

ADVOCACY MATTERS

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FROM THE EDITOR

Spring Cleaning

Lauren Tomasich, *Osler, Hoskin & Harcourt LLP*



It's about that time of year when we could all use a little "spring cleaning" in our practices and lives. We can all agree, it's been a long winter, and it is getting to that point in the year where we all could use a bit of motivation to get us through to spring. With this in mind, in this

March edition, the Advocacy Matters team looked for strategies and advice to bring a little more efficiency, activity and inspiration into our practices.

Brent Arnold – our resident tech expert – shares his list of top apps for litigators. Even the late adopters among us have come around, and lawyers of all vintages are using more apps to organize their practices and beyond. Brent's apps are specifically geared towards litigators,

and can help us all spring clean our technology routines and become even more tech savvy.

Work is not the only thing that stands to benefit from a boost as we look towards spring. We all struggle to incorporate and maintain a regular and enjoyable fitness regime – and that struggle is all the more real during winter months! We all know that the last thing we have is time, and Sabrina Lucenti helps us deal with this perennial struggle with suggestions for fitness in our offices, throughout the workday and on the fly.

Finally, the spring cleaning regime for litigators would not be complete without some sage advice about reflecting on our practices to develop our skills, as well as the skills of those we practice with. The Honourable Thomas A. Cromwell gave a keynote address at The Advocates' Society's Celebrating Advocacy event in Calgary on January 23rd. Andrew Sunter shares with us some highlights of Justice Cromwell's remarks, including the importance of not only getting experience, but reflecting on experience. It sounds simple, but is easy for a litigator of any vintage to lose sight of this.

With that, I have no doubt that this new season will bring a TAS community full of efficient, active and inspired litigators. Read on and get ready for spring! 🐉

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TAS REPORT

“Five Things Somebody Should Have Told You” – Reflections from The Honourable Thomas A. Cromwell

Andrew F. Sunter, *Burnet Duckworth & Palmer LLP*



On January 23, 2018, The Honourable Thomas A. Cromwell gave the keynote address at The Advocates’ Society’s Celebrating Advocacy event at the Petroleum Club in Calgary. During these remarks, he reflected on a career in litigation and indicated that while his reflections

might be most relevant to more junior members of the bar, he hoped they might also spur senior lawyers to think more about their position as mentors and role models. In this spirit, he titled his remarks, “Five Things Somebody Should Have Told You”.

These five things were:

- Getting into (or at least near to) the action as much as possible as a new litigator;
- Finding and keeping mentors;
- Becoming your own teacher;
- Learning resilience; and
- Getting outside your office and being active in your community.

While all the points the former SCC justice touched on are sage advice for litigators of all vintages, I think it is worth highlighting two that many of us do not focus on as much as we should (I certainly do not).

First, he emphasized the importance of becoming your own teacher throughout your career. Look at what you are doing critically and also learn from what you see others doing (both good and bad). Everything you do as a litigator—a cross-examination, a court appearance, correspondence

with opposing counsel, etc.—should be taken as a learning opportunity. After every hearing or examination, sit down and say, “Now, what did we learn from that?” Talk about the good, the bad and the ugly of what you and your opponent did. To emphasize this point, former Justice Cromwell read an apt quote from the American philosopher John Dewey: “We do not learn from experience ... we learn from reflecting on experience”.

Second, he highlighted the importance of learning resilience. He explained that the word “resilient” refers to the quality of resuming the original shape after bending, stretching or compression. In the legal profession, resilience allows us to recover from setbacks and to keep going when things get tough. When you are trounced in court or when a professional ambition is denied to you, you need to have the ability to pull yourself together and keep moving. He described the skill that litigators need to develop as “stress-hardiness”. We cannot avoid stress in our profession, but we can learn to deal with it effectively. He emphasized that few things are more important than resilience and stress-hardiness, and that we should all be open to getting help to build them up (and to not consider this some sort of weakness).

In my humble view, becoming your own teacher and developing your stress-hardiness are interrelated. We should look at everything we do as opportunities for self-reflection, learning and development, not just as wins and losses. Rather than feeling disappointed or inadequate after an unsuccessful hearing or examination, we should try to take the Honourable Thomas A. Cromwell’s advice and reflect on the experience and learn. ▀



ADVOCACY LIFESTYLE

Put Some Spring in Your Step by Sneaking Fitness into Your Day

Sabrina A. Lucenti, *Dooley Lucenti LLP*



Why is it that most weeks we can find time in our jam-packed calendars for everything but me-time? Whether it's eating a balanced meal or taking time to recharge, most lawyers find it too difficult to disengage from their desks to fit in some form of exercise. Personally, I find the only way I can work out during the week is if I go to the gym during lunchtime. In fact, I have to thank my former colleague and fellow TAS member Erin Durant for introducing to me lunchtime runs (particularly since I was holding her back most of the time). *Continued on page 4*



If you can't make time for daytime workouts, try deskercising with some office-friendly equipment such as a balance ball chair or a SitTight™. These products won't get your heartrate up, but are designed to help improve your posture and increase your core strength all while tackling your billable hours.



You could also opt for a mini exercise bike like the DeskCycle™ Pedal Exerciser that fits conveniently under your desk. Or, try a mini elliptical. I can't promise these devices won't leave wrinkles in your freshly pressed suit, but they will get you moving, which is key.



Research has also found that using a standing desk for a few hours each day can help you burn calories. If you don't want to commit to a standing desk, check out VARIDESK® for adjustable-height desk converter you can use on your existing desk.



However, if traditional (or non-traditional) workouts are not for you, make a concerted effort to get your steps in during your work day. Don't always rely on email. Walk over to your colleagues if you have a question. Don't look for the parking space closest to the front door. Venture out. And when you're not lugging your court bag, take the stairs instead of the elevator.

Silicon Valley based author and speaker Nilofer Merchant often talks about how sitting has become the new smoking. Ms. Merchant explains that those of us with sedentary jobs can learn to be healthy and, in turn, more productive by implementing a simple change in your daily work routine – walk and talk.

If you haven't seen Ms. Merchant's TED Talk titled "[Got a Meeting? Take a Walk](#)," I encourage you to watch it. In three and half minutes, Ms. Merchant illustrates how easy it is to fit movement into your otherwise stationary day. She explains how taking care of your health doesn't have to come at the expense of your work-life obligations; how "fresh air drives fresh thinking" and that literally taking yourself out of the box that is your office will lead to out-of-the-box thinking and results.

So, if you cannot make it to gym during your work days, make your conference call hands-free so you can walk and talk. Or, swap the boardroom for a walk down the street. After all, your skinny no-foam vanilla latte can easily be taken to go. And don't worry about pen and paper. Wherever you're meeting, use your smartphone for trouble-free notetaking.

Most employers can't offer Google-esque employee perks, but the majority will agree that taking a break at some point in your day to decompress and recharge is necessary. If motivation is what you need, join a firm sporting team or partner up with a colleague for a recreational activity that doesn't include sitting. Fitting fitness into your routine will help you stay healthy, boost your creativity and, of course, improve your work product. ■

THE NEXT 7

Fireside Chat on Advocacy
Thursday, March 29, 2018
London | 5:30 PM
To learn more [click here](#)

Nelligan Award
Wednesday, April 18, 2018
Ottawa | 6:00 PM
To learn more [click here](#)

Electronic Trials
Monday, April 9, 2018
Toronto | 9:00 AM
To learn more [click here](#)

Women in Litigation
Thursday, April 19, 2018
Calgary | 10:00 AM
To learn more [click here](#)

Maîtrisez L'interrogatoire Préalable
Friday, April 13, 2018
Montreal | 9:00 AM
To learn more [click here](#)

Spring Symposium
Wednesday, April 25, 2018
Toronto | 9:00 AM
To learn more [click here](#)

End of Term Dinner 2018 | Thursday, June 7, 2018
Save the date for Canada's largest gathering of advocates
Toronto | Reception: 5:30 pm | Dinner: 7:00 pm | Black Tie
To learn more [click here](#)



THE FUTURE OF ADVOCACY



Apps for Lawyers

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

With spring cleaning around the corner, why not take some time to take control of your digital clutter too? Here are some of my favourite cheap or free apps for managing files, news, and even exercise:



Notability A simple, intuitive tablet-based note-taking app that lets you type or handwrite notes, annotate documents with virtual pens and highlighters, and file, export or email your notes and markups. Thanks to [Heather Hansen](#) for putting me on to this.



TranscriptPad Lets you quickly review and issue-code transcripts and generate court-ready custom summary reports, sorted by issue, in a variety of formats. Saves hours of manual chart-building and duplicative review.



Feedly Available in phone/tablet app and browser. Lets you collect all your news and RSS feeds in one place, group them however you like, and easily post items to Facebook, LinkedIn, Twitter, etc.



GoodReader A pdf reader/editor that accommodates several levels of subfolders and lets you have multiple tabs open at once. Now you can take an iPad to court or discoveries instead of boxes of materials and productions. There are many similar programs but this one's a favourite of U.S. lawyers and increasingly common among Canadian counsel and judges.



TrialPad Low-cost, tablet-based trial presentation software. Lets you show documents with effects (call-outs, highlighting, and virtual laser pointer), play video footage, and mark digital documents as exhibits. This app can even bring a document-based case to life.



Couch to 5K Runner Spending too much time at your desk? This simple phone-based running app helps you pace out your runs and build gradually from zero to 5K (and gently nags you when you skip too many days). 🏃



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A hand is holding a smartphone. The screen shows a red interface with a white pause button in the center. Above the button, there's a progress bar and some text. Below the phone, there's a blue speech bubble with the word 'SPEECHLIVE' inside.

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PHILIPS



DUBIN LECTURE - TORONTO
DELIVERED BY THE HONOURABLE THOMAS A. CROMWELL



Interview with Andrea McEwan, *Whaley Estate Litigation Partners*

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

Andrea McEwan is a partner at *Whaley Estate Litigation Partners* in Toronto. Andrea's practice focuses on wills, estates, and trust capacity litigation.

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

A. Elle Woods. She is unabashedly herself and a better lawyer for it. Plus she works hard and genuinely wants to make the world a better place.

2. Q. What drives you insane?

A. Rude, aggressive, or demeaning lawyers. Although we deal with conflict for a living there is no need to make other lawyers' lives miserable.

4. Q. What gives you sanity?

A. My family and friends.

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

A. I generally head to court early to get coffee and re-read my submissions. It gives me a chance to think through any difficult issues and consider the key points I want to make.

Q. Most proud moment as a litigator?

5. A. I recently conducted my first trial as lead counsel. We believed strongly in our position and worked incredibly hard to ensure we presented it in an efficient and persuasive way. We were ultimately successful. It was a fantastic feeling to be able to send the decision to the clients.

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

A. This is a work in progress. My husband and I try to cook more often these days and fit in exercise where we can. I've recently found a gym with great child care which makes getting there on a Saturday morning a little easier.

8. Q. Preferred social media platform?

A. Most people who know me would agree that I'm not great with any social media platform.

7. Q. Favourite vacation spot?

A. New Zealand. My mom is originally from New Zealand so I'm a bit biased but it has gorgeous beaches, hiking, scuba diving, adventure, and great food and wine.

Continued on page 8

Spring Symposium 2018

Wednesday, April 25, 2018 | To learn more, [click here](#)

9. Restaurant recommendation for out of town counsel?

A. I live in the east end of Toronto so in an effort to show them the other side of town I'll say Lake Inez for dinner or Bodega Henriette for brunch.

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

A. Photos of my family, coffee, and multiple pens.

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

A. About 30 minutes.

12. Q. A food you can't stand?

A. Smoothie bowls. Why are you charging me more for a smoothie I have to eat with a spoon?

13. Q. Most embarrassing moment as a litigator?

A. Probably best not to put this down in writing.

14. Q. During your commute to work you are ...?

A. Reading fiction on the TTC.

15. Q. Podcast recommendation?

A. Malcolm Gladwell's Revisionist History.

16. Q. Pets: Yes? No? What kind?

A. Yes. A rescue dog who is a hound mix of some variety. She's the best.

17. Q. What word or phrase do you most overuse?

A. Sorry.

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

A. There are too many to single any one person out.

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

A. I was lucky enough to find an incredible mentor early in my career. He helped me understand that there is no one way to do this job well. You have to find the style of litigation that works best for you or it will always feel like you're pretending to be someone you're not. That and enjoy the down time; the busy times will come again.

THE SIX WORD CHALLENGE

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

I'm looking forward to spring because I can bike to work again. 🏍

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