



Spring 2023 Conference
18 - 20 May 2023
Cleveland, Ohio



Host Firm:



Meyers, Roman, Friedberg & Lewis

A Legal Professional Association

Dear LawPact friends and partners,

It is our pleasure to welcome you to Cleveland, Ohio the city of “progress and prosperity” and, of course, rock and roll!

We are looking forward to our time together, to networking, learning, and collaborating both personally and professionally. It is our hope that each of you finds your presence and participation in the Spring 2023 Conference to be rewarding, enjoyable, and beneficial to shared goals and individual aspirations.

Welcome to Cleveland!



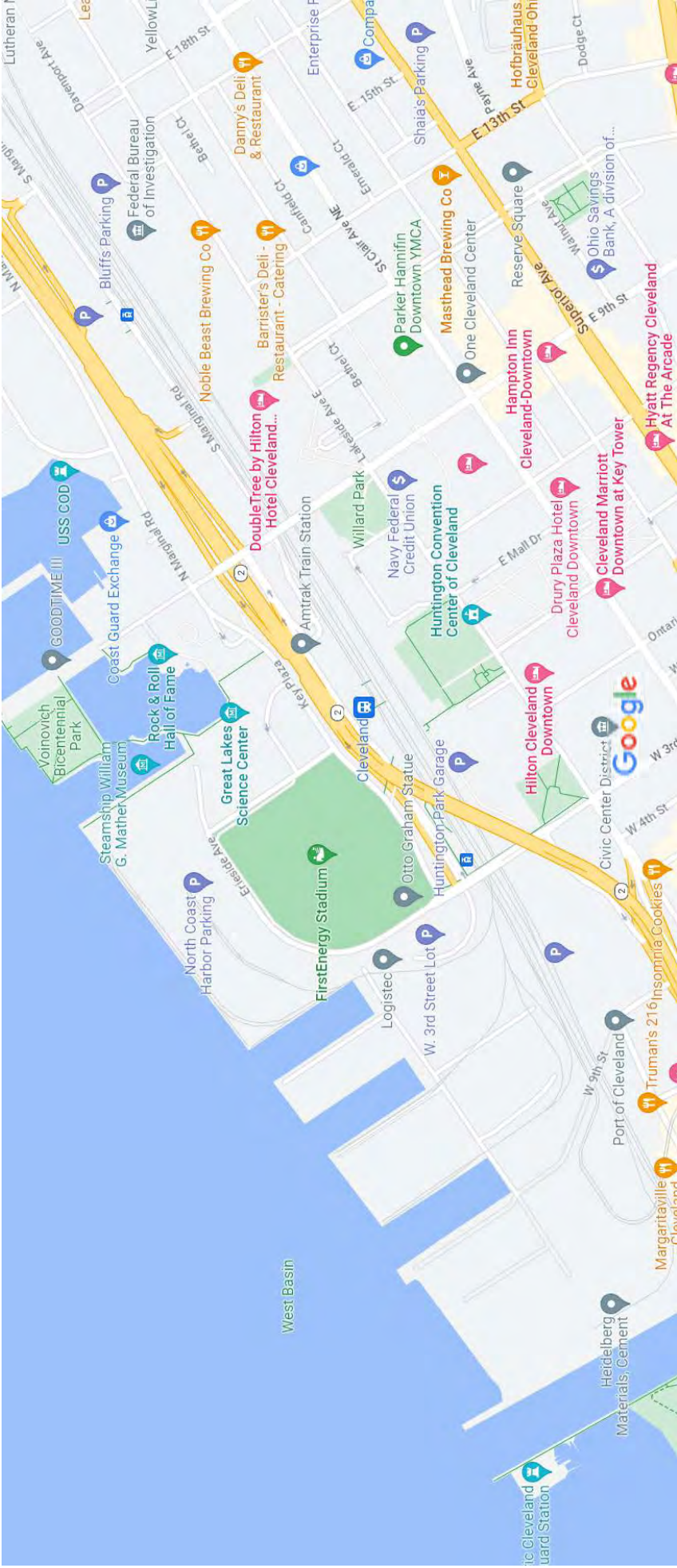
Seth P. Briskin
Managing Partner
*Chair, Labor and
Employment*



Jenifere R. Singleton
Administrative Partner
*Chair, Divorce and
Family Law*



Bryan J. Dardis
Finance Partner
Chair, Real Estate





LawPact Spring 2023 Conference Agenda

May 18-20, 2023

Hilton Cleveland Downtown, Cleveland, Ohio

Moving Your Firm Forward after Covid

Thursday May 18, 2023		
Board Meeting and Welcome Reception		
4:00 – 5:30 PM	Board Meeting: All Members and guests are invited to attend.	Veterans Room C
7:00 – 10:00 PM	Welcome Reception: Please join LawPact members and guests for an opportunity to review the past six month's happenings and welcome our new participants.	Veterans Room A-B
Friday May 19, 2023		
(Veterans Room A-B)		
7:30 – 8:30 AM	Breakfast	Veterans Room A-B
8:30 – 10:00 AM	Opening Remarks and Member Firm Introductions Delegates introduce themselves and provide updates about their firms	Doug Conover, LawPact President
10:00 – 10:15 AM	Break	
10:15 – 11:15 AM	Improving Lateral Hires with Emotional Intelligence Screening	Ellen Freedman, Freedman Consulting
11:15 – 12:30 PM	Artificial Intelligence in our Lives and Law Practices	Ellen Freedman, Freedman Consulting
12:30 – 1:30 PM	Lunch	Veterans Room C-D

1:30 – 3:00 PM	Marketing Strategies for Smaller Law Firms in the Post-Covid Era	Jocelyn Brumbaugh, Builden Partners
3:00 – 3:15 PM	Break	
3:15 – 4:00 PM	The Alternative Workplace – The Realities of the Post-Covid Workforce	Seth Briskin, Meyers Roman Friedberg & Lewis
4:00 – 4:45 PM	Hiring a Non-Lawyer CEO	Member Panel Discussion Bryan Dardis Moderator Nathan Watson Bridget Bennett Mark Hoyt
7:00 PM	Dinner	Red – The Steakhouse Cleveland, Ohio

Saturday May 20, 2023
(Veterans Room A-B)

7:30 – 8:30 AM	Breakfast	Veterans Room A-B
8:30 - 9:15 AM	Friday Follow Up Discussion and Takeaways	Scott Collins and John Pickervance (discussion leaders)
9:15 - 10:30 AM	LawPact Regional Group Breakout Meetings	
10:15 – 10:30 AM	Break (Adjust time as necessary)	
10:30 – 11:15 AM	LawPact Website – Updates and Upgrades	Sherri Cook and Nathan Watson
11:15 – 12:00 PM	What’s New in Technology	Eric Siegel, THK Law
12:00 – 12:45 PM	Member Discussion – Open forum regarding LawPact and what we can be doing to support our members. LawPact Finances LawPact Business Membership Development Website and Forums Future Conference Schedule Final Announcements	Doug Conover
12:45 – 1:30 PM	Lunch	Veterans Room C-D
1:45 – 4:00 (approximate)	Group Event – Tour of the Rock and Roll Hall of Fame	Meet in the hotel lobby, walk to the venue
5:00 (approximate)	Group Dinner optional	Nuevo Modern Mexico



**2023 Spring Conference
Cleveland, Ohio
May 18 - 20, 2023**

Conference Delegates and Guests







Program Presenters

A headshot of Ellen Freedman, CLM, a woman with curly blonde hair, wearing a dark jacket and a small floral corsage.	<p>Ellen Freedman, CLM Law Practice Management Coordinator, Pennsylvania Bar Association <i>and</i> President, Freedman Consulting, Inc. Lansdale, Pennsylvania</p>
A headshot of Jocelyn Brumbaugh, a woman with shoulder-length reddish-brown hair, wearing a light-colored blazer.	<p>Jocelyn Brumbaugh President Builden Partners Chicago, Illinois</p>

Prospective Members

A headshot of Russell Beck, a man with short grey hair and a beard, wearing a dark suit and tie.	<p>Russell Beck Beck Reed Riden LLP Boston, Massachusetts</p>
	<p>Hu Kai-Hsiang The Initiators Attorneys at Law Taipei City, Taiwan</p>

Delegates and Guests
(Alphabetical by firm name)

	<p>Christopher Stevenson Adair Myers Stevenson Yagi PLLC Houston, Texas</p> <p>Guest: Audra Stevenson</p>
	<p>Kenichi Yagi Adair Myers Stevenson Yagi PLLC Houston, Texas</p> <p>Guest: Masae Tomoda</p>
	<p>Paul Leclair Adams Leclaire, LLP Rochester, New York</p> <p>First time delegate</p> <p>Guest: Rebecca Leclair</p>
	<p>Takahiro Shinano Asai Law Firm Osaka, Japan</p>
	<p>Frederic Beele Lawfirm Beele Gent, Belgium</p>
	<p>Charles Van Horn Berman Fink Van Horn Atlanta, Georgia</p>



Neal Weinrich
Berman Fink Van Horn
Atlanta, Georgia



Jim Radabaugh
Bowen, Radabaugh & Milton, P.C.
Troy, Michigan

Guest: Barbara Radabaugh



Nathan Welch
Bowen, Radabaugh & Milton, P.C.
Troy, Michigan



Jeremy Garner
Bowie & Jensen, LLC
Towson, Maryland



Robert Brouillette
Brouillette Law
Montreal, Quebec, Canada

Member of the Board of Directors

Guest: Francine LeDuc



Douglas Conover
Law Offices of Douglas Conover LLC
Chicago, Illinois

President of LawPact and Member of the Board of Directors

Guest: Cindy Conover



Chen Eldar
Estline & Co.
Tel Aviv, Israel

First time delegate



John Pickervance
Forbes Solicitors
Manchester, England

Member of the Board of Directors



Todd Oberdick
Forge IP, PLLC
Shelton, Connecticut



David Azrin
Gallet Dreyer & Berkey, LLP
New York, New York



David Gaw
Gaw Estate Planning
Napa, California

Vice President - North America, and Member of the Board of Directors



Christopher Clemson
Gordon, Fournaris & Mammarella, P.A.
Wilmington, Delaware



Thomas Mammarella
Gordon, Fournaris & Mammarella, P.A.
Wilmington, Delaware

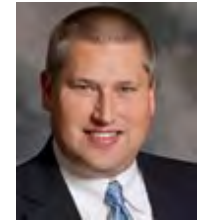
Guest: Barbara Marsh



Scott Collins
Hellsell Fetterman LLP
Seattle, Washington



Kameron Kirkevold
Hellsell Fetterman LLP
Seattle, Washington



Nathan Watson (firm administrator)
Hellsell Fetterman LLP
Seattle, Washington

LawPact Website Committee



Nav Shokar
Keyser Mason Ball, LLP
Mississauga, Ontario, Canada

Guest: Mike Shokar

[First time delegate](#)



Amandeep Sidhu
Keyser Mason Ball, LLP
Mississauga, Ontario, Canada

Guest: Mona Sidhu



Murphy Fletcher
McGuire, Wood & Bissette, P.A.
Asheville, North Carolina

Guest: Milton Fletcher



Bridget Bennett (firm administrator)
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Mark Annichine



Seth Briskin
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Shelly Briskin



Peter Brosse
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Tammy Brosse



David Croft
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Amanda Croft



Bryan Dardis
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Sarah Dardis



Steven Diott
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

First time delegate



Joseph Pokornoy
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

First time delegate



Jenifere Singleton
Meyers Roman Friedberg & Lewis
Cleveland, Ohio

Guest: Kevin Singleton



Kevin Godbout
Neubert, Pepe & Monteith P.C.
New Haven, Connecticut



Aaron Lovaas
Newmeyer Dillion
Las Vegas, Nevada



Mark Hoyt
Sherman Sherman Johnnie & Hoyt
Salem, Oregon

Treasurer of LawPact, and Member of the Board of Directors



Kathy Speaker MacNett
Skarlatos Zonarich
Harrisburg, Pennsylvania

Member of the Board of Directors

Guest: Colleen MacNett



Robert Lee
Synergy Business Lawyers LLP
Vancouver, British Columbia, Canada



Adam Russell
THK Law
South Bend, Indiana

[First time delegate](#)



Eric Seigel
THK Law
South Bend, Indiana



Sergio Yarritu
Yarritu Gonzales & Asociados
Mexico City, Mexico



Madeleine ("Maddy") Lebedow
MfL Associates, Inc.
Lincolnwood, Illinois

Executive Director of LawPact



Sherri Cook
Burr Ridge, Illinois

Social Media and Public Relations Coordinator



Board of Directors' Meeting
Thursday, May 18, 2023
4:00 Eastern U.S. Time

LawPact Board of Directors:

Robert Brouillette
Dave Gaw
John Pickervance
Kathy Speaker MacNett

Douglas Conover
Mark Hoyt
Scott Pohlman
Ian Wick

Tomas Contreras
Bernd Lichtenstern
Martin Preslmayr

Invited Guests:

Madeleine Lebedow, Executive Director
Nathan Watson, Technical Advisor
Sherri Cook, Media Advisor
Jenifere Singleton
Bryan Dardis

Treasurer's Report: Mark Hoyt

Old Business

Weekly Zoom Conferences
May 18 - 21, 2023: Cleveland, Ohio
October 19 - 21, 2023: La Jolla, California
Spring (April) 2024: Tel Aviv, Israel
Website revamp: Zealth Digital Marketing engagement (Sherri Cook and Nathan Watson)
Membership Development

New Business

LawPact Europe (Bernd Lichtenstern, John Pickervance, and Martin Preslmayr)
LawPact Latin America (Tomas Contreras)
Report on Inpact (DC)
Other new business?

Next meeting (conference call) June 14, 2023 via Zoom

Adjournment



Speakers

Host Firm:



Meyers, Roman, Friedberg & Lewis

A Legal Professional Association

ELLEN FREEDMAN, CLM



Ellen Freedman is founder and President of Freedman Consulting, which was established in 1998. Freedman Consulting assists PA law firms with a full range of issues on the business side of a law practice. Services include but are not limited to strategic planning including retreat facilitation planning; leadership and management structure evaluation and modification; strategic intelligence and research; financial management and profitability enhancement; disaster planning and recovery; human resource management; insurance and risk management, law firm life cycle support including start-up, growth, sale, purchase, merger, acquisition, closing and dissolution; marketing and strategic planning; practice management audits; records management and retention; technology upgrades including needs assessment and implementation; partner compensation; and more. Information about Ellen and her law practice management services may be obtained at <http://www.FreedmanLPM.com>. Ellen also publishes the Law Practice Management blog at [www.PA-](http://www.PA-LawPracticeManagement.com)

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Ellen@FreedmanLPM.com
www.FreedmanLPM.com

JOCELYN BRUMBAUGH

FOUNDER, BUILDEN PARTNERS

Jocelyn Brumbaugh's experience includes 20+ years in marketing and communications roles at top law and financial services firms – building departments, counseling CEOs and driving strategy.

As the founder of Builden Partners, she is changing the way law firms think about marketing by offering process-driven solutions to law firms from premier boutiques to the best known global brands.

While at top global law firm Baker McKenzie, Jocelyn oversaw the communications strategy for seven international office acquisitions. She launched numerous innovative tools for increased awareness of strategy, laterals and key marketing initiatives, including a chairman's blog, a global news portal and the firm's first coordinated deal collection process.

Prior to that, she built the first communications department at Foley & Lardner, including handling the communications strategy for numerous office acquisitions, and managed consumer and healthcare accounts at Edelman Public Relations.

At the global financial services firm Citadel, Jocelyn developed the firm's first strategic internal communications plan, including orchestrating all CEO communications and employee touchpoints.

In 2006, Jocelyn founded Legal & Professional Services Council, a nonprofit trade group known for high-quality programming on law firm business development, marketing and communications. Over the course of 15 years, she grew LPSC to more than 600 members across the country and advanced the professional development of more than 5,000 people through 100+ events.



**Marketing Strategy
for Law Firms**
PROCESS. DRIVEN.

BUILDEN PARTNERS

CHANGING THE WAY LAW FIRMS THINK ABOUT MARKETING

BUILDEN is changing the way law firms think about marketing by using our process-driven approach to turn random acts of marketing into strategies that drive business development.

Our team of seasoned legal marketers helps firms of all sizes better engage with clients, prospects and talent.

Founded in 2014, Builden has solely focused on marketing and communications support for law firms. Over the years, we have expanded our service offerings while maintaining our focus on law firms.

Builden has worked with nearly 100 firms, from AmLaw 20 firms to well-known regional boutiques, and we are proud that many clients from our earliest days are still with Builden today.

Using our signature Marketing Infrastructure Model, we provide strategy and execution services for law firms to grow their brands, keep lawyers top of mind with clients and prospects and drive revenue.

Additional services include:

- Outsourced marketing solutions
- Fractional and interim marketing support
- Business development coaching
- PR and media relations
- Change management
- Content development

BUILDEN'S FIVE STEP MARKETING INFRASTRUCTURE MODEL

A systematic approach to capturing the good work attorneys already do and delivering it where clients, prospects and referral sources are.



Discovery

Mine for what the firm is already doing well



News

Put the news on the website



Social

Create firm social page and share news there



Internal Communications







Circulate the news internally



Distribution

Curated newsletter distributed



	<p>Seth Briskin – Meyers Roman Friedberg & Lewis</p> <p>The Alternative Workplace – The Realities of the Post-Covid Workforce</p>
	<p>Bryan Dardis – Meyers Roman Friedberg & Lewis</p> <p>Moderator: Hiring a Non-Lawyer CEO</p>
	<p>Nathan Watson – Helsell Fetterman (firm administrator)</p> <p>Panelist: Hiring a Non-Lawyer CEO</p>
	<p>Bridget Bennett Meyers Roman Friedberg & Lewis (firm administrator)</p> <p>Panelist: Hiring a Non-Lawyer CEO</p>
	<p>Mark Hoyt – Sherman Sherman Johnnie & Hoyt</p> <p>Panelist: Hiring a Non-Lawyer CEO</p>
	<p>Eric Seigel – THK Law</p> <p>Discussion Leader: What's New in Technology</p>



Freedman Consulting, Inc.
CHANGE... RESULTS... SUCCESS

Improving Lateral Hires with Emotional Intelligence Screening



Ellen Freedman, CLM
President
Freedman Consulting, Inc.

Improving Lateral Hires with Emotional Intelligence Screening

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1. Speaker biography
2. PowerPoint handout

Note: For your convenience, and to save trees, all of the material included in this table of contents may be downloaded directly to your computer from Hightail at <https://tinyurl.com/LawPact-EQ>

HOW TO DOWNLOAD THE SEMINAR MATERIALS:

Note that you do NOT have to register or open an account to download. If you are prompted to do so, close your browser, and reopen and try again.

Your access code is **2023**

1) Enter the URL in your browser. You will go to the download page on Hightail. You will see the image of the handout Cover Page on the left. Directly above that area on the far right, you will see 5 Options in Circles. 2) Click the 4th button with the down-facing arrow for **Download All**. 3) The document will appear to open on the screen. Put your cursor anywhere to once again Select the Download Option on the right. 4) Windows Explorer will open your dialog box. Navigate to the exact folder in which you want to save the document, and then select **SAVE**.]

3. Is It Time to Hire?
4. Hiring Techniques to Ensure Success
5. Communicate Your Expectations Clearly
6. Enticing Entrepreneurial Lawyers

Improving Lateral Hires with Emotional Intelligence Screening

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14. Killer Bees and Sacred Cows
15. Avoiding Staff Turnover Syndrome
16. Calculating the True Cost of Turnover
17. Use Exit Interviews to Improve Your Firm
18. The Perfect Storm Is Here
19. Thoughts, Attitudes, Habits and Behaviors
20. Interview Protocol
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22. Evaluating Mentoring Programs
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Improving Lateral Hires with Emotional Intelligence Screening

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36. Accountability 101 – Part One
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Improving Lateral Hires with Emotional Intelligence Screening

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51. Next Level Resilience: Strengthen Your Brain for Optimum Performance Using Neuroscience
52. Be Resilient And Life's Troubles Will Make You Better
53. How Emotionally Intelligent People Use the Mark Twain Rule to Become Exceptionally Persuasive
54. Problem Resolution: Holding Employees Accountable
55. How People With Very High Emotional Intelligence Use the Fortune Cookie Rule to Become Super-Resilient
56. When Being a Star Rainmaker is Not Enough - Why EQ Leads to Even Better Business Results

ELLEN FREEDMAN, CLM



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Improving Lateral Hires with Emotional Intelligence Screening

Ellen Freedman, CLM
 President
 Freedman Consulting, Inc.

1

Ellen Freedman, CLM

- President
Freedman Consulting (1998)
- Law Practice Manager
PA Bar Assoc (1999)
- Instructor – PA Bar Institute (2006)
- 20 years managing inside law firms
- One of @300 out of 11,000+ members of ALA who've earned CLM - one of first 20 globally (2007)
- Fellow, College of Law Practice Management (2020)
- Nationally-recognized author and lecturer



2

We're going to cover:

- Understanding emotional intelligence
- Most frequent hiring mistakes
- Best hiring practices
- Training & Orientation
- Retention

3

Understanding Emotional Intelligence



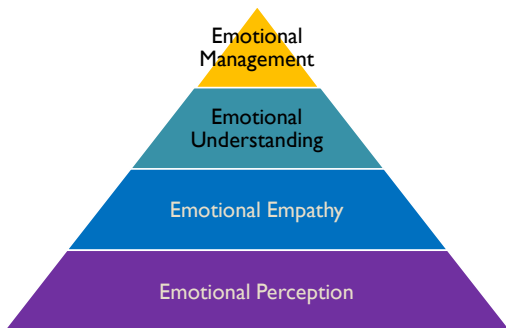
4

What is Emotional Intelligence?

- The ability to effectively understand oneself and others
- The ability to relate well to others
- The ability to adapt to and cope with surroundings
- The ability to master basic emotional competence
 - Self awareness Awareness of others
 - Self management Social skills

5

Four Components of EQ



6

Other behaviors of high EQ

- Admit to and learn from mistakes
- Keep emotions in check
- Have thoughtful discussions on tough issues
- Listen actively
- Take criticism well
- Show grace under pressure

7

How important is EQ?

- Repeated studies have shown that 80% of success is linked to EQ rather than IQ
- IQ rarely improves
- EQ can be significantly improved with self improvement or outside coaching



8

Emotional Intelligence : a *LEARNED* skill



9

5 Habitual Methods of Addressing Conflict

1. Avoidance
2. Accommodation
3. Compromise
4. Competition
5. Collaboration

10

Communicating: Active Listening

- It's a learned skill
- People are more likely to listen to others, and be less fearful, once they've been heard
- Provide full attention
- Manage your response
- Acknowledgement - playback

11

The worst signs of low EQ

- Temper tantrums
- Devil's Advocate : day is night, night is day
- Difficult communications
- Refusal to be held accountable
- Blame game
- Rules don't apply

12

Most frequent hiring mistakes





The illustration shows a large, black silhouette of a hand reaching down from the top of the frame, dropping a person who is falling. Below the falling person, four other people in business suits stand in a line, watching the event. The background is white with a gold vertical bar on the left side.

13

Poor hiring protocol

- Giving away the answers
- Not asking the right questions
- Not having a 2-way interview
- Not knowing what you're looking for



The slide includes two small images. The first shows a hand holding a small white card with text on it. The second shows a person in a business suit with a brown paper bag over their head, symbolizing a lack of visibility or understanding.

14

The "KASH" Box

	Hiring Criteria	Firing Criteria	
Training & Correction	<u>K</u>nowledge	<u>A</u>ttitudes	No Training & No Correction
	<u>S</u>kills	<u>H</u>abits	

15

Fact: No one has ever said they fired someone *too* quickly...



...no one likes terminating an employee.

- Admit you made a mistake
- Face it and fix it !!!



16

Best Hiring Practices



17

- Clear written job description
- Good hiring protocol
 - Advance prep & training of those who will interview – no “winging it”
 - At least 2 interviews for attorneys
 - Honest info about firm culture & job



18

- Challenge / examine job history
- Ask the “objective” questions
- Check references
- Check clients / opposing counsel
- After contingent offer:
 - Confirm current employment details
 - Confirm educational & bar credentials
 - Credit and criminal check for those handling \$\$\$

19

- ### Ask EQ questions
- Subjective
 - No right or wrong answer
 - Designed to assess
 - Habits
 - Attitudes
 - Teamwork
 - Entitlement
 - Accountability

20



21

- New employees don't just "absorb" information magically from the office environment – they must be nurtured
- Shows you're vested in their success
- Sets the right tone
- Use checklists for consistency
- Provide reference lists
 - Organizational chart
 - Benefits

22

- Keeps productivity and morale high
- Help them make a good first impression
- *Codify responsibilities and procedures*
- Provide samples of completed forms
- Cover all technology
- Follow up with more repeat training

23

Mentoring Attorneys

- One or more partners provide confidential guidance:
 - ✓ Ethics
 - ✓ Client Development
 - ✓ Office politics
 - ✓ Communicating with partners and staff
 - ✓ Development of practice skills



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Retention



25

Attorney Retention

- Find out their intentions
- Provide frequent and honest feedback
- Solicit their feedback
- Illuminate the path to partnership
- Provide adequate "face time" to develop the glue that binds



26

Staff Retention

- Equal treatment – no sacred cows
- Handbook
- Eliminate killer bees
- Public praise
- Private criticism
- Honest evaluations
- Clear instructions / answer questions
- Reasonable time off



27

Exit Interviews

- Never lose the opportunity to improve

Turning Turnover Into Retention




28

Summary

- Hiring is not a precise science
- Hiring methods can always be improved
- Turnover is costly and disruptive
- Life is too short!
- No one is irreplaceable

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Connect with me !



Ellen Freedman, CLM
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Blog: www.PA-LawPracticeManagement.com
Facebook: www.facebook.com/freedmanconsultinginc
LinkedIn: www.linkedin.com/in/ellenfreedman
Twitter: @PA_PMA

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Freedman Consulting, Inc.
CHANGE... RESULTS... SUCCESS

Artificial Intelligence in Our Lives and Law Practices



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Artificial Intelligence in Our Lives and Law Practices

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Note: For your convenience, and to save trees, all of the material included in this table of contents may be downloaded directly to your computer from Hightail at <https://tinyurl.com/LawPact-AI>

HOW TO DOWNLOAD THE SEMINAR MATERIALS:

Note that you do NOT have to register or open an account to download. If you are prompted to do so, close your browser, and reopen and try again.

Your access code is 2023

1) Enter the URL in your browser. You will go to the download page on Hightail. You will see the image of the handout Cover Page on the left. Directly above that area on the far right, you will see 5 Options in Circles. 2) Click the 4th button with the down-facing arrow for **Download All**. 3) The document will appear to open on the screen. Put your cursor anywhere to once again Select the Download Option on the right. 4) Windows Explorer will open your dialog box. Navigate to the exact folder in which you want to save the document, and then select **SAVE**.]

3. Article entitled “*3 Predictions for How A.I. Will Change Business Practices in the Near Future*”
4. Article entitled “*7 Questions Lawyers Should Ask AI Vendors*”

Artificial Intelligence in Our Lives and Law Practices

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6. Article entitled “*AI and Legal Contract Management*”
7. Article entitled “*AI ethics - AI code of ethics*”
8. Article entitled “*AI in Law - Transforming Legal Practice*”
9. Article entitled “*AI in Law and Legal Practice – A Comprehensive View of 35 Current Applications*”
10. Article entitled “*AI predicts crime a week in advance with 90 per cent accuracy*”
11. Article entitled “*Am Law 200 Firm Finds Fresh Use For AI: Attorneys’ Budgeting*”
12. Article entitled “*Artificial Intelligence and Automated Systems Legal Update*”
13. Article entitled “*Artificial Intelligence and Corporate Legal Departments*”
14. Resource entitled “*Artificial Intelligence Buyers Guide 2021*”
15. Article entitled “*Benefits & Risks of Artificial Intelligence*”
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17. Article entitled “*Challenges of AI*”
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19. Article entitled “*Developing Trustworthy Systems*”
20. Article entitled “*Does it Compute - Limits of AI*”
21. Article entitled “*From AI Compliance to Competitive Advantage*”
22. Article entitled “*Hitchhikers Guide to AI*”
23. Article entitled “*How Artificial Intelligence Helps Lawyers and Their Clients*”
24. Article entitled “*If You’re Working This Weekend It Might Be Because Your Bosses Are Dropping The Ball*”
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30. Article entitled "*Problems with AI*"
31. Article entitled "*Recent Developments in Artificial Intelligence Cases 2021*"
32. Article entitled "*Scaling AI - Giving Data Its Due*"
33. Article entitled "*We Need Concrete Protections From Artificial Intelligence Threatening Human Rights*"
34. Article entitled "*Why Risk Not Knowing What's In Your Contracts When This Product Can Show You Everything?*"
35. Article entitled "*How to write better ChatGPT prompts (and this applies to most other text-based AIs, too)*"
36. Article entitled "*Tracking Generative AI: How Evolving AI Models Are Impacting Legal*"
37. Article entitled "*Artificial Intelligence and the Practice of Law*"
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39. Article entitled "*As AI Automation Evolve So Do Lawyers' Ways of Operating*"
40. Article entitled "*AI Powered Robot Lawyer Takes Its First Court Case*"
41. The White House Office of Science and Technology Policy (OSTP) "*Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People*"

ELLEN FREEDMAN, CLM



Ellen Freedman is founder and President of Freedman Consulting, which was established in 1998. Freedman Consulting assists PA law firms with a full range of issues on the business side of a law practice. Services include but are not limited to strategic planning including retreat facilitation planning; leadership and management structure evaluation and modification; strategic intelligence and research; financial management and profitability enhancement; disaster planning and recovery; human resource management; insurance and risk management, law firm life cycle support including start-up, growth, sale, purchase, merger, acquisition, closing and dissolution; marketing and strategic planning; practice management audits; records management and retention; technology upgrades including needs assessment and implementation; partner compensation; and more. Information about Ellen and her law practice management services may be obtained at <http://www.FreedmanLPM.com>. Ellen also publishes the Law Practice Management blog at [www.PA-](http://www.PA-LawPracticeManagement.com)

[LawPracticeManagement.com](http://www.PA-LawPracticeManagement.com).

Ellen serves as the Law Practice Management Coordinator for the Pennsylvania Bar Association. She has held this position since 1999. In that capacity she assists PBA's members with management issues and decisions on the business side of their practice. Ellen is also a regular presenter, in person and through online webinars, for the Pennsylvania Bar Institute.

Ellen holds the designation of Certified Legal Manager through the Association of Legal Administrators (ALA), the credentialing body for the CLM degree. Ellen was one of the first 20 members globally to have achieved this designation. ALA has @11,000+ members, of which approximately 300 have earned the CLM degree. Ellen holds a Certification in Computer Programming from Maxwell Institute, and a Certification in Web Site Design and a B.A. in Liberal Arts from Temple University.

Ellen was inducted as a Fellow of the College of Law Practice Management in October, 2020. Membership in the College is by invitation only. Eligible nominees include those who have made significant contributions to the field of law practice management for over ten years. Since its establishment over twenty years ago, nearly 300 practitioners from 5 different countries have become Fellows of the College.

Ellen managed inside law firms for twenty years. Most of that time was spent in a mid-size (35+ attorney) firm environment. She launched her consulting practice in 1998, and joined the Pennsylvania Bar Association in 1999.

Ellen is an associate member of the American Bar Association, and its Law Practice Management and General Practice & Small Firm sections. She was a member of the Association of Legal Administrators for over 20 years, and founded the Independence Chapter. She is a frequent author and speaker on law firm management issues on a national level.

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Artificial Intelligence in Our Lives and Law Practices



Ellen Freedman, CLM
President
Freedman Consulting, Inc.

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• 1

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Ellen Freedman, CLM



- President
Freedman Consulting (1998)
- Law Practice Manager
PA Bar Assoc (1999)
- Instructor – PA Bar Institute (2006)
- 20 years managing inside law firms
- One of @300 out of 11,000+ members of ALA who've earned CLM - one of first 20 globally (2007)
- Fellow, College of Law Practice Management (2020)
- Nationally-recognized author and lecturer

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2

What We'll Cover Today

- Definitions
- AI at home and in social interaction
- AI in the law firm
- Risks & ethical issues
- AI rules & regulations
- AI code of ethics

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Definitions

- Artificial Intelligence (“AI”) a combination of many different technologies working together to enable machines to sense, comprehend, act, and learn with human-like levels of intelligence.
 - Machine learning
 - Natural language processing
 - Data analytics
 - Automation
 - Algorithms

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Definitions

- Narrow or Weak AI : performance of a single task or a set of closely related tasks
 - Most AI we use is narrow/weak
 - Weather apps
 - Digital assistants
 - Data analysis
 - Navigational apps
 - Voice-to-text
 - Spam filtering

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Definitions

- General or Strong AI: machines which emulate human intelligence, thinking strategically, abstractly and creatively, with the ability to handle a range of complex tasks.
 - General or Strong AI is intended to be a replacement for human capabilities

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Definitions

- ❑ General or Strong AI: doesn't exist beyond concept and movie entertainment
- ❑ But
 - 2016 "the Next Rembrandt"
 - 2019 "completion of Franz Schubert's Symphony No 8"
- ❑ Who is the author / artist? Who holds the copyright?

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Definitions

- ❑ Machine learning ("ML") Develop AI algorithms using historical data as input, to predict new output values
- ❑ Generative AI: analyze content and generate completely new content
- ❑ AI Emergent behavior: new content including strategies containing novel creative expressions; to win games, discover new drugs etc

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AI - Home & Social Interaction

- ❑ AI-powered smart home devices can interface with each other and acquire new data that assists in learning human habits
 - Alexa, Siri, Google Assistant, Echo
 - Netflix, Amazon Music, Spotify
 - Security systems with facial recognition including friends and pets
 - Smart locks, including biometrics
 - Smart smoke alarms (Nest Protect) – early notification and provide cause

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AI - Home & Social Interaction

- ❑ Smart home automation systems: learns human behavior patterns, automates user preferences
 - Temperature, lights on/off, air purifier
 - Running vacuum
 - Adjusting washer and dryer settings based on climate and air quality
 - Distributed energy generation, storage, vehicle charging, lower grid usage by optimizing resource consumption

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AI - Home & Social Interaction

- ❑ Virtual Reality: gaming and education
- ❑ Social event scheduling: inviting, tracking responses, reminders, photo sharing
- ❑ Online: Customization of news feeds, photo and personal information sharing, connecting with like-minded people, finding a mate
 - Facebook, LinkedIn, TikTok, Twitter, Snapchat, Pinterist etc etc

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AI - Home & Social Interaction

- ❑ AI Robots: entertain children, patrol the home, take photos, read books, play games
- ❑ Voice control TV remotes
- ❑ Smart appliances which create food and drinks at certain times
- ❑ Smart fridges determine whether food is safe to eat, suggest recipes depending on food in fridge
- ❑ Smart mirrors to monitor user health, create personalized fitness plans

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AI - Travel

- ❑ Self-driving cars
 - Predict what other drivers will do to avoid accidents
 - Correct blind spot issues
 - Need alert driver behind wheel
- ❑ GPS (Waze) adjusting in real time based on data from other drivers / cars in vicinity
 - Detours, accidents, traffic delays

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AI - Medicine

- ❑ Starting to be used to make clinical decisions
 - What medicine to use
 - What mental health treatment is necessary
 - What physical therapy is best
- ❑ Reading MRIs, X-Rays and other imaging results
 - AI better at finding things humans miss
- ❑ AI combined with virtual reality being used in cognitive behavioral therapy.

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AI in the Law Firm

- ❑ Contract management
 - Review for compliance, consistency
 - Analyze adherence to negotiations
 - Generate
 - Sharing & reviewing / Versioning
 - Redlining / Comparison
 - Signing
 - Tracking renewals

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AI in the Law Firm

□ Litigation

- Discovery – organization and labeling using technology assisted review (“TAR”)
- Legal research including semantic search
- Determining relevance of cases to strategy
- Predicting legal outcomes
- Cost-benefit analysis
- Analyzing discovery to develop case theories and strategies

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AI in the Law Firm

- Data analytics combined with “gut feeling” leads to **60% more accurate** predictions about proceeding with litigation

Survey
The Future Ready Lawyer
Wolters Kluwer (2019)

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AI in the Law Firm

□ Criminal

- Advise judges on bail and sentencing decisions
- Assess recidivism risk
- Recommendation on pre-trial detention or early release
- AI can predict location of crimes in coming week with up to 90% accuracy!
- Does it perpetuate bias?

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AI in the Law Firm

- Gavelytics providing AI-powered analysis of tens of millions of state court litigation documents (10 states) to find behavior patterns of
 - Judges
 - Law firms
 - Litigants
 - Motion filings
 - Opposing counsel case filings and outcomes

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AI in the Law Firm

- Blue J Legal using machine learning on tax and employment law cases, to predict how court would rule in specific scenarios
 - Lawyers use questionnaire with facts about unique case, to get prediction of case outcome
 - Lawyers can change facts and analyze change in outcome
 - Blue J claims 90% accuracy in predictions

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AI in the Law Firm

- Litigation finance:
 - Legalist using data from 15 million court cases across US to predict which lawsuits are likely winners
 - Historical data includes length of litigation
 - Historical data includes probable amount of settlement or judgment

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AI in the Law Firm

- Invoicing and Spend Control
 - E-billing – find overbilling, inconsistencies, errors for clients
 - Invoice review for firm – flag potential inconsistencies and non-compliance with billing arrangement
 - Budgeting
 - Task-based billing

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AI - Client Relations & Marketing

- Chatbots for client intake and quick questions
- Automatic client file organization
- Automatic generation of client/matter updates and reminders of upcoming events
- Automatic follow-up for necessary data
- More time to focus on clients and their work
- Generation of blog posts, newsletters, client alerts, predict client Q&A for key words

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AI – Use in Large Firms

- Top firms already using AI to increase speed of complicated deals like M&A
 - Shearman & Sterling; White & Case; Orrick

Allen & Overy Deploys GPT-based Legal App Harvey Firmwide – February 2023

- To be used by more than 3,500 lawyers across 43 offices
- Using natural language, lawyers researching and constructing legal documents
- Trained for a specific firm, keeps data confidential – through permission and firewalls - even within the same firm

“Fine tuning reduces hallucinations (made up answers) to almost zero”


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Allen & Overy
caution about Harvey

- Concerned about hallucinations contaminating legal advice
- "You must validate everything coming out of the system. You have to check everything."

Validate, validate, validate!



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Predictions


- Caveat**
- Tech spend in law firms will increase from an average of **3%** to about **12%** over the next decade
- The standard of what is considered "reasonable" and "customary" use of tech will expand significantly for both legal work and cybersecurity
- Many lawyers will become roadkill on the tech super-highway

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ChatGPT Self-Identified Threats

- AI will be used to create and spread disinformation
- AI will be used to automate cyber attacks
- AI will be used to draft laws, draft the summaries of those laws, and develop strategies to have the laws passed



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Risks & Ethical Issues

- ❑ Human error – GIGO
- ❑ Inherent bias – reflected or amplified
- ❑ Malpractice for improper use or failure to use (discovery)
- ❑ Do criminal defendants have a right to access AI tools which might be helpful
- ❑ Do attorneys need to disclose use of AI
- ❑ Lack of transparency and explainability – inability to “cross-examine” artificial neural network

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Risks & Ethical Issues

- ❑ Potential discrimination in HR
- ❑ The global legal system is not yet ready for the legal issues which will arise
- ❑ Insurers are not yet ready to refine language and coverage to deal with future liability issues arising from AI
- ❑ Cybersecurity vulnerabilities, lack of contestability, legal personhood issues, intellectual property issues, adverse effects on workers, privacy and data protection issues, liability for damage and lack of accountability

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SECTION 8
MODEL RULES
OF
PROFESSIONAL
CONDUCT



ABA

Ethics for lawyers involved with AI

- Rule 1.1 Duty of competence
- Rule 1.4 Duty to communicate
- Rule 1.5 Reasonable fees
- Rule 1.6 Duty of confidentiality
- Rule 8.4 Professional misconduct - conduct that a lawyer knows or reasonably should know is harassment or discrimination – what about an AI system that is biased?
- Rules 5.1, 5.2, 5.3 Supervision

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AI Rules & Regulations

- ❑ Currently no federal regulation of AI in U.S.
- ❑ Department of Commerce directed National Institute of Standards and Technology (NIST) to develop a voluntary risk management framework for trustworthy AI systems.
- ❑ Federal Trade Commission published blog April 2022 making it clear FTC will use Fair Credit Reporting Act (FCRA) and Equal Credit Opportunity Act (ECOA) to pursue use of biased algorithms.

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AI Rules & Regulations

- ❑ In Sept 2022, the E.U.-U.S. Trade and Technology Council (TTC) released joint statement to cooperate on developing

“AI systems that are innovative and trustworthy and that respect universal human rights and shared democratic values.”

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AI Rules & Regulations

- ❑ Food and Drug Administration (FDA) released the Artificial Intelligence / Machine Learning-Based (AI-ML) Software as a Medical Device (SaMD) Action Plan.

FDA intends to update regulatory framework in order to use SaMD to treat, diagnose, cure, mitigate or prevent disease or other conditions.

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AI Rules & Regulations

- National Security Commission and Government Accountability Office (GAO) issued report

Recommends that the government take certain domestic actions to protect privacy, civil rights, and civil liberties in deployment of AI.

Advocates for public sector to lead the way

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The EU is way ahead of us . . .



Safe and Effective Systems



Algorithmic Discrimination Protections



Data Privacy



Notice and Explanation



Human Alternatives, Consultation, and Fallback

The Artificial Intelligence (AI) Act is expected to pass soon in the EU. It focuses on strengthening rules around data quality, transparency, human oversight and accountability. The cornerstone of the AI Act is a classification system that determines the level of risk an AI technology could pose to the healthy and safety or fundamental rights of a person. Systems which pose an unacceptable risk – like government social scoring and real-time biometric identification systems in public spaces – are prohibited with few exceptions.

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AI Code of Ethics

- AI system must be inclusive, explainable, have a positive purpose, and locate and use data responsibly.
- AI system must be unbiased and work equally well across all segments of society.
 - Full knowledge of each data source
 - Careful audit of trained model to filter out problematic attributes
 - Be closely monitored

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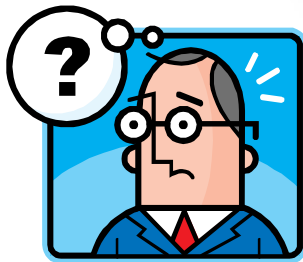
AI Code of Ethics

- ❑ AI system must be endowed with positive purpose, and safeguarded from being exploited for bad purposes.
- ❑ AI system must collect and use data responsibly, observing data privacy rights.
- ❑ AI system should only collect data when needed, and only with granularity as narrow as possible to meet the purpose. Data no longer required should be deleted routinely.

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Questions



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Connect with me !

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Twitter: @PA_PMA

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Marketing Strategies For Smaller Firms In The Post-Covid Era

Jocelyn Brumbaugh
LawPact Spring Conference
May 19, 2023



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1

We are Builden Partners.

We provide marketing
strategy consulting
exclusively for law firms.



2

buildenpartners.com

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2

A well-executed marketing strategy is key to a more profitable firm.

- Marketing strategy for law firms exclusively
- Clients range from premier boutiques to the AmLaw 100
- Process-driven approach to law firm marketing



Our Senior Team



Jocelyn Brumbaugh
 Founder
Baker McKenzie **FOLEY** **CITADEL**
FOLEY & LARSONER LLP



Sara Goddard
 Director of Client Projects
VedderPrice **AMUNDSEN DAVIS**



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Charles Kay
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PERKINScoie



Cynthia Kallile
 Strategy Implementation Advisor
KEARNEY



Kristen Onesti
 Print & Graphic Designer
McGUIREWOODS



Today's Agenda

- ⦿ Marketing vs Business Development
- ⦿ What We Learned From COVID About Marketing
- ⦿ Five Steps to Raise Your Firm's Profile
 - Breakout session: Is your firm fully leveraging your content?
- ⦿ Five Ways to Up Your LinkedIn Game
 - Breakout session: Fix your LinkedIn profile in real time
- ⦿ Five Ways to Get More Business Out of a Conference
 - Breakout session: Common hurdles and how to overcome them

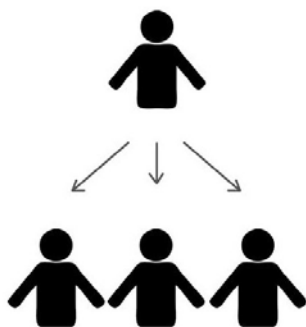
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**Marketing:
One to Many**



**Business Development:
One to One**



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COVID Sent Attorneys for a Marketing Loop

- ⦿ Conference, dinners, sports, holiday galas pushed back
- ⦿ Attorneys were being forced out of comfort zone
- ⦿ The myth of a referral-centric client base shattered
- ⦿ Atrocious state of law firm mailing lists



***What if we don't change at all...
and something magical
just happens?***



Finding the COVID Silver Linings

- ⦿ The world is your market
- ⦿ Re-evaluate the marketing budget black holes
 - Where does your work come from?
 - Who is worth your marketing resources?
 - Who was courted?
 - What business came in?
- ⦿ People are craving connections
- ⦿ The power of weak ties

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Marketing Myth vs Fact

Myth: To raise your firm's profile you must:

- ⦿ Write more
- ⦿ Speak more
- ⦿ Sell more

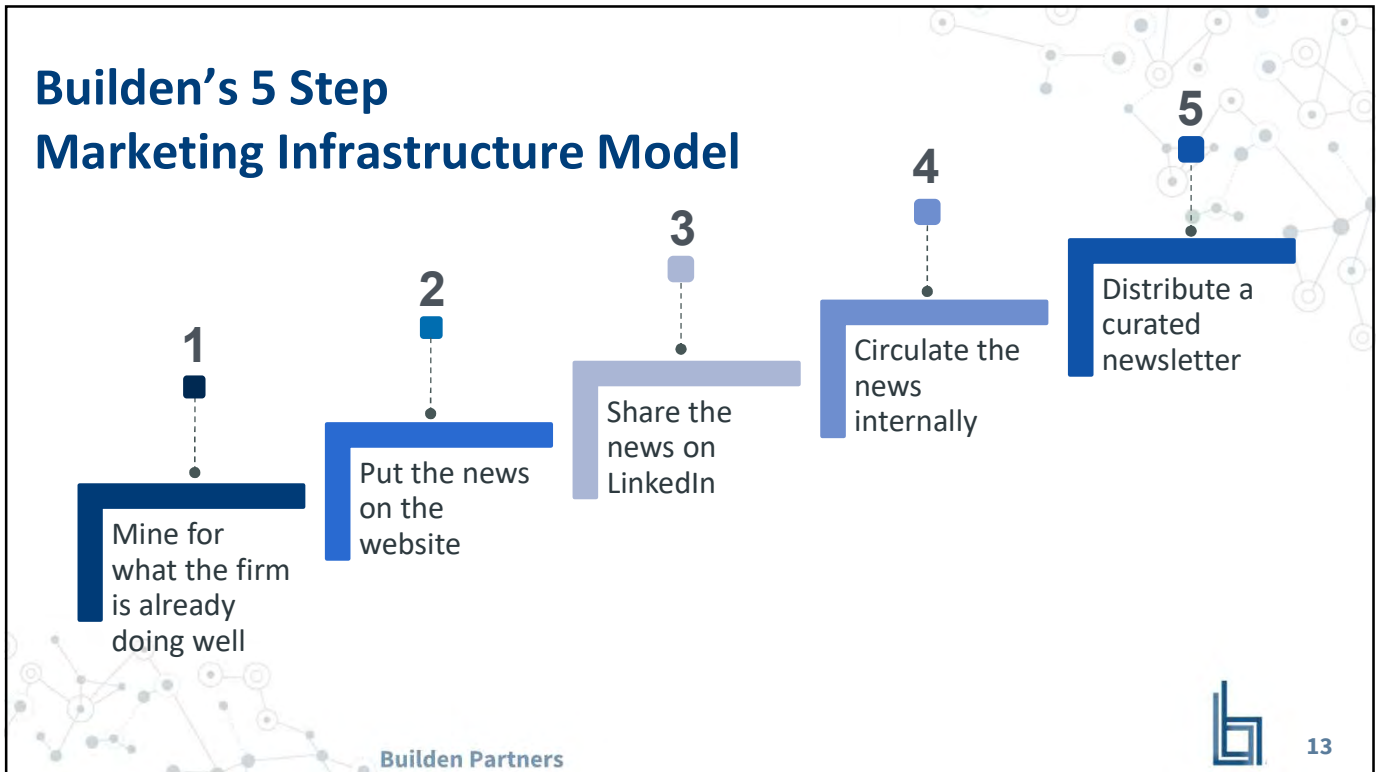
Fact: Builden's Marketing Infrastructure Model raises your firm's profile **without** attorneys having to change

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STEP 1

Mine for What You Are Already Doing Well

- Industry updates
- New hires and matriculations
- Recent wins – with client approval
- Published opinions
- Board appointments
- Speaking engagement
- Webinars

TIP: Position news as thought leadership – not as administrative

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STEP 2

Put the News on Your Website

- ⦿ Blog format with headlines, excerpts and links
- ⦿ Detail page with the full story on a separate page
- ⦿ Headlines on the home page
- ⦿ Tag to dynamically appear on attorney bio pages

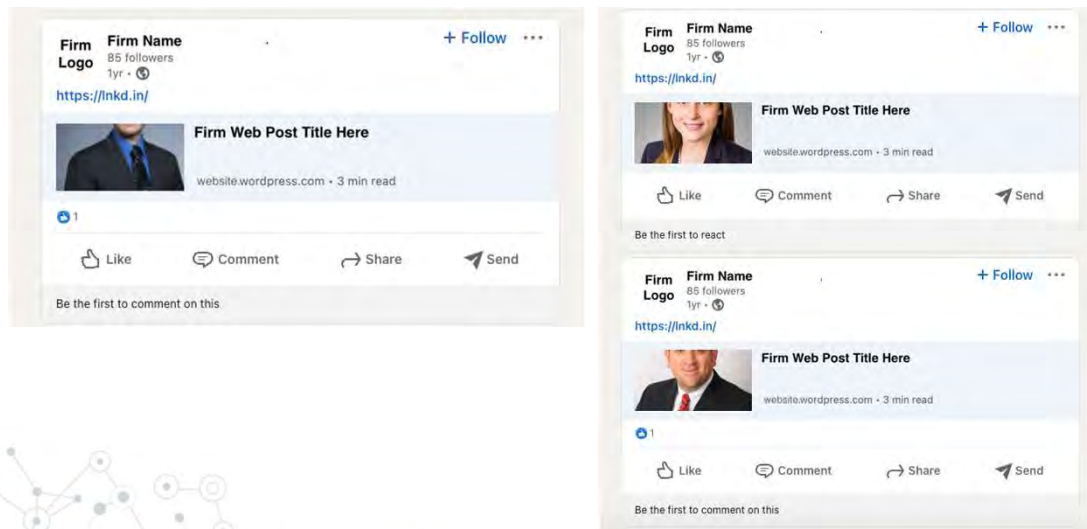
**STEP 3**

Post the News on the Firm LinkedIn Page

- ⦿ Click “Start a post”
- ⦿ Add a headline
- ⦿ Copy the URL from the detail page on your website
- ⦿ Upload a correctly sized photo or image to improve your click rate

TIP:
Regardless of your firm size, create a company LinkedIn page



STEP 3**Post the News on the Firm LinkedIn Page**

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STEP 4**Circulate the LinkedIn Post Internally**

- ⦿ Buy an expensive tool for this OR
 - Use a LinkedIn screengrab
 - Encourage people to like/comment/share
- ⦿ The importance of internal communications
 - Improve inter-departmental awareness
 - Tap attorneys/staff networks
 - Engaged attorneys and staff improve retention
 - Pride about where they work
 - The competition lever

⦿ Track your analytics

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STEP 5

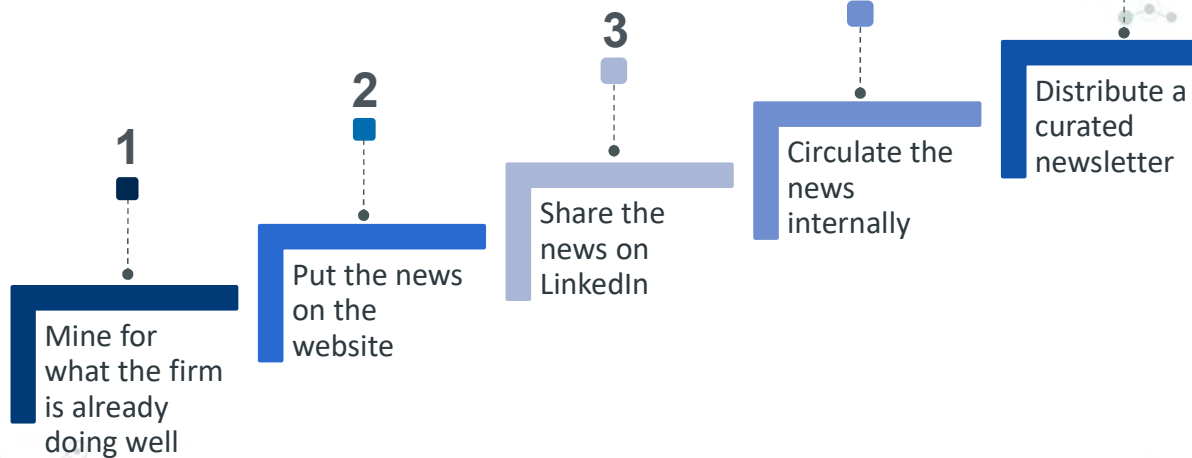
Distribute a Curated Newsletter

- ⦿ Include excerpts only to drive traffic to the website
- ⦿ Use the images created for social to break up the text
- ⦿ Importance of the subject line
- ⦿ Track your analytics

TIP:
Investigate the
state of your
mailing list



Builden's 5 Step Marketing Infrastructure Model



Bonus Steps

- ⦿ Media relations
 - Law360
 - Bloomberg
 - Your local legal publication
 - Alumni publications
- ⦿ Thought leadership positioning
 - Webinars
 - Podcasts
 - Video recaps
 - Speaking opportunities
 - Client CLEs



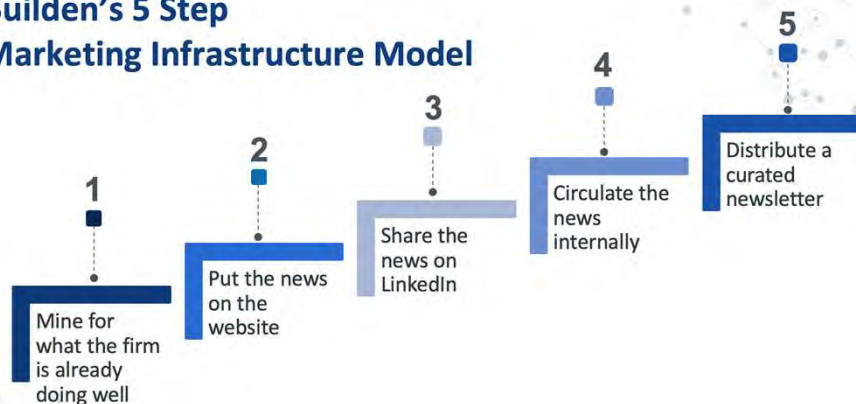
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Breakout Session #1

Is your firm fully leveraging the good work it is doing?

Builden's 5 Step Marketing Infrastructure Model



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Five Ways to Up your LinkedIn Game



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But First!

- ⦿ Take screenshots of your LinkedIn
 - You may need to scroll down to capture from the top of the hero image down through education
- ⦿ How do I screenshot?
 - **Mac**
Full screen: Command, Shift and 3
Drag & select: Command, Shift and 4
 - **PC**
Full screen: Windows and "PrtScn"
Drag & select: Windows, Shift and "S"



Scott Collins · 2nd
Attorney at Helsell Fetterman LLP
Seattle, Washington, United States · [Contact info](#)
500+ connections



About

Helsell Fetterman LLP is a premier mid-sized Seattle law firm that has provided trusted advice and formidable advocacy for its clients throughout the Pacific Northwest across a full spectrum of industries and legal matters since 1890. My law practice focuses on representing institutional lenders on financing transactions and serving small- to medium-sized businesses as outside in-house counsel. I was the firm's Man... [See more](#)

Experience

Helsell Fetterman LLP
34 yrs 9 mos
Seattle, Washington

- Partner**
Jan 1992 – Present · 28 yrs 3 mos
- Managing Partner**
Oct 2001 – Sep 2022 · 21 yrs
- Associate Attorney**
Sep 1988 – Dec 1994 · 6 yrs 4 mos

Education

University of Washington School of Law
Doctor of Law – J.D., Law
1989 – 1988

Activities and societies: University of Washington Rugby Football Club; Old Puget Sound Beach Rugby Football Club

Union College
Bachelor of Arts – BA, Political Science
1987 – 1985

Activities and societies: Union College Rugby Football Club (co-captain); Delta Phi Fraternity (president)

Williams College
Mystic Seaport Program in American Maritime Studies
1983 – 1982

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And then!

Edit experience

Notify network
Turn on to notify your network of key profile changes (such as new job) and work anniversaries. Updates can take up to 2 hours. Learn more about [sharing profile changes](#).

Off

* Indicates required

Title*
Founder

Employment type
Please select

Learn more about [employment types](#).

Company name*
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Why Linked In?

Employees, clients, prospects and recruits look at
your firm's LinkedIn profile
+ Your competition is there
You and your firm need to be there



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Building the Right Network

- ⦿ Determine your sweet spot
- ⦿ Examine who are your best sources of business
- ⦿ Mine your weak ties
 - These are people outside of your inner circle
 - They know people that you don't

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Leverage Your LinkedIn Network

- ⦿ Export LinkedIn connections to Excel for easy evaluation
- ⦿ Take notice of second-degree connections to connect dots
- ⦿ Use search filters to find relevant connections
- ⦿ Be discerning on inbound requests

TIP: Add regular "check-ins" with your best contacts to your calendar for easy reminders

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Five Ways to up Your LinkedIn Game

1. Include a proprietary hero image
2. Add interesting and searchable headline details
3. Eliminate Sad Grey Box syndrome
4. Use "About" to highlight the best work
5. Fill out experience fields for prior work history

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Include a Proprietary Hero Image



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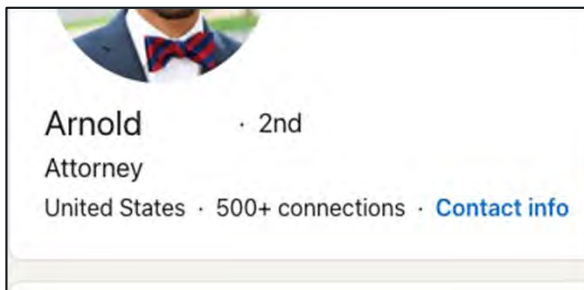
Include a Proprietary Hero Image

1. Click the @ **Me** icon at the top of your LinkedIn homepage
2. Click **View Profile**
3. Click the ✎ **Pencil** icon on the top right corner of your introduction card
4. Click Upload photo to select the image from your computer and click **Open**
5. Click **Apply**



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Add Interesting + Searchable Headline Details



Aaron Lovaas · 1st
 Propelling Business Law Clients Forward Through Assertive and
 Innovative Representation - Newmeyer Dillion

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REALITY **VS** **LinkedIn**

ANAKIN SKYWALKER
ASSISTANT TO THE EMPEROR

DARTH VADER, LORD
CEO, DEATH STAR 1 & 2 |
CHIEF OF STAFF TO THE SUPREME CHANCELLOR |
DARK LORD OF THE SITH | CHOSEN ONE, JEDI ORDER |
JEDI GHOST | EX- JEDI KNIGHT |
EX- GENERAL, GRAND ARMY OF THE REPUBLIC |
STAR FIGHTER PILOT | PODRACING PRODIGY |
MIDICHLORIAN COUNT GALAXY RECORD HOLDER |
LOBBYIST | (DARK) THOUGHT LEADER | ACTIVIST
FORCE PHENOM | INVENTOR | LIGHTSABERSMITH |
HUSBAND TO SENATOR AMIDALA |
FATHER TO A PRINCESS, WHICH TECHNICALLY
MAKES ME A KING | FATHER, LUKE'S FATHER | CHILD OF A
VIRGIN BIRTH | ONE-AND-ONLY JEDI MASTER TURN
SITH LORD TURN JEDI GHOST

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 This can only be added using our mobile app

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Eliminate Sad Grey Box Syndrome





Marketing Consultant
Self -Employed
Dec 2009 – Feb 2018 · 8 yrs 3 mos
Greater Chicago Area




Market Research Analyst
Sysmex Corporation
Dec 2007 – Sep 2009 · 1 yr 10 mos
Mundelein, Illinois




Marketing Analyst
Newspaper Services of America
Aug 2006 – Nov 2007 · 1 yr 4 mos
Downers Grove, IL







Partner
Blank Rome LLP · Full-time
Jan 2020 – Present · 3 yrs 5 mos
Chicago, Illinois




Adjunct Professor
Northwestern University Pritzker School of Law · Part-time
Jan 2021 – Present · 2 yrs 5 mos
Chicago, Illinois, United States



United States Attorneys' Offices
9 yrs

- 

Deputy Chief, Narcotics & Money Laundering
Jul 2019 – Dec 2019 · 6 mos
Greater Chicago Area




Associate
Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates
Sep 2006 – Jan 2011 · 4 yrs 5 mos
Chicago, Illinois, United States

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Eliminate Sad Grey Box Syndrome

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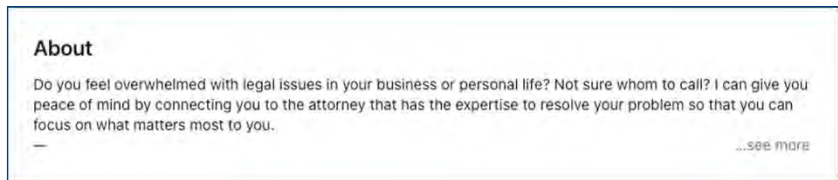
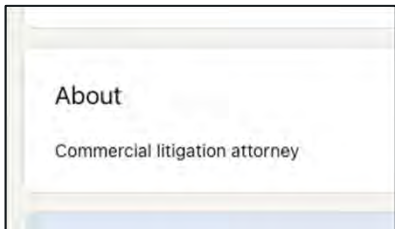
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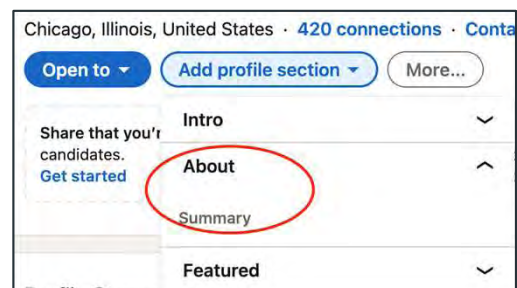
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Use “About” to Highlight the Best Work



Use “About” to Highlight the Best Work

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Fill Out Experience Fields for Prior Work History



Graduate Research Assistant
The University of Texas School of Law · Part-time
Jan 2020 – Apr 2021 · 1 yr 4 mos

Summer Associate
Kirkland & Ellis · Internship
Jun 2020 – Aug 2020 · 3 mos

Summer Associate
Norton Rose Fulbright
May 2019 – Jul 2019 · 3 mos
Houston, Texas Area



Vice President, Internal Communications
Citadel
2013 – 2014 · 1 yr

Counseled the CEO of leading global financial services firm on all employee touch-points, including Town Hall meetings and year-end office tours. Increased employee understanding of and ...see more

Senior Manager of Global Communications
Baker & McKenzie
2008 – 2013 · 5 yrs

Advanced firm strategy with internal and external stakeholders at the world's largest law firm. Served as speechwriter under two Chairmen. Launched the Chairman's Blog, the firm's first-ever ...see more

Senior PR Manager
Foley & Lardner
2001 – 2008 · 7 yrs

Built the PR function at national law firm with 1,000 attorneys and 22 offices. Developed the thought leadership campaign The Cost of Sarbanes-Oxley, named 2004 PR Week Campaign of the Year.

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Fill Out Experience Fields for Prior Work History

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3. Click the **pencil** icon in the **Experience** content block to edit the description
4. Click **Save**

Edit experience ✕

Senior Manager of Global Communications

Start Date * 2020 End Date *

Update my industry

Update my headline

Description

Focused my practice on all aspects of employee benefits and executive compensation law, including the design, drafting, and administration of qualified and nonqualified retirement plans, health and welfare plans, fringe benefit plans, and equity-based compensation arrangements for private and public entities.

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Breakout Session #2

Share your “old” profile with the group

- ⦿ What needs to be updated?
- ⦿ What can you update right now?
- ⦿ What will you change later?
- ⦿ Who at your table has the most improved profile?

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Five Ways to up Your LinkedIn Game

1. Include a proprietary hero image
2. Add interesting and searchable headline details
3. Eliminate Sad Grey Box syndrome
4. Use “About” to highlight the best work
5. Fill out experience fields for prior work history

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Five Ways to Get More Business Out of a Conference

You Can't Just *"Wing It"*

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Five Ways to Get More From a Conference

1. Before You Commit to a Sponsorship...
2. Prep, Prep and Prep
3. The Main Event
4. Follow-Up or Don't Go in the First Place
5. Calendar Future Outreach for Your Best Prospects

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Before You Commit to a Sponsorship

- ⦿ Get clear on the goal
- ⦿ Marketing black hole sniff test
- ⦿ Include speaking opportunity
- ⦿ The panel equation
- ⦿ Non-negotiable: the RSVP list



Prep, Prep and Prep

- ⦿ Review attendance list for targets – existing and prospective
- ⦿ Update your digital presence
- ⦿ Schedule meetings
- ⦿ Make baseball cards
- ⦿ Find your business cards
- ⦿ Tell your marketing team



The Main Event

- ⦿ Use those baseball cards
- ⦿ Be the connector
- ⦿ Establish a next step
- ⦿ Panel photo
- ⦿ The progressive meal: max of two items on your plate
- ⦿ Your conversation exit strategy
- ⦿ Don't trust your memory: business card review each night

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Follow Up or Don't Even Go in the First Place

- ⦿ Take photos of business cards on the plane home
- ⦿ Email the good people to keep the conversation going
- ⦿ Deliver on those next steps
- ⦿ Strike out on baseball cards? Email them anyway
- ⦿ Add to firm mailing list
- ⦿ Connect on LinkedIn - but not from your phone!

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Calendar Your Future Outreach for Your Best Prospects

- ⦿ Business happens in the one-on-ones after the event
- ⦿ Make a chart of your prospects
 - Include next steps, where they live, follow-up date
- ⦿ You may need 7 more touchpoints to close the deal
 - Calendar those now
 - LinkedIn, firm client alerts and webinars
- ⦿ Marathon mentality

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Breakout Session #3

- ⦿ What are your conference best practices?
- ⦿ What takeaway will you incorporate at your next conference?
- ⦿ What's your best exit strategy?

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Marketing Strategies for Smaller Firms in the Post-Covid Era



Jocelyn Brumbaugh
jocelyn@buildenpartners.com

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Memo To: Keyser Mason Ball, LLP, Amandeep Sidhu

File: No File Selected

Research ID: #40001189780207c

Jurisdiction: Ontario, Canada

Date: May 5, 2023

Regarding: 28346-1

Issue

What factors do courts consider when discrediting an expert witness in real estate valuation cases?

Research Description

We have a summary judgment coming up. The parties have conflicting expert reports and the experts have been cross examined. What factors does a court consider when discrediting an expert in real estate valuations?

Conclusion

In [Orr v MTCC 1056, 2016 ONSC 7630 \(CanLII\)](#), the parties had conflicting real estate valuation opinions. The Court determined it preferred the opinion of one expert as it was the most comprehensive in terms of the work done in arriving at the opinion. The expert attended at the premises, took many photos of the location, the house, the views, interior finishes and layout. The expert also considered the sales activity over the years in the complex and included photos of the comparable units, both interior and exterior. As oppose to the other expert who failed to attend and inspect the location and had limited information on comparable properties. As well, the other experts' opinions were undermined on cross-examination.

In [*Palladino v. Durham et al.*, 2021 ONSC 4909 \(CanLII\)](#), the Court considered the real estate appraiser's impartiality as well as accuracy in drafting the report to determine which opinion was more reliable.

Although in relation to a family law context, the Court in [*Bidulock v Bidulock*, 2018 ABQB 474 \(CanLII\)](#) considered the qualifications of the real estate valuation expert, their methodology, and their experience with commercial appraisals to determine which opinion it preferred.

In [*General Motors of Canada Company v Municipal Property Assessment Corporation Region 23*, 2023 CanLII 12249 \(ON ARB\)](#), the Board considered the application of the methodology each appraiser used, as well as the data used by the appraisers, and the lack of analysis to discredit their opinion.

In [*Trask et al v. Groves Memorial Community Hospital*, 2014 ONSC 26 \(CanLII\)](#), the Court looked at both expert's opinions and considered the selection of comparable sales as part of the sales comparison approach completed by the appraisers, and assessed the various adjustments applied by the experts to determine the validity of the opinion.

Law

In [*Orr v MTCC 1056*, 2016 ONSC 7630 \(CanLII\)](#), in assessing each of the expert's opinions, the Court considered their qualifications, the failure of one appraiser to attend and inspect the property, and the lack of data considered:

[28] Counsel agreed each of the experts called was properly qualified as an expert to offer an opinion to the court on the valuation of townhouse 113 as of December 2, 2014. Each expert had similar qualifications; there was not one who stood out as being more qualified than the others. In my view, in determining the value of the loss of the third floor to the Plaintiff, I must scrutinize the expert opinions and decide which one I accept.

[29] In my opinion, Lee's opinion is not as reliable as that of the other experts principally because she did not attend and inspect the Plaintiff's unit. Given that she

was asked to value a property and she was using other units to make the comparison, it seems to me it was essential to go to the unit to obtain a sense of its location within the complex, its layout and the quality of finishes in particular. It is difficult to appreciate these features by simply looking at photographs. It was not the case that she was unable to attend the premises; simply that she understood that this option was not available to her. When questioned on this point, she agreed that the fact that she had not inspected the townhouse placed her at a disadvantage compared to the other experts who had done so and I agree with this statement. As a result, I give much less weight to her opinion.

[30] Furthermore, Lee had only limited information on the comparables. For example, she did not know that there were a number of three-storey townhouses at Grand Harbour and she was not aware which of the comparables had lake views, which she agreed was a significant factor in her analysis. She did not know that the unit next door to the Plaintiff, townhouse 114, which was a smaller unit, sold for \$1,510,000 in 2011 and it was listed for sale in May 2015 with a price of \$1,898,800. She was unaware that an offer was made in 2015 for that same unit for \$1.6 million.

[...]

[33] Parthenis testified that he was not familiar with the text “*The Appraisal of Real Estate*” by the Appraisal Institute of Canada, which was acknowledged by both Bottero and Lee as the authoritative text for appraisers in Canada. This admission was surprising, given the evidence of the other two experts and makes me question the reliability of the opinion of Parthenis. Bottero and Lee agreed that this book directs that when doing an appraisal, it is not good practice to average the value indicators of comparable properties. When Parthenis was asked if averaging the value indicators of the comparable properties as a means of arriving at a valuation was contrary to the text, he did not know.

[...]

[37] The Bottero report was clearly the most comprehensive in terms of the work

done in arriving at the opinion. Bottero and his associate attended at the premises, took many photos both of the location of the townhouse, its views, interior finishes and layout. Bottero considered the sales activity over the years of units in the complex. He also included photos of the comparable units, both interior and exterior, so I was able to get a sense of the differences between the comparables and the Plaintiff's townhouse.

[...]

[43] It is interesting to note that the valuations done by Bottero are actually less than the appraisals of the expert retained by the Defendant Gowlings. This gives credence to the reasonableness of the valuations done by Bottero. Furthermore, the Plaintiff bought the unit in 1998 as a three-storey townhouse for \$955,000. She then spent hundreds of thousands of dollars renovating the unit. It makes no sense that after doing so, the value of her townhouse would only have increased by \$200,000 over a period of seventeen years, which is the opinion of Lee. The evidence of Parthenis contradicts this conclusion because he testified that from 2009 to 2014, the properties in Grand Harbour increased by about seven percent (7%) per year. The other experts did not disagree with this estimate.

Of note, in [Orr v MTCC 1056, 2016 ONSC 7630 \(CanLII\)](#), the Court confirmed the most reliable appraisal opinion involved research that was thorough, a well-founded analysis, and his opinion was not undermined on cross-examination the same way the other opinions were:

[45] I agree that the appraisal of real estate is not an exact science; rather, it is an art. Following the direct comparison approach allows an analysis of a piece of property based on comparisons with similar properties with appropriate adjustments to take into account features of the property at issue. In my view, the most reliable opinion on the value of the loss of the third floor of unit 113 is that of Bottero. His research was thorough, his analysis was well-founded and his opinion was not undermined on cross-examination in the same way that the opinions of Lee and Parthenis were. I accept the opinion of Bottero as to the valuations of the unit and therefore find that the loss of the third floor of the Orr townhouse as of December 2,

2014 is \$465,000 and I fix the damages of the Plaintiff in that amount.

In assessing the expert real estate opinions in [Palladino v. Durham et al., 2021 ONSC 4909 \(CanLII\)](#), the Court considered the impartiality of the expert, and the errors noted in both reports with respect to adjustments and measurements in determining which opinion was more reliable:

[69] The Court has concerns with both expert opinions as to market value. First, each opinion provided is that, an opinion. They are at best educated guesses. They are considerations by the author of the opinion on what the market value could be given, the assumptions made and information provided. As Edwards J., as he then was, indicated in *Gamoff*, it is “crystal ball gazing.”[\[13\]](#)

[70] The concerns that this Court has with the opinion of Mr. Epstein are that there are several occasions in his reports and in his testimony that Mr. Epstein went from a neutral expert to that of an advocate. His impartiality was compromised. Occasions of the impartiality of Mr. Epstein that gives the Court concurs, include:

a) His statements that Ms. Garbens reports were misleading and unethical. He states that the data used by Ms. Garbens was unethical. He refers to the Appraisal Standards (CUSPAP), section 5.2 throughout his Review Report[\[14\]](#) to imply that Ms. Garbens was unethical. He opines that Ms. Garbens’ report “is misleading and in violation of the CUSPAP standards.”[\[15\]](#)

b) His Review Report reads more like a submission than impartial objective evidence for the benefit of the Court. In his review report, he makes conclusions on the conduct of the plaintiff “in hiring an expert in the field of real estate transactions by engaging a real estate brokerage to handle both of his 2017 transactions on the property.”[\[16\]](#)

c) He makes conclusionary comments that the price obtained by the plaintiff meets the definition of market value. He goes on and concludes in his testimony and report that the transaction in October 2017 met the test of reasonable exposure and the plaintiff acted

knowledgably.

d) The conclusion of price in his reports denotes that the price of \$625,000 was reasonable. He does not provide an independent market value assessment. It appears to the Court that his finding that \$625,000 as a reasonable value indicate a result orientated approach, that is, to support the price sold by the plaintiff rather than providing an impartial valuation of the market value of the Property at the time of sale in October, 2017.

[71] These frailties of the evidence and reports of Mr. Epstein detract, significantly, to its persuasiveness and reliability.

[...]

[73] Even with the issue of time constraints, Ms. Garbens' reports have numerous errors and re-calculations that gives the Court pause with respect to its reliability. There were errors in:

- (a) driveway adjustments which required a recalculation;
- (b) in the sale price of Comp. 2, which required a recalculation;
- (c) failure to indicate in her report the deductions and increases made to each comparable to contrast with the Property. This prevented one from reading the report to clearly ascertain the percentages and figures utilized in the adjustments;
- (d) the lot size of Comp. 5.

[74] Furthermore, the Court has concerns with the time adjustment percentage that Ms. Garbens utilized. There is no question that the Property was a one-storey waterfront property in Innisfil. However, Ms. Garbens used a HPI for all houses in Innisfil and did not restrict, as Mr. Epstein did, to one-storey homes. This decision by Ms. Garbens results in the percentage used for time adjustment to be lower than

if one used a one-storey defined HPI. The effect is that the prices of comparables used by Ms. Garbens is not decreased to the same degree. The time adjustment for all homes during the time periods in question, June to October 2017, is 10.5 percent rather than 15.84 percent for one-storey homes.

[75] I determine that the time adjustments used by Mr. Epstein appears to be more pertinent in the circumstances of this case giving the volatility of the market and the type of home that was the Property. To restrict the types of homes to the type of home that was the Property makes more logical sense. That comparison is more accurate. There were no questions that the numbers of homes in the one-storey category in Innisfil were sufficient as opposed to a nonexistent sample for one-storey waterfront homes in Innisfil.

[76] Taking all these factors into consideration, I have concerns on the reliability of Ms. Garbens' reports and figures.

In [*Bidulock v Bidulock*, 2018 ABQB 474 \(CanLII\)](#), there were conflicting opinions between the parties real estate valuation experts. Although in relation to a family law context, the Court considered the qualifications of the expert appraisers, their methodology, and their experience with commercial appraisals:

[82] I conclude that the opinions of Mr. Davis regarding the values of the two properties are more reliable than the opinions of Mr. Vallee for the following reasons:

- 1) Qualifications – Mr. Davis' designation as AAIC requires a higher level of education than does the DAC which Mr. Vallee possesses. Mr. Davis also has a university degree and a Post Graduate Certificate in Valuation from the University of British Columbia. This is reflected in the higher level of sophistication and a more detailed analytical approach demonstrated in the Davis reports.

- 2) Experience with commercial appraisals - Mr. Vallee is 71 years old and has been involved in the real estate business in east central Alberta

for over 40 years. At times, he was also a real estate broker and operated an insurance business. While Mr. Vallee has done commercial real estate appraisals, this represents only 10% of his practice. On the other hand, Mr. Davis has been an appraiser of real estate for much less time, but his experience is much more directly focused on commercial real estate appraisals such as the appraisals in this case.

3) Direct Experience in St. Paul Appraisals – Mr. Davis had recent experience in appraising commercial properties in St. Paul and those properties were subsequently sold within the range of his appraised values.

4) Davis used St. Paul Comparables – For the Direct Sales Comparison Approach, Mr. Davis was able to use recent sales of commercial real estate in St. Paul to arrive at an estimate of value. In relation to the Power Merchant lands three of the four comparables were located in St. Paul. In relation to the Boathouse, two of the four comparables were located in St. Paul. On the other hand, Mr. Vallee used nine comparables to value both the Power Merchants lands and the Boathouse, but only one of those properties was in St. Paul. The two comparables which Mr. Vallee used to value Power Merchants lands were both located in Bonnyville.

5) Vallee Inconsistent Approach – When estimating the value of the Boathouse Mr. Vallee relied exclusively on the results of the Direct Sales Comparison Approach (which was substantially less than the value indicated via the Income Approach). However, when estimating the value of the Power Merchants lands, Mr. Vallee concluded that the Direct Sales Comparison Approach resulted in a much higher value than that indicated by the Income Approach. Instead of using the Direct Sales Comparison Approach as he had done with the Boathouse, Mr. Vallee averaged the results of the Income Approach

and the Direct Sales Comparison Approach. This caused his estimate of fair market value to be less than would have been the case if he had relied exclusively on the Direct Sales Comparison Approach. He offered no explanation for this apparent inconsistent approach.

6) Direct Sales Comparison Approach Preferable – Both the Power Merchants lands and the Boathouse have been owner occupied for many years. It is more likely than not that a purchaser of these properties would use them in a similar way. It is unlikely that the properties would be used for rental and investment purposes. For these reasons Mr. Davis relied on the Direct Sales Comparison Approach and simply used the Income Approach as support for his valuation. Mr. Vallee did not adopt this approach when valuing the Power Merchants lands. As a result he understated the value of the property.

7) Use of the Elk Point Comparable – A property in Elk Point was one of the nine comparables identified by Mr. Vallee as part of the Direct Sales Comparison Approach. The Elk Point property was essentially a garage with an overhead door; it was sold in a foreclosure. The sales price for that property reflected a price per square foot of \$49.18. While Mr. Vallee did not use this comparable to estimate the value of the Power Merchants lands, it clear that the Elk Point transaction was the major factor (or perhaps the only factor) in his valuation of the Boathouse. Of the nine comparables used, Elk Point had the lowest price per square foot. The next lowest price per square foot was \$78.78. The average of the comparables, excluding Elk Point was \$115.83 per square foot, more than twice the unit price for Elk Point. Based on the nine comparables, Mr. Vallee reported that the “unadjusted value range” was \$49 to 158.33. The low end of the range was clearly Elk Point. Mr. Vallee then adjusted the range to account for location and in doing so reduced the per square foot price by an adjustment “as high as 30%”. He then expressed his opinion that the value range was \$35 to \$45 per square foot. The Elk Point unit value

of \$49.18, reduced by a location adjustment of 30%, would yield an adjusted per square price of \$34.42. It is obvious that the low end of the range is directly related to Elk Point. Mr. Vallee offered no explanation for how the high end of the adjusted range (\$45) was arrived at. A 30% discount from the next lowest priced comparable (\$78.78) would result in an adjusted value of \$55.15, more than \$10 per square foot higher than the high end of the adjusted range. As a result, I conclude that the high end of Mr. Vallee's range is completely unrelated to any of the eight comparables other than Elk Point. Despite his *viva voce* evidence, I find that in determining the value of the Boathouse via the Direct Sales Comparison Approach, the only comparable which Mr. Vallee relied on was the Elk Point property. I find that the Elk Point property is not a fair comparable and that the use of Elk Point was not appropriate. Furthermore, no explanation was offered as to why any adjustment was necessary when comparing Elk Point real estate to St. Paul real estate. I find that Mr. Vallee significantly understated the fair market value of the Boathouse by relying on the Elk Point property.

8) "Mortgage Equity Concept" v. "Market Capitalization" – Mr. Vallee used the "Mortgage Equity Concept" because of the "absence of sufficient market data" with which to estimate the "Market Capitalization" rate. The "Market Capitalization" data consisted of extremely old sales data. The most recent comparable sale took place in July 2011. One of the comparables was a sale in 1999. Because of this weak data, Mr. Vallee developed the "Mortgage Equity Concept". However, despite the "Market Capitalization" data being very weak, he gave it and the "Mortgage Equity Concept" equal weight when estimating the value via the Income Approach for the Power Merchants lands. This process resulted in a reduced appraisal of the Power Merchants lands.

In [General Motors of Canada Company v Municipal Property Assessment Corporation Region 23, 2023 CanLII 12249 \(ON ARB\)](#), the Board considered the application of the methodology each appraiser used, as well as the data used by the appraisers, and the lack of analysis to discredit their opinion:

[38] The Board begins by first observing that appraisal theory indicates that the import of identifying a property’s Highest and Best Use is that it serves to narrow the focus market data to be considered when conducting the appraisal, “to data that is especially pertinent to the appraised property” (see page 12.1). Thus, Highest and Best Use informs both the choice of the appraisal methodology to be applied, and the appraiser’s selection of market data that is relevant when forming an opinion as to the value of the property being appraised.

[39] The Board also observes that appraisal theory does not provide that a different Highest and Best Use can be specified for the land as distinct from the improvements on the land. As noted in the excerpt from *The Appraisal of Real Estate*, noted above, the improvements on the land must be considered together with the land in determining Highest and Best Use and, by extension, in developing an opinion of the market value of the property. For this reason, the Appellant's appraisal expert’s articulation of the Subject Property’s Highest and Best Use is unclear, as it does not indicate whether the Highest and Best Use is large scale manufacturing or, instead, the manufacture of motor vehicles.

[...]

[42] Regarding the issue of whether the Subject Property qualifies as a special-purpose property, the Board observes that, although the Appellant's appraisal expert’s sales evidence does indicate market activity where automotive assembly plants were repurposed for alternate manufacturing purposes, this sales evidence (only seven transactions) does not indicate a high level of sales activity. It also clearly indicates that there are relatively few potential buyers for an automobile assembly plant at any particular point in time, and that the alternate uses for an automobile assembly plant are very limited. For this reason, the Board does not

accept the Appellant's appraisal expert's opinion that the CAMI Plant is not a special-purpose building. Accordingly, as observed in *The Appraisal of Real Estate* in respect of special purpose properties, the Highest and Best Use of the Subject Property as improved is *probably* the continuation of its current use if that use remains viable.

[...]

[45] It is commonly understood that 'maximum productivity' means the use that will produce the highest value for the property (i.e. maximize economic return). As noted above, the difficulty when determining Highest and Best Use, in particular, the assessment of 'maximum productivity', is the practical problem that there may be limited market evidence available to determine which use would be maximally productive. Nevertheless, this determination must be made. In this regard, the Board observes that the Appellant's appraisal expert, although he referenced the maximum productivity criteria, provides no analysis evaluating whether the alternate uses identified in the sales transaction data would produce a higher economic return than the Subject Property's current use as an economically viable automotive assembly plant.

[46] As will be discussed below, MPAC challenges the relevance of this sales transaction data on the basis that most of these sales occurred in circumstances where the automotive assembly properties were no longer economically viable at the time of sale. Irrespective of whether this is the case, the Highest and Best Use analysis must be made as of the applicable valuation day. Consequently, in this case, the current use value of the Subject Property must reflect its value as a financially successful and productive use. It is not disputed that significant costs must be incurred to convert an automobile assembly plant to an alternate use, and such costs must be deducted from the anticipated value of the property if it were to be converted to the alternate use. Because such conversion costs would not be incurred if the Subject Property's current use is maintained, it is highly improbable that any feasible alternate use would be more productive than the Subject Property's current use. In this regard, the Board observes that the sales transaction data

provided by the Appellant's appraisal expert does not indicate that alternative uses would be more productive, nor does he provide any other analysis to establish that this could be the case.

[...]

[71] As no evidence or analysis has been provided to explain the discrepancy in the areas and associated values, the Board selects MPAC's areas and associated values, as MPAC's evidence provides a detailed breakdown of individual building areas, which suggests it is the more accurate resulting value.

[...]

[73] Regarding the Model Plant, as noted above, MPAC's appraisal expert has reported that its Normalized Annual Production Capacity is 216,576 vehicles per year, whereas the Appellant's appraisal expert has reported this value as 200,000 vehicles per year, indicating that he obtained this value from MPAC's property records. As no evidence or analysis has been provided to explain the discrepancy in these values, the Board selects MPAC's value as it appears the value reported by the Appellant's appraisal expert may have been an approximation.

[...]

[104] In support of its position, the Appellant submits that its appraisal expert's analysis considers specific issues identified at the Subject Property, such as the roof, concrete floors, and ceiling and paint. However, the Board observes that these are described as curable physical deterioration, and the Appellant's appraisal expert expressly confirms that he made no deduction for this type of physical deterioration.

[...]

[131] The Board begins by noting that MPAC and the Appellant adopt very different approaches. One might have expected that, in order to resolve this dispute, the Board would simply identify which approach is correct. However, that is not the case. MPAC's reviewing expert, who reviewed both appraiser's reports, has stated

that MPAC's appraisal is “well supported and appropriate”, and that the Appellant’s appraisal is “market supported and appropriate”, (see his conclusions at page 48 of his written report), notwithstanding that the difference in the values derived by the two appraisal experts are literally tens of millions of dollars apart.

[132] In light of the above opinion evidence, the Board accepts that neither approach should be rejected on the basis that it is an incorrect methodology. Instead, in order to resolve the parties’ dispute, the Board must examine the specific application of each methodology in this case. In this regard, the Board will first examine the Appellant’s approach.

[...]

[136] In reaching this conclusion, the Board observes that the Appellant’s appraisal expert’s reason for not choosing economic life, is simply that he didn’t know what the length of economic life would be. While the Board agrees that accurately estimating economic life is a particularly difficult exercise for automobile assembly plants, this is not a persuasive reason for choosing useful life.

[...]

[181] The Board finds that the Appellant's appraisal expert’s analysis creates two uncertainties regarding the reliability of his estimation of Economic Obsolescence: (i) uncertainty whether the property sales used in the Appellant's appraisal expert’s analysis reflect the automobile assembly market; and (ii) uncertainty whether Economic Obsolescence varies with effective age. The Board will address each uncertainty in turn.

[...]

[198] In light of the above analysis and findings, the Board concludes that MPAC's appraisal expert’s methodology used to determine whether there is economic obsolescence, and, if so, the percentage rate to be used when calculating the value of economic obsolescence on each Valuation Day, is more reliable than the

methodology and values advanced by the Appellant's appraisal expert.

Consequently, the Board finds the correct values for economic obsolescence to be used when calculating the current value of the Subject Property are the values advanced by MPAC for all the taxation years under appeal.

In [*Trask et al v. Groves Memorial Community Hospital*, 2014 ONSC 26 \(CanLII\)](#), the Court looked at both expert's opinions and considered the selection of comparable sales as part of the sales comparison approach completed by the appraisers, and assessed the various adjustments applied by the experts to determine the validity of the opinion:

[36] In my view, the selection of comparable sales as part of the sales comparison approach should be focused on local properties, rather than on properties outside of the Township, or certainly outside the County. Consideration of lands for residential development by a potential purchaser would depend upon such a purchaser projecting the demand for and sale prices of residential properties in the local market, rather than a remote market, at the time that the lands would be anticipated to come on stream. Similarly, institutional uses, such as hospitals, municipal facilities, libraries, or places of worship would be expected to serve local needs, and the demand of such facilities would depend upon local conditions, rather than on conditions in remote locations. I would therefore discount the comparability of the church property in Woolwich Township and the Conestoga College property located between Cambridge and Kitchener, both in the Region of Waterloo as identified by Mr. Hasyj as properties 1 and 2 in his initial report.

[...]

[40] I agree with Mr. Youngblood's position that a time factor should be applied to the comparable sales to reflect the fact that their purchasers would have discounted their purchase prices to reflect the lost return on the invested capital for the anticipated period prior to the lands becoming ready for development. I find the rate of 7% compounded semi-annually referred to in Mr. Youngblood's report to be reasonable, resulting in an adjusted value for the Keating Property of \$41,946.98, rounded to \$42,000.

[41] With respect to the Taylor-Turner Properties, Mr. Youngblood applied a downward adjustment of 20% to reflect their superior location and serviceability. It is noted that, at the time that these properties were acquired, they were not yet within the urban boundary and they therefore benefitted from the subsequent OMB order including them within it. I find the minus 20% adjustment proposed by Mr. Youngblood to be reasonable, as well as the time adjustment based upon a 7% semi-annual compound rate, resulting in an adjusted value of \$62,153 per acre rounded to \$62,200.

[...]

[44] Mr. Youngblood, in preparing his addendum report, applied a 10% reduction from the valuation in his initial report which valued the Option Lands as of December 1, 2007 to reflect a reduction in commercial sector activity corresponding with a reduction in activity in the vacant land sector in the intervening year. He also applied a further adjustment of 5% to acknowledge the volatility of the vacant land market in reference to the credit crisis in the fall of 2008.

[45] Mr. Hasyj, in his initial report, under the heading "market overview" addressed the then current credit crisis by observing that its impact remained unknown, and that the market conditions for institutional lands appeared to remain relatively stable.

[46] I am not satisfied, based on the evidence, that a reduction in the value of the Subject Lands as of the Reference Valuation Date, to reflect the credit crisis then in existence is warranted. Mr. Youngblood's opinion with respect to the impact of the credit crisis was expressed in his addendum report while in the midst of it, without the fuller insight respecting its impact that would be available from a retrospective standpoint. He observed that the effect of the crisis was to essentially freeze the market, such that both vendors and purchasers were remaining on the sidelines, and properties were not being offered at "fire-sale" prices.

Authorities

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[Palladino v. Durham et al., 2021 ONSC 4909 \(CanLII\)](#)

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[General Motors of Canada Company v Municipal Property Assessment Corporation Region 23, 2023 CanLII 12249 \(ON ARB\)](#)

[Trask et al v. Groves Memorial Community Hospital, 2014 ONSC 26 \(CanLII\)](#)



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