared** Do a little research prior to the event, find out background information and be well versed on current events. Even if you don't use the information you will feel on top of your game. **3. Posture** Mom was right, stand up tall and straight and take up as much room as possible (sign of strength). Slouching whether you are sitting or standing implies weakness and insecurity. When you are speaking with someone, make sure your feet are pointing towards him or her and maintain eye contact. This will demonstrate your undivided attention and also let them know you are not intimidated (another sign of strength).

In the words of Carl W. Buechner,
"They may forget what you said, but they'll never forget how you made them feel."

Mirella Zanatta, BA, Bed
Director of First Impressions Image Consulting. Speaker at 2012 ILCO Conference in London, ON



OPPORTUNITIES FOR DISABLED BENEFICIARIES DON'T END WITH THE ESTATE PLAN

by Darren Lund

Proper estate planning is essential to protect a disabled beneficiary. What's more, if she receives benefits from the Ontario Disability Support Program (ODSP), a poorly planned inheritance can render her ineligible to receive benefits.

Unfortunately, this happens all too often because people fail to understand and take advantage of the options available to maximize benefits to the disabled beneficiary.

To qualify for ODSP benefits a recipient must meet income and assets tests. A person who has too much of either may not be entitled to ODSP. Once qualified for ODSP a person who has too much may lose some or all of her entitlement to payments. Gifts and inheritances must be carefully planned to avoid disqualifying a disabled beneficiary from further benefits.

The most common planning tool is the "Henson" Trust. This is an absolute discretionary trust that gives a disabled beneficiary no right to enforce payment of either income or capital. Since the beneficiary has no enforceable right to receive income or capital, the capital of the trust does not count toward the recipient's asset limit, and only the income actually paid to the recipient is counted toward the income limits.

There is no limit on the value of the assets that can form part of the Henson Trust. But if too much income is paid the recipient's ODSP payments may be cut back or lost. Specifically, ODSP regulations allow a recipient to receive a maximum of \$6,000 in any 12-month period "for any purpose" from gifts, inheritances, insurance proceeds, trusts, and certain other voluntary payments such as honorariums and lottery winnings.

The \$6000 is an aggregate maximum. An ODSP recipient can receive a maximum of \$6,000 from all such sources, not \$6,000 from each of those sources. This represents a significant limit on the usefulness of a Henson Trust.

OTHER OPTIONS

A recipient may receive amounts, including distributions from a trust, for the purpose of contributing to her Registered Disability Savings Plan (RDSP). These gifts are in addition to the \$6000 annual income limit, and will not affect the recipient's ODSP payments **if the recipient makes the contribution to her RDSP as soon as is practicable.**

An RDSP is exempt from the asset limit, and the income from an RDSP is exempt from the income limit. The RDSP is a valuable means of making gifts to a recipient up to the RDSP's maximum lifetime contribution limit of \$200,000 without affecting his ODSP benefits. As the Canadian government will provide matching grants for contributions, and a "bond" for low income individuals, this is a great way to maximize the wealth available to a disabled person.

ODSP benefits terminate at age 65, and payments from an RDSP must commence by the end of the year when the RDSP beneficiary turns age 60. So the RDSP can provide an additional income stream between ages 60 and 65 without any loss of ODSP benefits.

It too often happens that well intended people leave outright gifts by Will to a disabled friend or relative. Such gifts do count towards a recipient's asset limit, but there is a planning option available to protect ODSP benefits if the inheritance amounts to \$100,000 or less. The ODSP regulations exempt from the asset calculation up to \$100,000 held in a trust the income and capital of which are "available to be used" for the recipient's maintenance.

An "available to be used" trust may be established by the recipient, or someone else with the necessary legal authority.

The \$100,000 limit applies both when the trust is established and going forward. If the trust starts out with less than \$100,000 but through capital growth and retained income exceeds \$100,000 the ODSP recipient may lose her entitlement. If possible it best to fund these trusts leaving room for growth.

If the available to be used trust is created after a gift is received the funds will be counted as income in the month received.

Say Samantha's grandfather dies and his will gives her \$75,000. Samantha receives the gift on July 3 and transfers it to a trust on July 15. She will be considered to have \$75,000 income in the month of July, and will have to repay her July ODSP benefits. If instead the grandfather had left the \$75,000 to a Henson or "available to be used" trust Samantha would have lost no benefits. Either way, once in an available to be used trust the \$75,000 will not count toward Samantha's asset limit.

Once an inheritance is in a Henson Trust or an "available to be used" trust, there are tools to maximize their usefulness. As noted above, a recipient is entitled to receive a total of \$6,000 in any 12-month period from the trust and the other acceptable sources "for any purpose."

However, in addition to the \$6000 amount, the ODSP regulations permit a recipient to receive an unlimited amount from these sources if the amounts are used for disability related items or services that are pre-approved in writing by the Director of ODSP.

There is no fixed list of disability related items or services, so this is a very flexible tool. Depending on the nature of

a person's disability, it may be possible to obtain approval for such things as a cleaning or transportation services, a gym membership, grooming expenses, among others. The essential thing is to establish that the expenditures are disability related, and for this reason it is crucial to have the advice and assistance of the recipient's health care practitioners in seeking pre-approval from the Director.

In any case where a trust is used, the Disability Amount is another means of maximizing the usefulness of a trust. To qualify to claim the Disability Amount, the recipient must apply to CRA for approval with the support of a form completed by a doctor.

If the beneficiary qualifies to claim the Disability Amount, the trust may claim a preferred beneficiary election. Normally, income earned and retained in a trust is taxed inside the trust. If income is distributed in the year it is earned to a beneficiary, it may be taxed either in the beneficiary's hands or inside the trust (it is usually best to get an accountant's advice on which should pay the tax.)

The preferred beneficiary election makes it possible for the trust to retain income but allocate it to the beneficiary

for tax purposes. That is, the income may be taxed in the beneficiary's hands without distributing it to him. This is beneficial whenever the beneficiary pays tax at a lower rate than the trust would, and is especially useful for an "available to be used" trust that is not established by a Will. Such trusts pay tax at the highest marginal rate on all their income. It also permits maximum tax efficiency without distributing so much income that ODSP payments are cut back.

The planning opportunities for disabled beneficiaries begin with the donor's estate plan, but continue as outright inheritances and trusts are administered.

And when planning to protect a disabled beneficiary who receives ODSP benefits, it is crucially important to follow ODSP's rules. A recipient is obligated to notify ODSP of inheritances, and failure to give the notice may result in the termination of ODSP benefits.

Darren Lund is an associate in the Toronto office of Borden Ladner Gervais LLP whose practice is focused on estate planning and administration. Darren can be reached at 416.367.6358 or dlund@blg.com

This article was originally published in the *Advisor's Edge*.



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PROJECT MANAGEMENT: MANAGING THE CHANGING ROLES OF LAW CLERKS

by Rachael E. Chadwick

As a law clerk for over 20 years, it was a natural progression to grow into a project management role. After all, that's what law clerks do – we manage tasks, files, practices, etc. Every new client interview, Affidavit of Documents, trial preparation - every component of what law clerks do can be parsed into “projects” that need to be managed. Clerks know the scope of the task, the required time lines which must be adhered to, and who to report to (especially if the scope, timeline, or budget fall off course). With three “official” years of project management under my belt, along with PMP certification (Project Management Professional with the Project Management Institute), the value of solidifying the legal project management role in law firms is abundantly clear to me.

I am often asked to describe the difference between “legal” project management and project management generally. Having taken a boot-camp style course in preparation of the PMP exam and meeting project managers from varying backgrounds such as banking, construction, and energy, the only real difference is the application of the project management principles to the specific industry. In other words, while the same principles may apply, specific industry background and knowledge is required. I can comfortably say that although I am PMP certified, I am not qualified to manage a construction project. Likewise, I don't believe a project manager from the banking industry could manage an e-discovery project. Ultimately, while knowledge of the field is required, the general principles are the same.

As a law clerk, while project management becomes critical in large scale projects, the principles can also be applied to daily tasks in our practices. Typically, project management has been associated with e-discovery and review projects, but there is value to employing the same principles to any task within a law clerk's responsibility. Project management is the repeatable processes that allow for efficiencies, as well as the review and refinement of tasks that lead to “scope creep”, missed deadlines, or being over budget. Consider the following principles and how they might apply to your practice:

Initiation

You've just been assigned a task/project/new file. What is the purpose of the task and what are the criteria that will identify it as a success? Identify the deadline, budget, staffing requirements, etc.

Planning

A project/task can fail due to poor planning, lack of communication, disorganization, etc. Spend the time to docu-

ment a workable plan that will achieve the desired result, including the workflow design, budget, and timelines. Assemble your team (if applicable) and define who is responsible for each task and who reports to whom. Consider any risks that might occur and what can be done to avoid or mitigate the risks. For example, the trial that you are preparing for is starting in December. A risk may be that your key expert is not available to testify during two weeks of the month due to vacation. Be proactive to avoid or mitigate the risk.

Execution

This is where the work gets done. As a law clerk, you may be responsible for executing all or part of the work.

Controlling and Monitoring

During the execution stage, each step of the process should be monitored to ensure that the project/task is on track in terms of scope, budget and timeline. Communication is critical: use the method of communication (ie. informal emails, weekly conference calls, formal reports, spreadsheets, etc.) as defined in the “planning” stage. Use raw data, statistics and benchmarks to track the progress of the project. Get feedback and use quality control steps to ensure the project is on scope. Report any deviations from the scope, timeline or budget to your supervisor or stakeholders.

Closing

Not only do we need to hear feedback from our supervisor, employer or client about the project, but we need to review the success of the processes in order to determine what should be applied, or avoided, in future projects.

In applying these project management principles, consider using the following tools to create efficient work practices:

- Templates or checklists for managing projects/tasks;
- Templates for reporting – Develop an agreed upon format that meets everyone's reporting needs, as well as an agreed upon time frame for reports;
- Templates for budgeting – Develop an agreed upon (internal) format so that nothing is left out in the budgeting or fee estimating process;
- Databases for human resources (staffing, experts, etc) - What expertise do you need? What are the hourly rates and what is their availability?
- Databases for outsourcing needs - Conducting RFI's (Requests for Information) to develop a preferred vendor list;

continued on page 8



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RETHINK WORK-LIFE BALANCE

by D.J. Miller

“Work-life balance is not a women’s issue or an issue that applies only to professionals with children”

Ten or 15 years ago, “work-life balance” became a buzzword in the profession. No one really knew what it meant but that didn’t stop people from expending considerable resources and effort trying to understand and/or achieve it. When it initially appeared on the legal landscape, it was embraced by women as the magic formula that would provide the solution for managing a busy career with the demands of a young family. Perhaps unsurprisingly, work-life balance then became identified largely as a “women’s issue,” and much of the discussion in the media continues to portray it as such.

In my view, that is an unfortunate and potentially damaging generalization. It unnecessarily polarizes the discussion along gender lines and may reinforce the notion that maintaining balance on the home front is a responsibility that rests primarily with women.

The legal profession has changed considerably over the past 15 years and so too has the face and composition of Canadian families. Within that time frame, same sex marriage has become legally recognized, and advances in reproductive technology have opened and expanded the options available to individuals and couples. In short, the Norman Rockwell image of the family unit is now outdated.

Work-life balance is not a women’s issue or an issue that applies only to professionals with children. What may have begun as an effort to embrace the growing number of women entering the profession who were concerned about their ability to balance a career and family has matured to be much more than that. So, too, should our thinking on the subject. Men and women, with or without children, married or otherwise, have the same ability to make choices based

on individual priorities and personal circumstances, and should be afforded the same respect and support within our profession for those choices.

Ground zero of any discussion on work-life balance is the notion that it involves choices. It is based on one’s own priorities, values and the extent that other options may be available. These are largely influenced by financial considerations and there is no one-size-fits-all solution.

Excelling within any profession takes hard work and time. Raising children, caring for elderly parents or pursuing personal goals also requires considerable amounts of time. Along the way, choices are made based on priorities. These are choices that everyone must make-not just women and not just those with children. What works for me and my family may be very different than what works for my colleague across the street.

Many people do not have the privilege of choice that higher education and professional careers provide or the luxury of debating the relevant balance between work and life. We have a greater range of choices and opportunities than are available to most other people. The choices we make based on our personal circumstances are not burdens imposed on us that are deserving of sympathy or criticism - they are benefits of the educational and economic opportunities that we enjoy. As members of the legal profession we should embrace and support choices made by all of our colleagues.

D.J. Miller is a partner at Thornton Grout Finnigan LLP.

*This article was originally published in the Fall 2012 edition of the *President* magazine.*

Project Management: Managing the Changing Roles of Law Clerks
continued from page 6

- Roles and responsibilities – For example, litigation support may be the firm contact for all vendors, to avoid clerks using different vendors, getting different prices, different results etc., and to build relationships to obtain preferred rates.

Some law firms are clearly defining project management roles within their organizations. However, law clerks can benefit from using the general principles of project management in the framework of their practice. Legal project management will provide standards and best practices, creating repeatable and reliable deliverables. In addition, although every task/project/file may differ, standardized processes will minimize the impact of unplanned events, deliver high quality work products, and minimize stress.

Rachael E. Chadwick is a Senior eDiscovery Analyst and Project Manager at Wortzman Nickle Professional Corporation. Wortzman Nickle is a law firm that focuses exclusively on e-discovery, records management and technology strategies. Wortzman Nickle services corporations and law firms by providing independent advice on managing electronic discovery and drafting and implementing records management and related policies. Wortzman Nickle provides advice relating to technology strategies that integrate with the legal aspects of e-discovery and records management to ensure defensible and cost effective processes.

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The Newsletter Committee of ILCO is seeking law clerks to assist in the publication of the Law Clerk Review as well as articles for submissions. If you are interested in joining the committee or have any articles of interest for law clerks, please contact the ILCO office.

CALENDAR OF EVENTS

DATE	EVENT
Friday, January 4, 2013	Real Estate Exam Registration Deadline
Monday, January 14, 2013	Securities Law Fellowship Course
Tuesday, January 15, 2013	eDiscovery – Advanced Theory & Practices for Litigation Support Professionals Fellowship Course
Thursday, January 17, 2013	Will Challenges: From Suspicious Circumstances to Capacity – How A Will Can Be Challenged
Thursday, January 17, 2013	Estates Accounting Fellowship Course
Tuesday, January 29, 2013	Provincial Real Estate Exam
February 2013 (TBA)	Winter Social
Monday, February 4, 2013	Associate Estates Course
Wednesday, February 13, 2013	Advanced Full Day Litigation Law Program
Friday, February 22, 2013	Litigation Exam Registration Deadline
Tuesday, March 12, 2013	Provincial Litigation Exam
Monday, March 18, 2013	Associate Corporate Course
Wednesday, March 27, 2013	Full Day Intellectual Property Program
Saturday, April 20, 2013	Education Awards
Wednesday May 8 – Saturday, May 11, 2013	ILCO's 23 rd Annual Conference – Blue Mountain
Friday, May 17, 2013	Estates Exam Registration Deadline
Tuesday, June 4, 2013	Provincial Estates Exam
Friday, June 7, 2013	Corporate Exam Registration Deadline
Wednesday, June 12, 2013	Advanced Full Day Family Law Program
Tuesday, June 25, 2013	Provincial Corporate Exam

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