

# ADVOCACY MATTERS

From The Editor | Professional Development | TAS Report | Award of Justice  
TAS Montréal | The Future Of Advocacy | Interview | Photo Gallery



## FROM THE EDITOR

### Relaxation and reflection

Lauren Tomasich, *Osler, Hoskin & Harcourt LLP*



Greetings TAS Members,

The nice thing about our TAS “terms” is that they give you the feeling that you’ve never really left school. Our TAS term ends in June with the biggest and best “law prom” in the country, which Sabrina Lucenti describes in this edition as “one for the books,” with an overarching theme of inclusivity and access to Justice. Marlys Edwardh was the recipient of the 2018 Award of Justice at End of Term, and we have included her particularly inspiring acceptance speech in this edition. She encourages TAS members – regardless of your area of practice – to act as “true trustees of the values that will make our community inclusive, and one governed by just laws...”. A nice message to reflect on

as we end our 2017-2018 term.

Hopefully our summer months are now bringing all of you patio drinks, time with kids home from school, and a more relaxed pace generally (fingers crossed?!). This is always a good time to reflect on how to be more strategic in your career focus, or think about things you want to do better when you get “back to school” in September. Two pieces in this month’s edition might be nice patio or deck reads on this front: “Imperatives for the mid-career litigator” from Lisa Marie Buccella which reminds us mid-career litigators of the importance of a strategic, creative and thoughtfully planned career path forward, and “Legal Tech for Litigators” from Brent Arnold, which provides an overview of technological solutions that could incorporate Artificial Intelligence into our practices. Hopefully the summer also provides everyone with some time to check out, turn off your law brain, and tune into something completely frivolous—for example, the Podcast “Bitchsesh” comes highly recommended by Tamara Prince in this month’s interview, and it sounds well-suited to this objective!

Read on for these features, and the rest of our stellar content. And we promise to be back with an edition that will get you “back to school” come the fall. Until then, the Advocacy Matters team wishes everyone a safe and relaxing summer! 🍹

**Editor:** Lauren Tomasich, Ltomasich@osler.com

**Contributors:** Brent J. Arnold, Lisa Marie Buccella, Laurie Livingston, Sabrina Lucenti, Sylvie Rodrigue





## PROFESSIONAL DEVELOPMENT

# Imperatives for the mid-career litigator

Lisa Marie Buccella, *Dutton Brock LLP*



The mid-point of one's career as a litigator is an underappreciated milestone. Unlike other milestones—law school graduation, articles, the first job, partnership—it has a less clearly defined beginning and conclusion. If you are a lawyer stretched by multiple professional

and perhaps personal priorities, one challenge is setting aside time and energy to plan for this occasion before it arrives. The other is that, unlike other milestones, this one is materially different. The *Mid-Career Litigators Forum*, hosted by The Advocates' Society on May 30, provided a cogent reminder of how and why.

To start, by now you are—or should be—in complete control. Yes, you were *also* in control of your LSAT score, your marks, your interview prep and your comportment at networking events (avoid the saucy meatballs, stick to water) but you were not the author of your fate. Approaching your eighth year of call, you alone are responsible for the basics:

- Putting your best work into each file each day, and making sure that your best becomes continually better.
- Ensuring thoughtful strategy and flawless execution on every file.
- Developing deep partnerships with clients by solving their pain points and establishing yourself as a trusted advisor.
- Proactively approaching the leadership of your firm with recommendations on what you should be doing next.

- Continuing to develop your area of specialty while learning new things.

When it comes to accelerating your career and growing your value both inside and outside your firm, opportunities abound: external advocacy, pro bono work, speaking opportunities, authorship (either in professional publications or on LinkedIn), mentorship, committees and board positions, not to mention working diligently to build your own book of business.

For many litigators there is a paradox of choice, and the path forward must therefore be strategic, creative and thoughtfully planned. Here is what to keep in mind:

- Identify the intersection between passion and opportunity: find opportunities that align with personal interests and career trajectory. If the two are mutually exclusive, you have a problem.
- Burn your calories selectively: once you have found your focus, do fewer things better. Be mindful that activity and impact are separate things.
- Be your own champion: tell your story, share your learnings and bring a perspective that helps make your peers better. Nobody can do it better than you and nobody will do it for you.
- Have/find a mentor. Be a mentor.
- Evaluate and course-correct: actively seek feedback, hold yourself accountable, learn from your failures and swiftly make changes when necessary.

For the mid-career litigator, the principles for success are straightforward, relatively standard and most effective when considered earlier rather than later. ▀



## TAS REPORT

# Oh, what a night! | End of Term 2018

Sabrina Lucenti, *Dooley Lucenti LLP*



Cocktails and collegiality aside, this year's End of Term dinner was one for the books! With an overarching theme of inclusivity and access to justice, the evening began with some witty dinner conversation with the guest of honour, Chief Justice of the Supreme Court of Canada, The

Right Honourable Richard Wagner, P.C., and The Honourable Madam Justice Michal Fairburn of the Court of Appeal for Ontario.

The Advocates' Society also presented Evan Thomas of Osler Hoskin & Harcourt LLP with the David Stockwood Memorial Prize and Tom Curry of Lenczner Slaght LLP with the award for Excellence in Teaching.

Marlys Edwardh of Goldblatt Partners LLP was the recipient of The Advocates' Society Award of Justice. Marlys is an inspirational advocate who, for four decades, defended the rule of law in the hopes of bringing about

social change. Marlys's story of fortitude and courage left the fixated crowd of advocates inspired to continue working towards equal justice for all. As she said in her speech: *"Justice is not about the technical application of legal principles and procedure. Justice is about working to secure an inclusive society, one dedicated to tolerance and equality and the right of every person without regard to colour, creed or sexual orientation to share and participate in the benefits of our community."*

Among the celebrations, The Advocates' Society bid a warm farewell to Executive Director Alexandra Chyczij on her retirement after an impressive 25-year career with the Society. Members also said goodbye, and thank you, to all the outgoing directors, as we welcomed our newly minted board members and President, Brian Gover.

Of course, this wonderful event would not be possible without the support of our sponsors. A special thank you, as always, to our event sponsors: Ricoh Canada, Victory Verbatim, RSM Canada, and Neesons.

See you next year! 🍷



## Advocates on Advocacy: The Best of the Journal

Tweet us your favourite article from The Advocates' Journal using the hashtag **#BestofJournal** for a chance to win a copy of *Advocates on Advocacy: The Best of The Advocates' Journal 2005-2018*.

## The John P. Nelligan Award for Excellence in Advocacy

Nomination deadline: Friday, October 12, 2018





## AWARD OF JUSTICE

# Marlys Edwardh Recipient of the 2018 Award of Justice



Good evening Chief Justice Wagner, Honourable Justices of the Court of Appeal, the Superior Court and the Ontario Court of Justice, officers and members of The Advocates' Society, our gracious master of ceremony Brian Gover and my many friends at the bar who join me this evening.

A particular thanks to Blair Bowen for his kind remarks.

It is very humbling to receive The Advocates' Society's Award of Justice and I thank the Society for this acknowledgement of my work. I am first and foremost a criminal defence lawyer who has practised at the bar since 1976. When I turned 40, I was stunned to realize that I was the oldest woman in Canada carrying on a practice in the defence bar. Oh how things have changed!

I have many stories of these early years, but they do not belong to this evening's celebration except to say I survived, and did not quit, even after a friendly police officer patted me on my butt as I stood outside what was then known as hookers court at Old City Hall, checking the list for my client's name. He helpfully assured me that if my name was not on the list I should simply go speak to the clerk.

I hold in my hands the Griffin. It is the ancient and mythical creature with the head and wings of the eagle and the body of a lion. It is the king of all creatures, emblematic of the qualities of watchfulness, courage, perseverance and speed of action.

These are the qualities necessary to defend the rule of law. But as I have said on other occasions, the rule of law would be but an empty promise if not for the rule of just laws.

The Griffin challenges us to be the trustees of the values that make justice a tangible reality in our communities.

Justice is not about the technical application of legal principles and procedure. Justice is about working to



MARLYS EDWARDH RECEIVING THE 2018 AWARD OF JUSTICE  
L TO R: PRESIDENT BRIAN GOVER, MARLYS EDWARDH, BLAIR BOWEN



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secure an inclusive society, one dedicated to tolerance and equality and the right of every person without regard to colour, creed or sexual orientation to share and participate in the benefits of our community.

We can only be worthy trustees of these values if we do not bend to fear or prejudice, and pander to it.

When I chose to practise criminal law, I did so because I believed it could be a powerful tool for social change. I also did so because many of the human and civil rights issues I thought to be compelling were most transparently engaged when the individual faces the state as a singular antagonist.

My legal education and even the jurisprudence of the court, in early times, painted a picture of the criminal justice system as finely tuned. Indeed, we were taught that the criminal justice system was structured to ensure that it was better to let 10 guilty persons go free rather than to convict one innocent.

Many people believed we had gone too far creating rules and procedures that coddled the criminal accused. We were not taught to always step back, take stock, and realize how much work we still had left to do. We were smug.

In my early years, the work of breathing life into the Charter of Rights and Freedoms went hand-in-hand with the paradigm shift which occurred because of the deeply disturbing phenomenon of the high-profile wrongful convictions of Marshall, Milgaard, Morin, Sophonow, Truscott and others.

The Inquiry into the Wrongful Conviction of Donald Marshall Jr, was the first of such public inquiries. And in 1989, the Commissioners opened with a scathing indictment of

criminal justice in Nova Scotia.

They stated that, "The criminal justice system failed Donald Marshall Jr. at virtually every turn, from his arrest and wrongful conviction for murder in 1971 up to and even beyond his acquittal by the Court of Appeal in 1983."

We now know that the criminal justice system can suffer from very serious frailties. Investigative techniques, forensic science, expert witnesses and procedural provisions cannot now be presumed to promote the conviction of only the guilty. They must continue to be tested and challenged against the standard of protecting the innocent.

The recognition and understanding of these frailties led me to develop my practice in the areas of constitutional law and national security law. We can never be smug! Problems abound in all areas of the law.

My successes do not belong to me. Throughout my career I have been supported by wonderful colleagues, associates and others who have worked hard to obtain good results in the cases we litigated. These are always shared accomplishments.

As some of you know, I am at the stage where I am withdrawing from practice. Having spent over 40 years in this endeavour, it is now time to pass the baton to others. I encourage you to continue this struggle.

The issues of our time are complex and challenging. Only if you act as true trustees of the values that will make our community inclusive, and one governed by just laws, can you meet the challenge of the Griffin.

Thank you again. 🦋

## THE NEXT 6

### **Examination-in-Chief Skills Workshop**

Wednesday, August 15, 2018

Toronto | 1:00 PM

*To learn more click here*

### **1er Gala Annuel de La Société Des Plaideurs**

Thursday, September 20, 2018

Montreal | 6:00 PM

*To learn more click here*

### **Eighth Annual Securities Symposium**

Wednesday, September 5, 2018

Toronto | 9:00 AM

*To learn more click here*

### **Employment Litigation Advocacy**

Friday, September 21, 2018

Toronto | 9:00 AM

*To learn more click here*

### **Breakfast With Tiffany's**

Thursday, September 13, 2018

London | 8:00 AM

*To learn more click here*

### **Breakfast Near Tiffany's**

Wednesday, October 10, 2018

Toronto | 8:00 AM

*To learn more click here*



TAS Montréal

## Succès retentissant du premier symposium pour les femmes en litige à Montréal

Sylvie Rodrigue, Ad.E., *Torys LLP*



Le tout premier Symposium pour les femmes en litige organisé par la Société des plaideurs a eu lieu à Montréal le 31 mai dernier sous la coprésidence de Me Audrey Boctor et moi-même.

L'événement a réuni plus de 50 avocates québécoises qui ont pu échanger tout au long de la journée sur différents sujets dont la diversité au travail, l'évolution de la pratique pour les femmes au Québec, le développement des affaires et les habiletés requises pour avoir du succès à la Cour. Les avocates ont également bénéficié de deux séances de mentorat en petits groupes sous la direction d'avocates chevronnées

du Barreau de Montréal, ce qui fut fort apprécié par toutes les participantes. Le panel des juges, modéré par la juge en chef du Québec, l'honorable Nicole Duval Hesler, a été l'un des moments forts de la journée. Ce panel était composé des honorables juges Marie-Josée Hogue de la Cour d'appel du Québec, Joanne Gauthier de la Cour d'appel fédérale et Suzanne Costom de la Cour du Québec.

Le clou du Symposium fut sans aucun doute l'allocation de l'honorable juge Suzanne Côté de la Cour suprême du Canada qui a dressé un portrait détaillé de l'évolution des femmes en droit depuis le début du siècle.

Nul doute que le Symposium pour les femmes en litige deviendra maintenant une tradition à Montréal comme c'est le cas depuis quelques années à Toronto. ▀

*Note de la rédaction: La Société des plaideurs est honorée de recevoir le prix d'excellence professionnelle Frank V. Harris pour sa série de symposiums pour les femmes en litige. Ce prix prestigieux sera décerné par l'Association for Continuing Legal Education le 31 juillet.*

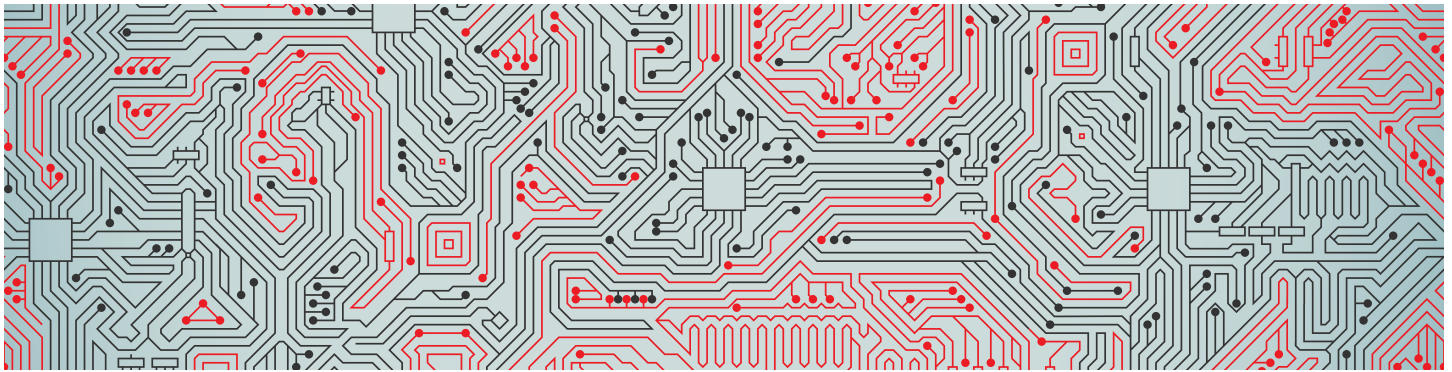
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[www.advocates.ca](http://www.advocates.ca)

TAS Members post for free.





## THE FUTURE OF ADVOCACY



### Legal Tech for Litigators

Brent J. Arnold, *Gowling WLG (Canada) LLP*

The machines are here! The last few years have seen an explosion in the use of artificial intelligence, machine learning, and other software-based innovations in law. Here's a sampling of software solutions designed to focus legal research, simplify document review, and improve a litigator's forecasting of legal outcomes.

#### **Litigation Companion**, by Litera Microsystems

- A Microsoft Word add-in that catches and fixes litigation-specific proofreading and editing issues (e.g. consistent use of defined terms, correct paragraph numbering and cross-referencing, and proper case citations).
- Claims to reduce proofreading times for litigation documents by 90%.
- Currently finalizing its Canada-specific citation rulebook.

#### **Loom Court Analytics**, by Loom Analytics

- Combines legal analysis and machine learning to generate case law reports including graphical breakdowns of outcomes.
- Its reports locate cases based on specific criteria and provide overviews of trends in case law.

#### **Rangefindr**, by Rangefindr

- Helps practitioners find criminal sentencing ranges for criminal offences based on a multi-factor analysis.
- Cases are tagged by human reviewers to ensure accuracy.

#### **RelativityOne**, by Relativity

- eDiscovery software that applies machine learning to review documents for relevance based on human coding decision input.
- Active Learning capability continuously updates and presents a collection of uncoded documents most likely to be responsive, based on realtime coding decisions from your review team.
- Provides visualizations to allow for quick sifting of documents.

#### **Tax Foresight and Employment Foresight**, by Blue J Legal

- Uses AI to predict judicial outcomes for a range of issues in tax and employment disputes by applying machine learning to existing case law.
- Claims to predict correct legal outcomes 90% of the time.
- Results can be sorted (e.g. by judge, level of court) and underlying judgments can accessed via CanLII from within the program. ▀



## Interview with Tamara Prince, *Osler, Hoskin & Harcourt LLP*

Compiled By: Laurie Livingstone, *Cassels, Brock & Blackwell LLP*

Tamara Prince is a partner with *Osler, Hoskin & Harcourt LLP* in Calgary. Tami has a broad commercial litigation practice that includes energy and franchise litigation as well as class action defence.

### 1. Q. TV/movie lawyer you most relate to and why?

**A.** These days I appreciate (rather than relate to) the Australian TV lawyer Cleaver Greene from the series "Rake" (NOT to be confused with the American version of the series). The character of Cleaver Greene is both brilliant and extremely unsuccessful. Great for belly laughs.

### 2. Q. What drives you insane?

**A.** People who are unkind.

### 4. Q. What gives you sanity?

**A.** Spin class, family and friends.

### 3. Q. Any pre-game rituals before court?

**A.** No. I am too impatient for rituals. I always wonder if a little pre-court meditation/ yoga would benefit me. I will never find this out.

### 5. Q. Podcast recommendation?

**A.** The only podcast I listen to is called "Bitchsesh". It is done by two women, the funniest people alive on the planet today, who do a weekly commentary on the latest reality TV episodes, particularly involving "housewives". Bitchsesh is so ridiculous and irreverent and naughty. It is my Saturday morning laugh out loud before starting the day.

### 6. Q. Pets: Yes? No? What kind?

**A.** YES YES YES! My dog, Daisy, is a 6.5 yr old 38 lb labradoodle. She is the happiest, fluffiest, curliest part of every single one of my days.

### 7. Q. Restaurant recommendation for out of town counsel?

**A.** The Coup on 17<sup>th</sup> Ave, very tasty vegetarian options and interesting drinks. And it offers a chance to observe hipsters in their natural habitat.

### 8. Q. During your commute to work you are ...?

**A.** Listening to the news and chatting with my husband.

*Continued on page 10*

## Fall Convention 2018

Montage, Laguna Beach | November 7-11 2018



**9. Q. Most embarrassing moment as a litigator?**

**A.** Where should I begin? So many options... Maybe it was the time I (as a very new student) accidentally pleaded an accused guilty to two charges rather than just the one charge that had been negotiated with the prosecutor. Or maybe the time, as a first-year lawyer, I was confused about what the judge had ordered and, rather than asking for clarification on the spot, I waited until the end, stood up and asked to be heard again, and confessed that I didn't understand the order. Or it could be the time when I... As I said, so many options.

**10. Q. Most proud moment as a litigator?**

**A.** Every time I go to court.

**11. Q. Your key to staying healthy in a stressful profession?**

**A.** Exercise and laughter.

**12. Q. Other than files, name 3 things that are always on your desk?**

**A.** #1. Photo of my dog, Daisy; #2. Jewelry box full of random items, including necklaces, bracelets, earrings, lip-gloss, bobby pins, pens, etc; #3. Stack of law-related articles I intend to read.

**13. Q. What word or phrase do you most overuse?**

**A.** "Sorry"

**14. Q. Preferred social media platform?**

**A.** I don't have one. I don't know what most of them are.

**15. Q. Favourite vacation spot?**

**A.** Seoul, Korea. I lived in Seoul from 1995 to 1999, and have been back every couple of years ever since. The food is amazing and I love the energy and optimism of the place.

**16. Q. How long from the time you wake up in the morning to the time you first look at your phone?**

**A.** About 4 seconds.

**17. Q. A person in the profession you look up to?**

**A.** So many to choose from. More recently I have been impressed by the advocacy style of tax litigator Al Meghji. It is inspiring (for litigation nerds) to watch Al distill incredibly complex legal concepts while delivering argument in a captivating and human way.

**18. Q. Your best advice for young litigators just starting out?**

**A.** Work hard and just be yourself.

**THE SIX WORD CHALLENGE**

Using six words, no more, no less, finish this sentence:

The best part of summer in Calgary is ....my dog's happy face after swimming. ▀

END OF TERM AND MORE



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