

# ADVOCACY MATTERS



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## EDITOR'S NOTE



### WELCOME TO "ADVOCACY MATTERS"

EDITOR: PETER J. HENEIN, *CASSELS BROCK LLP*

It is my pleasure as editor to welcome you to Advocacy Matters – The Advocates' Society's new monthly e-brief.

The goal of Advocacy Matters is, in one word, connection. Connection to the Society. Connection to the work we do as lawyers. Connection to the awesome diversity of backgrounds, practices and expertise that makes up our community.

Maintaining a connection to the Society can be a challenge as you move through your career. My introduction to the Society was as a first year lawyer when I was automatically signed up by my firm as a member. I dutifully went to the programs and social events. I learned about openings, closings, crosses, and different types of cheese. I rented a tux – annually. I got to feed my acting bug as a volunteer witness in courtroom skills training. I chatted with judges and

masters – awkwardly at first and then eventually, emboldened with cheese (and perhaps a little wine), more confidently. In 2007, I joined the Young Advocates' Standing Committee. I sat as its Chair in 2012 (on a chair, for the record). And then... freefall. For the next couple of years, I felt like my relationship with the Society had cooled down. I was too senior to be "Young" and too young to be "Senior". I was in that awkward adolescent phase many lawyers find themselves in after 10 years of practice.

The Society wants to stay connected with all of its members. And so, this e-brief is for everyone – the young, the old, and those in that soft, squishy middle section of their careers. We want to maintain that connection and ensure we stay relevant to one another. We want to talk about things that matter to the profession and things that interest us, regardless of where or how long we've practiced.

In our inaugural issue of Advocacy Matters, we report on the Society's Civil Trials Symposium. We explore the Bencher candidates' use of social media. We talk about some practice tips on dealing with difficult counsel. We've also reproduced the Catzman Award acceptance speech of Michal Fairburn (as she then was, and as I continue to be...). We even interview the President of the Society, Mr. Peter Lukasiewicz . And more. Keep reading. Seriously.

I want to thank all of our contributors this month: Jasmine Akbarali, Sarah Armstrong, Greg Cholkan and Daniel Schwartz.

Last but not least, the Society wants your feedback and ideas. So don't be shy and send us your thoughts, suggestions, blogs, quiz ideas, questions and comments. Let's stay connected!

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## TAS HIGHLIGHTS

- Congratulations to TAS members being honoured this spring by the Law Society of Upper Canada. Paul Le Vay will receive the 2015 Lincoln Alexander Award, and John B. Laskin and Professor Adam Dodek will be presented with the Law Society Medal. All presentations will take place on May 27, 2015 at Osgoode Hall.
- Ottawa Women's Conference (March 11) – Thank you to program chairs Mandy Ayles, Nancy Brooks, Colleen L. Burn and Anne M. Turley for another fabulous program in Ottawa. Treasurer Janet E. Minor delivered an inspired keynote, and the judicial panel, led by Madam Justice Andromache M. Karakatsanis, Supreme Court of Canada made it onto Twitter!
- Trivia Challenge for Charity (March 26) – The fourth annual battle of the legal brains took place at Hot House Café in Toronto with a sold out crowd of over 130. Proceeds from the evening will go to the 2015 TAS Gives Back campaign, supporting the Inmate Appeal Duty Counsel Program. More on that below!
- Commercial Women's Breakfast (March 27) – Attendees were treated to a special presentation by The Honourable Justice Sarah E. Pepall. Justice Pepall shared candid and inspiring stories about her remarkable journey from the bar to the Court of Appeal for Ontario. Special thanks to Co-Chairs Cynthia Spry and Denise Sayer.
- The Advocates' Exchange Career Board (March 29) – A new career board has been launched for TAS members to post or look for litigation positions. Just jobs. Just for advocates. To take a look, [click here](#).
- [This](#) is a list of TAS members who are running in the 2015 Bencher Election. The election will be held on April 30, 2015. For more information on the Bencher Election [click here](#).

## Cross-Border Issues for Litigators

Friday, June 12, 2015 | 9:00 a.m. - 4:30 p.m. | Toronto

Gain critical national and international perspective on current cross-border issues. This program is intended to be relevant for all litigators involved in cross-border challenges.

[Click here to learn more](#)

## TAS REMINDERS

- Spring Symposium - Wednesday, April 29, 2015 at The Carlu. Book your spot today!
- Annual General Meeting and End of Term Dinner - Thursday, June 18, 2015. AGM 4:00pm - 5:00 pm. End of Term Dinner 5:30 pm to 9:30 pm. Metro Toronto Convention Centre, Toronto. Keynote Speaker: Scott Turow, Attorney and Author.
- SAVE THE DATE! Fall Convention. November 11 to 15, 2015. Grand Velas Resort, Riviera Maya.
- Follow us on Twitter! [@Advocates\\_Soc](#) #3,600 #followers

## WINE & ART AUCTION

[Click here](#) to learn about the Wine & Art Auction and TAS Gives Back 2015



## Interview with Peter Lukasiewicz

BY: PETER J. HENEIN, CASSELS BROCK LLP

Peter Lukasiewicz is the President of The Advocates' Society. Peter is the Firm Managing Partner (External) and a senior commercial litigator with Gowlings, practicing in Toronto. He is the former Chair of the Ryerson University Board of Governors and sits on the Board of Indspire, an Indigenous-led charity that invests in the education of Indigenous people. An early riser, Peter's work brain kicks in around 5:30 am (often on a treadmill), but he does take his down time as seriously as his work at Gowlings and the Society. Whether relaxing on the dock of his cottage sipping fine Polish vodka (yes, sans iPhone), spending time with family, hiking in the Arctic, dancing up a storm to his favourite tunes or finding the next perfect tie to add to his collection, Peter approaches life with passion and commitment.

1

**THE GREATEST LEGAL MIND, OTHER THAN YOURSELF?** Ian Scott. I had the opportunity to work with Ian as his partner at Gowlings and as his Chief of Staff when he was Attorney General. As AG, he personally argued the separate school funding case (may be unprecedented for an Ontario AG). His argument was one of the most persuasive I have ever heard.

2

**WHERE DO YOU FIND INSPIRATION ON A FILE?** Working with my colleagues, exchanging ideas and theories, developing the strategy, and delivering results.

**FAVOURITE LAWYER JOKE?** So many to choose from. Q: What's the difference between God and a lawyer? A: God does not think he is a lawyer.

3

4

**WHAT GIVES YOU SANITY?** My wife Torch, and my kids... they get me.

5

**WORK? LIFE? BALANCE?** The balance is to work with passion and enjoy every minute life has to offer you.

8

**WHEN DO THE EMAILS START FLOWING?** Outbound, about 5:30 am.

**PETS OR NO?** Allergies mean, Nope. When Adam and Emma were growing up, we had Chauncey next door and Fergus across the street – our surrogate dogs.

9

6

**FAVOURITE APP?** Google maps – use it all the time...well, when my wife is unavailable; Starbucks – always need to locate the Starbucks so I can get my early morning coffee when traveling; FlightTrack – tells you your gate before the airline does. BigHand – a dictation app.

7

**THE LAW: MAGIC OR DAILY GRIND?** As tough as a day may be, the law will always be magical for me. And I love pulling that rabbit out of the hat!

10

**BEST ALBUM EVER?** I associate "best albums" with driving. Two of the best driving albums: Bruce Springsteen, "Born in the USA" and Bryan Adams, "Reckless"

**FAVOURITE RESTAURANT?** A local favourite is Zucca on Yonge, south of Eglinton. Always great seafood. But Friday night we often head over to Cam's – they have fabulous steak frites.

11

12

**WHAT DRIVES YOU TO MADNESS?** People who don't care or aren't thoughtful.

13

**WHEN YOU WANT TO UNWIND, YOU...?** Pour myself a Belvedere on the rocks, 3 olives, sit on the dock, look at the stars, and if I'm lucky, the Northern Lights.



## ADVOCACY IN ACTION



### Civil Trials Symposium – Improving Access to Justice Through Greater Efficiency

BY: SARAH ARMSTRONG,  
FASKEN MARTINEAU LLP

The Advocates' Society continues to take a leadership role in promoting access to justice. On January 28, 2015, the Society welcomed approximately 100 participants from across the country to its day-long Civil Trials Symposium, which focused on generating and sharing ideas to improve efficiency in civil trials. Par-

ticipants included members of the Bench, members of the Bar, representatives of the Ministry of the Attorney General, as well as academics and other stakeholders.

The morning session involved thought-provoking speeches and presentations by leading judges, lawyers, and academics. Associate Chief Justice Frank Marrocco of the Ontario Superior Court of Justice noted the high costs of civil litigation and the phenomenon of the “vanishing trial” and challenged participants to consider how to make civil trials more efficient, how to stop the migration of cases to private resolution and how to stem the loss of meaningful trial experience among members of the Bench and Bar. Professor Trevor Farrow, Associate Dean of Osgoode Hall Law School, encouraged participants to consider courts as real time dispute resolution centres and cautioned participants not to let the perfect be the enemy of the good. Participants heard from a panel of experienced judges of the Ontario Superior Court of Justice, moderated by Anne Spafford; and Justice Laurie Zelon of the California Court of Appeal and Professor John Flood of the UCD Sutherland School of Law provided their views on what

could be learned from the United States and the United Kingdom, respectively. Their presentations were followed by reports on lessons learned from international arbitration and the resolution of cross-border disputes.

In the afternoon, participants engaged in a lively exchange and worked together in small groups to identify best practices focusing on the use of case and trial management as ways to increase efficiency, the use of technology, and documentary and expert evidence in civil trials.

In his closing remarks, Alan Mark, past President of the Society, characterized our current civil trials system as an unacceptable “horse and buggy solution” for 21st century problems and challenged participants to work with the Task Force as it continues its efforts to increase the efficiency of the system.

Stay tuned: The Advocates' Society will be publishing a summary of the recommendations arising out of the Symposium in the form of a “best practices” booklet. This booklet will be available on the Society's website ([www.advocates.ca](http://www.advocates.ca)) together with certain papers that were presented and video clips of some of the key presentations.

## TAS SUBMISSIONS

The Society continues to make an impact on the development of jurisprudence through successful interventions before the courts:

- On January 29, the Court of Appeal for Ontario released its decision in [Moore v. Getahun](#). The Court clarified that it was not only appropriate, but also beneficial to the court, for counsel to review draft reports with expert witnesses. The Court appended the Society's [Principles Governing Communications with Testifying Experts](#) to its reasons, stating that they provide "a thorough and thoughtful statement of the professional standards pertaining to the preparation of expert witnesses".
- On February 2, the Ontario Divisional Court released its decision in [Groia v. Law Society of Upper Canada](#). The Court held that the need for civility in the courtroom must be carefully balanced against the benefits of zealous advocacy. Professional misconduct must be conduct that is not only uncivil, but also risks bringing the administration of justice into disrepute. The Court also held that the reasons of judges that comment on the conduct of lawyers are admissible in a discipline process, but the use to which those reasons may be put is a separate issue.
- On February 13, the Supreme Court of Canada released its decision in [Canada \(Attorney General\) v. Federation of Law Societies of Canada](#). In holding that certain statutory provisions enacted to protect against money laundering and terrorist financing were unconstitutional as they applied to lawyers, the Court recognized that it was a principle of fundamental justice that the state not interfere with a lawyer's duty of commitment to his or her client.

## TOP TAS BLOGS



### The New Estates Administration Tax Reporting Requirements

BY: GREG CHOLKAN,  
BARRISTON LAW LLP

After a brief hiatus, I'm back. And enough of this empirical evidence, scientific method mumbo jumbo. This time I'm just going to go on a straight up rant. The new Estate Administration Tax Act reporting requirements are ridiculous...

[Click Here To Read More](#)



## The Advocates' Exchange Career Board

**Competitive Rates Available**

The Advocates' Society offers exclusive access to litigation positions on The Advocates' Exchange Career Board.

[Click Here To Book Your Ad](#)



## Social Media

JASMINE AKBARALI, LERNERS LLP

My children think it's hilarious that I'm writing a social media column. "You?" they asked, in their very judge-y way. (Or is it spelled "judgy"? Honestly I don't know. In any case, it's tween speak for "judgmental".) They wondered who was crazy enough to give the social media column to a woman who doesn't instagram, snapchat, pinterest or even facebook; who insists on using proper language and punctuation in her texts; who is mildly tech-confused and tech-phobic; who has been known to occasionally and accidentally change the keyboard on her blackberry to some kind of Arabic script and rely on the tweens to fix it (in my defence, you can't email your helpdesk when you can't find an "h").

It's all true – I admit it unapologetically. But perhaps that's why I'm a brilliant choice. Because I am all those things. And I still tweet. And I'm on LinkedIn. And sometimes I blog. And if I can do it, so can you.

In this column, I'll explore some of the ways social media can be useful to lawyers, by providing vehicles to gather information, get engaged in the things that matter to you, build your profile, make

connections and build relationships. And nothing I propose will be too crazy or too difficult. If it were, I wouldn't do it myself.

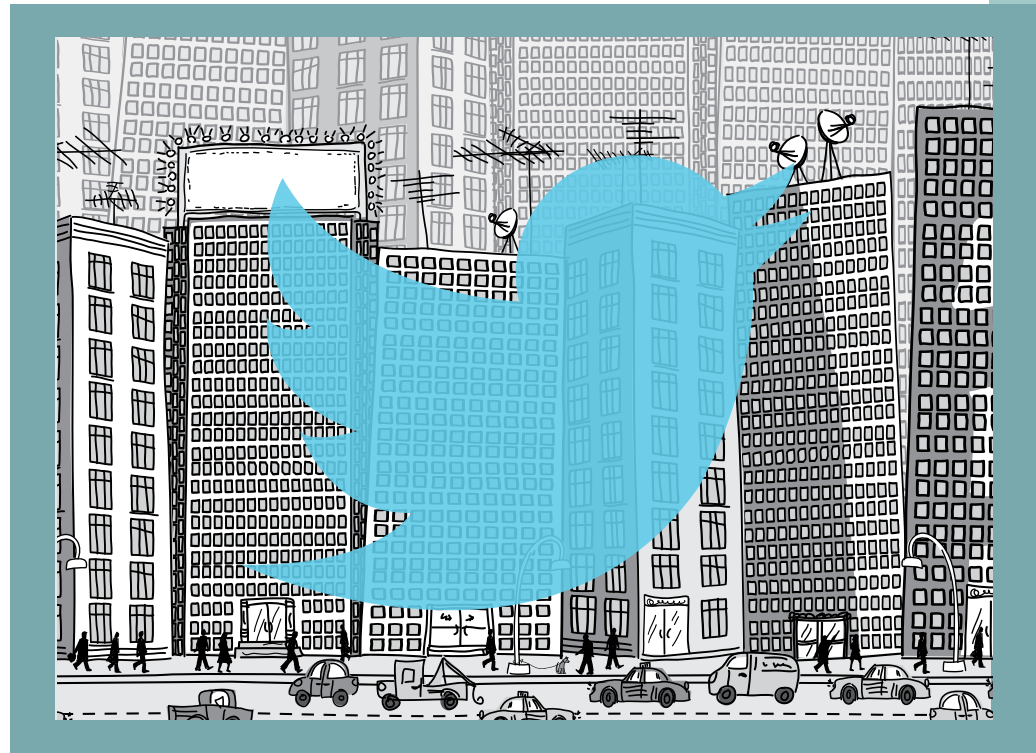
For this inaugural column, I'll focus on something timely and important. Bencher elections are fast approaching. Candidates are declared and the email barrage is probably well underway by the time you read this. But some of those emails get trapped in your spam with the viagra offers, and some you might not get. You will want to cast your vote responsibly, but that can be difficult to do when there are so many candidates and gathering the information about their platforms can be so much work.

Here's where technology comes in handy. Through the links at the end of this piece are a list of the websites and twitter timelines, where available, of bencher candidates. Those candidates with neither are not on the list below

– the exceptions proving the rule that a web and social media presence is a valuable communication tool. Click the links and check them out. Their websites will tell you about their positions on the issues that matter to them, and perhaps also to you. Their twitter timelines will tell you about them - who they are as people - in a way their websites won't (more on this in a later column). Then after you're done reading, you can decide who you want to voice your concerns in Convocation. Informed voting made easier. Score one for technology. And while we're at it, score one for me, zero for my kids.

[Click Here To View Bencher Candidate's Social Media](#)

[Click Here To View TAS Member Bencher Candidate's Social Media](#)



# End Of Term Dinner 2015

— Keynote Speaker: Scott Turow, Attorney and Best Selling Author —

[Click Here To Register](#)



## Practically Speaking: The "Nasty" E-mail

BY: DANIEL SCHWARTZ, LAX O'SULLIVAN SCOTT LISUS LLP

For our inaugural Practically Speaking column, we present some practice tips for a situation that almost every advocate faces in their career: How to respond to a nasty e-mail from opposing counsel. Have other solutions? Tweet us your tips @Advocates\_Soc

### Wait

Unless urgent, don't respond for at least a day.

### Think

Consider what strategic purpose a response will serve. Maybe there's little or nothing to say in response after all.

### Ask

Consult with a colleague on your response.

### Be Civil

Take the high road where appropriate.

### Client Comes First

Consider the impact of a response on your case. Are you spending client money to blow off steam or pound your chest?

### Keep a Copy

Print and/or file it away. Your day will only get better after that.

## *Breakfast Near Tiffany's*

Save the Date: Friday, May 22, 2015

Members Only – Register now

AROUND TAS



March 2015 Trivia challenge winners "Criminal Minds" aka Henein Hutchison LLP



Women in Litigation Conference, Ottawa, March 2015



Civil Trials Symposium, January 2015



Ottawa Winter Festive, January 2015



2015 Sopinka Cup winners from McGill Law, Fraser Dickson and Dov Whitman

# Leave Your Wallet At Home

Save The Date For Fall Convention 2015  
The Grand Velas Resort, Riviera Maya - All-Inclusive Resort  
November 11-15, 2015 | Registration Coming Soon



The Catzman Award for Professionalism & Civility  
Call for Nominations Deadline May 29, 2015



Photo (left to right): The Honourable George R. Strathy, Chief Justice of Ontario, The Honourable Justice Michal Fairburn, Julie Catzman and Peter Lukasiewicz, President of The Advocates' Society

## AWARDS



### Catzman Award, September 9, 2014

REMARKS: THE HONOURABLE JUSTICE MICHAL FAIRBURN,  
SUPERIOR COURT OF JUSTICE

It is a tremendous honour to receive the Catzman Award.

Over the last month, since I learned that I would be receiving this incredible honour, I have been approached by many people sharing their “Catzman” stories – their stories of his amazing sense of humour, intelligence, kindness and encouragement. This award has really made me reflect, once again, on how much we all miss him in our lives.

I had the very great privilege of appearing before him on many occasions and on each and every one of them, without exception, it was an absolute delight. Win or lose, and of course back then when I was appearing for Her Majesty the Queen there was no winning or losing, at least no public

display of winning or losing. Justice Catzman days were always wonderful days. Not only because he was unfailingly pleasant, but because of his extraordinary treatment of others, judges, lawyers, accused and the public alike. He would invariably set the tone for the courtroom for the day. He had a way of reminding counsel, through words and actions, that while you were lawyers doing important business, that you were first and foremost people and that your business could be conducted best when you were good people and allowed the human side to shine through.

There is one occasion in particular that has always stood out in my mind. I was a very young, very scared lawyer, appearing on a weighty constitutional issue. The court sat 5 and the President was Chief Justice Dubin. A very senior lawyer, soon to be appointed a Supreme Court of Canada judge, was on his feet arguing. I was watching Justice Catzman. He looked happy, positively gleeful, almost like he was going to elevate out of his chair in the bliss of the moment. Now, even at that age I knew Binnie was good, but, frankly, I didn't think he was that good! I soon realized, though, that Justice Catzman's glee was not directed at counsel. Rather, it was directed at a young, confident, beautiful woman who had walked into the courtroom and sat down. Justice Catzman was fixated on her and I was, in turn, fixated on him. He and I caught eyes and he cupped his hands around his face, and attempted to mouth, but in fact uttered, in this courtroom full to the brim with lawyers and media, “that's my daughter”.

EDUCATION PROGRAMS

**BENCH & BAR SERIES:  
EVIDENCE THAT WINS**  
April 15, 2015 - Vancouver

**COURTHOUSE SERIES 2015:  
CHALLENGING CREDIBILITY**  
April 15, 2015 - Hamilton

**CIVIL LITIGATION SKILLS  
CERTIFICATE PROGRAM:  
OBJECTION, YOUR HONOUR!**  
April 17, 2015 - Toronto

**SPRING SYMPOSIUM**  
April 29, 2015 - Toronto

**PRACTICE MANAGEMENT  
ESSENTIALS: MANAGING  
YOUR WAY TO TRIAL SUCCESS**  
April 30, 2015 - Toronto

For A Full Listing of  
Education Programs [Click Here](#)

ADVOCACY EVENTS

**WINE AND CHEESE  
WITH THE BENCH**  
April 16, 2015 - Toronto

**BENCH AND BAR  
PUB NIGHT**  
May 5, 2015 - Kingston

**WINE AND CHEESE WITH THE  
BENCH AND BAR**  
May 6, 2015 - Halifax

**YOUNG ADVOCATES'  
PUB NIGHT**  
May 7, 2015 - Toronto

**MENTORING  
DINNER SERIES: WELL, THAT  
WAS AWKWARD**  
May 12, 2015 - Toronto

For A Full Listing of  
Advocacy Events [Click Here](#)

PRACTICE GROUPS

**SHINING A SPOTLIGHT ON  
ARBITRATORS AND MEDIATORS**  
April 14, 2015 - Toronto

**CURRENT ISSUES IN  
ADMINISTRATIVE LAW**  
June 1, 2015 - Toronto

**YOUR PROFESSION, YOUR  
FUTURE**  
June 11, 2015 - Toronto

**AN EVENING WITH  
THE COMMERCIAL  
PRACTICE GROUP**  
May 21, 2015 - Calgary

Have you connected with  
your Practice Group lately?  
[Click here](#) for more information

For A Full Listing of  
Practice Groups [Click Here](#)



# Spring Symposium

Wednesday, April 29, 2015

9:00 am - 4:00 pm | Toronto

