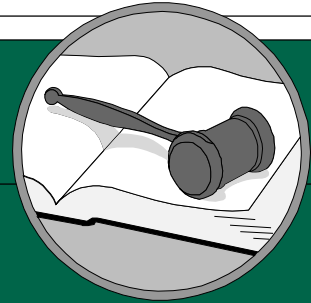


WORKING WITH THE LAW

NEWS FROM EMOND MONTGOMERY

CANADA'S LEADING PUBLISHER OF LAW-RELATED TEACHING MATERIALS



FALL TERM UPDATE

Getting ready for the winter term

by Dave Stokaluk

Now that the fall 2002 term is in full swing, we thought that this would be an appropriate time to provide you with some diversionary reading material from Emond Montgomery Publications (EMP) in the form of this new issue of *Working with the Law* (WWL). The 2003 winter term is looming, so please peruse this bulletin with your second-term orders in mind. The earlier we have your order delivered to your bookstore, the less chaotic it will be for you, your students, and your bookstore in the new year.

This WWL issue features an interview with Philip Sworden, Coordinator of the Law Clerk and Court and Tribunal Agent Programs at Humber College. In the interview, Philip and Jim Black discuss some of the influences that have shaped his

teaching and writing in the field of law. Also featured in this issue is an article by Doug Cochran, "Interactive Interviewing: A Core Skill in the Legal Environment." Doug Cochran teaches paralegal interviewing at Capilano College in North Vancouver, and is also coach of the successful UBC Law School interviewing team. He has submitted a manuscript to us for a text on this subject and we expect to publish *Legal Interviewing* in early 2003.

EMP recently released these important and much-anticipated publications: *Introduction to Canadian Law*, *Ontario Annual Practice 2002-2003*, *Wills and Estates*, and several important new Canada Law Book annual statutes.

To bring our new titles to your attention, we have also undertaken several

new initiatives. Along with an annual, full-colour Working with the Law catalogue (if you have not received a copy of the 2002 version, please contact us), we will soon be sending out pre-publication colour flyers, which feature highlights of WWL texts. These flyers will help you with your text selections by providing a description of each resource's features and benefits, contents summary, and specs, and a complimentary review copy request form.

We will also keep you apprised of new releases and editions, instructor guides, etc., by way of e-mail. Our commitment to provide the best possible customer service to you, your colleagues, and your students throughout the coming years is unwavering. ■

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A CORE SKILL IN THE LEGAL ENVIRONMENT

Interactive interviewing

by Douglas Cochran

Interviewing is an essential component of any professional's practice, simply because we operate in a service industry. Very few clients consult with lawyers unless they have a lot to lose. Often what can be lost is money — whatever the amount, it will be significant for the client. Sometimes even more is at stake, loss of liberty or loss of a relationship with children. For a layperson, legal processes are stressful, confusing, and alienating. We can help clients weather the process with the reduced stress, increased understanding, and enhanced confidence that comes from being well served.

As professionals, we strive to meet client needs effectively and efficiently. The better we identify issues and coordinate our efforts with those of the client to overcome obstacles, the greater the service we provide.

An effective interviewer not only identifies the areas where she can assist the client, but simultaneously establishes a working relationship in which the client feels appreciated and understood and has confidence in the interviewer's ability to help accomplish the client's objectives.

Conversely, an ineffective interviewer adds to the confusion and uncertainty by not establishing a good rapport with the

Interactive interviewing, page 3

Author Philip Sworden discusses his professional background

Philip Sworden, author of *An Introduction to Canadian Law*, sat down with WWL Editor Jim Black and filled in some of the details of his professional life. What follows is a distillation of that November 5, 2002 conversation.

Jim Black: As one of EMP's authors in the WWL field, would you talk about your background, your development as a writer and a law instructor, and the influences that have shaped you and given substance to your writing? Please talk a little bit about your defining passions in the study of law and history.

Philip Sworden: Thank you for inviting me, Jim. I can perhaps begin by saying that I grew up in Hamilton, took my schooling there, went on to McMaster University where I graduated in 1973 with an honours degree in history. While there, I knew I wanted to attend law school. . . . Maybe it was a way of pleasing my father, who was a policeman — I'm not sure — but I was accepted at the University of Toronto Law School and I went there for my LLB. At the time, I also knew I wanted to

continue on in history — because at some point I wanted to teach history. My articles were with the law firm Millar Alexander Tokiwa and Isaacs in Hamilton; that's the firm of Lincoln Alexander, who was then a Member of Parliament and later went on to be the Lieutenant Governor of Ontario.

JB: In a way, it was a precedent-setting partnership, was it not?

PS: Yes, it was. It was called Hamilton's United Nations' law firm. It was composed of John Millar, who was of Irish background; Lincoln Alexander, who was black; Paul Tokiwa, who was one of the first Japanese-Canadian lawyers; and Peter Isaacs, who is an Aboriginal Canadian — a Mohawk. I articulated with that firm and was very much influenced by Lincoln Alexander; helped by the fact that I actually shared an office with him when he came back from Parliament and we would often chat, and I suppose it was he who opened my eyes to politics and public service.


JB: Well, that's certainly a strong, positive model to start with. . . .

PS: Yes, he was. . . . And then, after passing the bar, I practised law in Hamilton for eight years, both as a partner and on my own. I worked for a number of law firms and then finished my practice — working briefly as counsel for the Catholic Children's Aid Society in Hamilton. I then decided that I would resume my graduate studies with a view to teaching in higher education. Even while in practice, I went back to McMaster and took my MA part time. Subsequently, I was accepted in McMaster's PhD program. And so I went back to school for six years of full-time studies, getting my doctorate in history in 1992. My thesis was on Sir John Beverley Robinson and the development of law in Upper Canada. I then taught for a year at Osgoode Hall Law School and then for three years at Laurentian University in Sudbury, where I was part of the

law and justice program. From there I moved on to a job as a part-time member of the Ontario Board of Parole . . . adjudicating cases for about three years. I also began teaching part time at Humber College in Toronto in the Business School . . . in their law studies program. When the opportunity came, I applied for a full-time position and have since been teaching there full time and serving as the Coordinator of the Law Clerk and Court and Tribunal Agent programs.

JB: What are some of the strengths that are brought to the table in the programs you offer at Humber College?


PS: Both are two-year programs and the curriculum is designed to make our students very competitive when they enter the workforce. Both programs have an advisory committee composed of lawyers, a judge, employers, and former graduates, who meet twice a year and go over the curriculum and make recommendations on how the program needs to evolve to remain current. Most of the courses in the law programs are taught by lawyers; in the law clerk program, we also have teachers who have worked as law office administrators — who have been in the field and can bring that practical experience to the students. Each of the programs has a field practice component in the students' final semester, when we place the students in a law office or court or government office to gain experience before they graduate. One of the things I've initiated is a networking breakfast every January where we invite employers to the college to meet our students; this lets students learn more about their career options and it often leads to job offers. The career centre at Humber is fantastic, working with students to make sure their résumé is up to date and post jobs on the student e-mail sites. We also have a job-posting board. . . . So our emphasis is to try to make sure our students are as competitive as possible.

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JB: What, in your view, are some of the competencies or understandings that students coming out of these programs will need to have as professionals?

PS: Well, a graduate needs a good skills base to take on an entry-level position. Our graduates have accumulated two years of knowledge in the legal field. We stress legal writing. We stress in the Law Clerk program that our graduates can type at a minimum of 50 words a minute without error — that's the current standard for the Ontario government. We try to prepare them for a professional life of sustained learning.

JB: You're providing the tools for them to carry on that learning?

PS: I think it was Churchill who said, "Give us the tools and we'll get the job done." Yes, we hope to provide students with the tools needed to get the job done. The paralegals are a little bit different because they go into a courtroom dynamic, so we have to stress with them the value of being able to speak well, to write well, to be able to articulate their position in front of a judge or an adjudicator, to be able to think on their feet, and to be aware that they themselves are on trial when they represent clients — that the judge will be judging them.

JB: Humber College and the whole community college community are, I understand, going to offer students the option of pursuing a four-year program in selected fields — including, in your case, paralegal studies.

PS: That's correct. The Ontario government has now said that community colleges can award applied degrees — which are different from the degrees offered at universities. They have a more practical aspect to them; they combine both practical and theoretical elements. The Ontario government awarded Humber College the opportunity to give a bachelor of applied arts in paralegal studies. This is going to take effect in September 2003 at Humber's Lakeshore Campus.

JB: How do you envisage the new four-year degree program impacting on the status and the future of the two-year diploma program?

I articulated with [Millar Alexander Tokiwa and Isaacs] and was very much influenced by Lincoln Alexander; helped by the fact that I actually shared an office with him when he came back from Parliament and . . . it was he who opened my eyes to politics and public service.

PS: Well, I'm hoping that the two programs will be very compatible. Students in the two-year program actually are very interested in the four-year program, because they see it as a chance to continue to expand their skills and upgrade their credentials.

JB: How will the degree paralegal program be differentiated from the current diploma program?

PS: They will be different, but the core content will be similar in the sense that we will have to stress work in small claims court — and we're proposing to put in several courses that will assist the student in that environment. Legal research — we'll be able to offer more courses there as well. Equally important, some of the courses will introduce theory that students in the two-year program don't have the opportunity to experience because of the relative shortness of the program. In the ADP, we're proposing a course, for instance, called "Philosophy of Law," where we will examine different philosophers and their views of the law — something that is not currently available in the diploma program. For a degree program, such a course would be in keeping with the theory and the abstract nature of law and we hope, for instance, to even have upper-level courses that will be structured more like a seminar — such as exists at upper-level courses in university — again, something that is not possible in the two-year program.

JB: Well, Philip, before we run out of time, I'm wondering if you could talk about how your thinking and your experience and your academic background have impacted on the way you have chosen to create the new textbook, *An Introduction to Canadian Law*.

PS: It is my belief that a teacher can use history as a teaching tool to explain to students how we got the body of law that we did. It just doesn't exist as if it was always there — it has a set of antecedents and it has a history, legal elements emerged and took shape in a continuum, on their way to assuming the end result we now see. When students go into the classroom, they're seeing the end result of hundreds and even thousands of years of history and development. So what I try to do is show them how the historical dimensions of law can make current law more understandable and engaging for them. Many aspects of law and jurisprudence are presented in a historical context and students are introduced to real-life examples to illuminate its meaning and significance in a contemporary setting. ■

Interactive interviewing

continued from page 1

client, by not thoroughly exploring the information the client has at his disposal, and by missing opportunities that otherwise exist when the interviewing task is professionally managed.

Effective interviewing will improve a client's chances for success with his legal issues, and the improved working relationship will improve the client's satisfaction with the service we provide. This is particularly important in legal matters where success cannot be guaranteed and there is more often than not a winner and a loser when matters are litigated.

Finally, effective interviewing is a skill that can be learned enjoyably, with attention and practice. The real question is: Why wouldn't a professional choose to develop this skill in order to better serve her clients? ■

Italian court relies on EMP text

by Laurence Olivo

The text *Fundamentals of Contract Law*, which Jean Fitzgerald and I wrote, was cited with approval as an authority on Canadian contract law in a family law case before the court in Arezzo, Italy. The issue was whether the Italian courts will enforce Canadian divorce corollary relief law for Canadian citizens now resident in Italy. Apparently, the answer is “yes.”

Relying on Fitzgerald and Olivo, the court interpreted a separation agreement made in Italy according to Canadian contract law.

Translation of the relevant part of the judgment in *Sachs v. Sachs*, the agreements in view of future divorce between foreign citizens are operative in Italy (Cass. 3 May 1984, n. 2682):

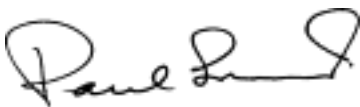
Harvey Sachs claimed the contract was the fruit of common error but did not produce any norms to support that this would disqualify a contract, and . . . was so general that the court cannot take on the burden of ascertaining this . . . and the other party, Barbara Sachs, produced a text entitled “Fundamentals of Contract Law” by Fitzgerald and Olivo which excludes the relevance of error . . . therefore this argument must be rejected. ■

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Thanks.



Paul Emond
President
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ADDENDA

We appreciate when instructors point out required changes

by Dave Stokaluk

Law is an ever-changing landscape. As legal publishers, we find it frustrating when, as soon as the ink dries on a new legal text, legislation and other pertinent information associated with the text has changed, thus rendering our new release progressively out of date. Given the costs associated with printing books, it is not prudent for us to reprint an entire text with each legal amendment — however significant.

Our staff and authors often discover these changes, but more often the instructors who teach with the text bring this information to our attention. We greatly appreciate this and encourage you to continue doing so.

Once the required changes are made, we provide addenda/errata to reflect these amendments to the body of law. The information is also incorporated into reprints or in subsequent editions. As soon as we have the new material in hand, an e-mail announcement is sent out to instructors and coordinators in the course advising of the availability of such addenda. Those responding then receive the document as an e-mail attachment.

Just this summer we issued updates for two texts from the Working With the Law series.

The *Debtor-Creditor Law and Procedure* addendum acknowledges minor changes in procedure or in best practices. This update identifies on a chapter-by-chapter basis errata and comments on changes in the law, procedure, and practices in the field. In addition, the author, Laurence Olivo, provides many useful teaching tips.

The *Fundamentals of Corporate Law and Procedure* addendum acknowledges the change in the name of the Ontario ministry responsible for the registration of business names and incorporations (from “Ministry of Consumer and Commercial Relations” to “Ministry of Consumer and Business Services”). In addition, the federal government has changed its incorporation fee so that it now costs less (in terms of fees payable to the government) to incorporate federally.

We welcome any suggestions or points you wish to raise with us about how we can improve the substance and utility of our learning resources. Please contact me at stokaluk@emp.on.ca if you want to receive any of the above notices and materials. ■

New and forthcoming titles

Please contact Dave Stokaluk at stokaluk@emp.on.ca for an instructor's review copy.
Also, be sure to have your bookstore contact Dave with your winter term order as soon as possible.

Forthcoming Winter 2003
ADVANCED RESIDENTIAL REAL ESTATE,
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As did the first edition of *Advanced Residential Real Estate*, the new edition provides a thorough overview of all facets of a real estate transaction. Included are detailed instructions on title searching in the registry, land titles, computerized title search systems, performing requisitions, handling mortgages and taxation issues, and understanding closing procedures. Added to the second edition are enlarged sections on condos and easements and a rewritten section on developing practices in electronic registration. Also added is an index.

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by Doug Cochran

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Students are provided with a series of hands-on learning activities that help them master core interviewing skills that are needed to succeed as a legal assistant or law clerk in a practice. The focus throughout is on client-centered interviewing. Professor Cochran believes that a client who is actively involved in problem solving with the law worker, who is kept informed at all stages of the process, and whose economic and emotional needs are recognized and addressed will be more satisfied and better served. The text is written from the perspective of the paralegal, to whom the author has been teaching this craft for many years.

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Edited by the Honourable
Mr. Justice James J. Carthy,
W.A. Derry Millar,
and Jeffrey G. Cowan

ISBN 0318-3556/2002/Softcover/\$45/
Includes CD-ROM of forms and cases.

Last year, several instructors put forth the idea of a searchable CD-ROM of forms and cases for *Ontario Annual Practice*. We approached Canada Law Book on this matter and, though initially reticent, they decided to give it a shot. The result is the greatly improved 2002-2003 student edition that includes the text, the book of forms, and the CD-ROM of forms and cases. The book is priced at only \$45.00!

Still expertly edited by the experienced team of the Honourable Mr. Justice James J. Carthy, W.A. Derry Millar, and Jeffrey G. Cowan, this two-volume set (+ CD-ROM) is the most authoritative, up-to-date, comprehensive resource available for students in civil procedure, civil litigation, advocacy, and court tribunal administration courses — and, judging from recent sales, the academic community has spoken.

In addition to all the most relevant decisions, statutes and rules are included in this extensive work, including *Courts of Justice Act*, *Statutory Powers Procedure Act*, *Judicial Review Procedure Act*, *Class Proceedings Act (1992)*, and *Law Society Act*, the Rules of Civil Procedure, the new Family Case Management Rules of the Superior Court of Justice in Toronto, Essex Civil Case Management Rules, and more.

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by Derek Fazakas

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This book's strengths are threefold: coverage, clarity, and currency. In addition to wills and estates, it covers substitute decision making (powers of attorney and court-appointed committees) as well as trusts. The author, a classroom instructor and a practising lawyer with ample experience in this field, has written a clear narrative framed in an easily understood pedagogy and rendered in language that is accessible to college students. *Wills and Estates* is the most up-to-date resource available for this course, and has now gained broad acceptance for college estates courses. ■

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Canadian Political Structure and Public Administration	Booth; Roughley	1-55239-053-5
Canadian Private Investigator's Manual	Hawkins; Konstan	0-920722-78-4
Civil Litigation (<i>Forthcoming</i>)	Olivo; Kelly	1-55239-077-2
Debtor—Creditor Law and Procedure	Olivo	1-55239-038-1
Foundations of Criminal and Civil Law in Canada	Rock; Simon	1-55239-037-3
Fundamentals of Contract Law	Fitzgerald; Olivo	1-55239-076-4
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Federal and British Columbia Corporate and Business Legislation 2001	Canada Law Book	1492-6385
Federal and Ontario Corporate Business Legislation (<i>New</i>)	Adams	1481-1995
For Better or For Worse: A Practical Guide to Employment Law in Canada	Echlin; Thomlinson	0-88804-195-0
Ontario Annual Practice 2002-2003 (<i>New</i>)	Carthy; Millar; Cowan	0318-3556
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