

BUSINESS & CAREERS



PAUL LAWRENCE FOR THE LAWYERS WEEKLY

Ontario Family Court Justice Harvey Brownstone has been a member of the bench for 15 years.

Judging would-be judges

Current judges talk about the ins and outs of making the leap from lawyer to judge

CHRISTOPHER GULY

A seasoned civil litigator in practice for the past 33 years, Ormond Murphy is used to asking tough questions in court. And the 58-year-old, Ottawa-based lawyer is not one to shy away from getting answers from colleagues — particularly those with ambitions to sit on the bench.

So, when lawyers apply for a vacant position on the Ontario Court of Justice (OCJ), Murphy, as a member of the Judicial Appointments Advisory Committee (JAAC), wants to know what they will bring to the job and why they want it.

“Do they know their way around the courts and the area of law — family or criminal, for instance — they would deal with as a judge? Are they aware of any issues



Murphy related to the vacancy for which they've applied, such as trial delays or administrative problems — and what are their solutions? How much experience do they have practising in

the relevant area of law? If they have none, why do they have a burning desire in that area of law now?”

“Or, are they really applying for the position because they're bored practising law and looking for a career change with a good salary and a pension?”

That's a sample of the type of grilling candidates can expect when interviewed by the 13-member JAAC (composed of three judges, three lawyers and seven laypeople who serve for three-year renewable terms) — if those applicants end up on the short-list. Becoming an OCJ judge is a gruelling and time-consuming process.

Ontario Family Court Justice Harvey Brownstone spent the better part of a day filling out the application in 1994 — when JAAC was still in its pilot phase.

After practising criminal law, serving as head of the family law section's research facility at Ontario Legal Aid and later director of the Ontario government's Family Responsibility Office, Brownstone — who applied to become a Crown prosecutor but was turned down because he was gay, he was later told — wanted to be a judge “to help people, one family at a time.”

But appearing before the full committee for a 60-minute interview was “very intimidating and mortifyingly frightening,” says 53-year-old, Toronto-based Brownstone, who was appointed to the bench 15 years ago.

“You don't know what they're going to ask or what they already know about you.

You don't know what the right answers are to the questions they are going to ask you.”

Furthermore, senior lawyers told him he'd never be appointed a judge because of his sexual orientation and “no government is going to take the risk of appointing an openly gay person,” says Brownstone, who was born in Paris and is fully bilingual.

“I don't know how I didn't faint, I was so scared.”

When a judicial vacancy occurs in Ontario, the chief justice notifies the attorney general, who in turn asks JAAC to find suitable candidates for the area of law involved and the location.

(The committee will soon screen candidates for a judicial position — primarily in family law — for Milton, Ont.)

“We don't create a pool of candidates.”
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Gear up for a 'talent offensive'

TALENT MATTERS



SARA ARNSTEIN

RICHARD LEE



With growing signs of a dwindling recession, you may be tempted to breathe a sigh of relief. The media are painting a brighter picture, layoffs are subsiding and there seems to be a renewed focus on hiring. But, before reverting to “business as usual,” law firms would be remiss if they did not focus their efforts on talent priorities and the effects of a recovering economy on their workforce.

According to Deloitte's global survey, *Managing Talent in a Turbulent Economy*, leaning into the recovery, many business executives now believe that the worst of the economic downturn is behind us. However, they also anticipate a difficult operating environment from a talent management perspective. In fact, managing human capital is one of the top three strategic issues on their agenda, along with cutting and managing costs and acquiring, serving and retaining customers.

Throughout the downturn, firms have operated on the talent defensive — closely managing costs and headcount. As the economy recovers, firms need to gear up their talent offensive to prevent key employees from leaving. The Deloitte study confirms that headcount no longer appears to be a top priority. Now most companies are concerned about losing key performers.

So what does this mean for managing talent in law firms? With signs of economic optimism, more employment opportunities will emerge and associates and partners who “stuck it out” may very well leave on their own volition or be lured by competitors.

To prevent the wholesale loss of key talent, and keep their practices intact, firms must do more than revive and strengthen their retention initiatives. They also must

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BUSINESS & CAREERS

The perks of working up to partner

DONALEE MOULTON

Two words are topping the list of challenges facing law firms across the country: recruitment and retention. One word is helping to address these issues: perks.

Perks come in all sizes and all price tags. At Stewart McKelvey, Atlantic Canada's largest law firm, events for associates are a regular occurrence, said Susan Hayes, the firm's professional resources and development officer, who is based in Halifax. "We've had good success with restaurants that will close for the evening for us. We want people to feel comfortable. It makes you feel special."

That's certainly how associates felt a few years ago when the firm pulled out all the stops. One Thursday associates and partners were taken to *Fox Harb'r Golf Resort & Spa*, an exclusive, semi-private club. The evening culminated in a fabulous dinner. On Friday, associates opted for either a day at the spa or a day on the links. (Tiger Woods, along with friend and former NBA all-star Charles Barkley and coach Hank Haney played a nine-hole charity event at the resort last year.)

Meanwhile, associates' spouses were arriving. Partners exited the premises that afternoon. Associates and their significant others were given a night to themselves.

"This was a way of saying thank you," noted Hayes. "It was high end. That's how we distinguish ourselves."

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Making associates feel valued is very important...

Associates are only associates for a very short period of time.

They are future partners.

It was clearly a weekend to remember. Associates talk about the event to this day (as do partners). But big events are the exception, not the norm. Smaller tokens of appreciation are standard operating procedure.

"We show appreciation in a number of ways including the usual ways like dinners at partners' homes, receptions, and larger social gatherings," said Sharan Sangha, director of professional development and recruitment with Farris, Vaughan, Wills & Murphy LLP in Vancouver.

"When we feel special appreciation is warranted, for example, for an extra special effort, we show appreciation in other ways," she added. "We may send an associate away for a weekend with their spouse or give special gift cards as a thank you...We also do ad hoc things like tickets for sports events, gift certificates for restaurants or sometimes we simply send the associate a note from a senior partner to say 'thanks.'"

At Stikeman Elliott LLP in Montreal, the seasons help determine how the firm will say thank you to its associates. In winter, said Jill Hugessen, director of associates and professional development, there is a ski night; in summer, a special outing. There's also bowling and outdoor music shows.

"There is an element of fun," she noted.

There is also a sense of camaraderie. At McInnes Cooper, pizza lunches for associates are a way of feeding hungry bodies and nurturing the next generation of partners. "This is a time for associates to enjoy themselves and their colleagues," said Brad Proctor, a partner in the firm's Halifax office.

That enjoyment extends to Thursday evenings, he added, when associates and partners in Halifax come together in the staff lunchroom, named Otium, to relax and unwind. In summer, they're joined by students.

It's the little things — and the big things — that law firms do for their associates that speak volumes about the firm itself and how it views its associates. And

it is money well spent. "This is good business," said Hayes. "What keeps people here is the relationships with other people. You want to enjoy going to work."

Employees — associates and otherwise — want to feel that their contribution is both noteworthy and recognized. "Perks make people feel valued, and that's important. This feeds into long-term commitment," says Glenda Morrissey, a psychologist and owner of Morrissey Rehabilitation & Treatment Counselling in Nova Scotia.

Perks are a practical way to stave off hunger pangs. "Due to the size and structure of See **Perks** Page 24



These days law firms are providing all sorts of "dangling carrots" from meals at high-end restaurants to ski nights to lure and retain top associates.

How good it gets

LAW FIRMS south of the 49th parallel and across the pond are leading the way when it comes to those two words that matter most: thank you. Here's what some U.S. and U.K. firms are doing, or have done, to give their lawyers a pat on the back.

One London firm gives each of its female lawyers a £90 allotment for lingerie — dubbed the "90 nicker knicker allowance," according to *The Guardian*. The money kicks in only if the lawyers work later than 11pm. The firm also recognizes the value of a good night's sleep — even if that sleep is not in your own bed. The firm now has "sleeping pods" on site.

In one Chicago office, the firm's "happiness committee" (we kid you not) recently put Snow White's legacy to shame. They left candied apples on everyone's desks. Last month, the happiness committee in Washington toasted everyone with milkshakes from a favorite eatery.

One international firm with offices in New York and Washington, D.C., is putting its money where its associates are living. It guarantees the first \$100,000 of their mortgages. The largest law firm in the U.S. also rewards with cold, hard cash — specifically \$2,000 for every employee who buys a hybrid car.

On-site tailoring is available at one international firm with offices across the U.S. while a personal issues coach and a psychotherapist come compliments of a New York firm. Fridays are cocktail reception time at another New York firm; at the nearby competition, it is weekly wine and cheese in the conference room. The cookie monster makes a regular appearance at a firm with offices in NYC and DC. Here associates can also take a well deserved break in the lounge — and watch a little big screen TV. One Houston firm, however, opts for the healthy break: fresh fruit is delivered daily.

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BUSINESS & CAREERS

Law firms show they care about associates

Perks

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many firms, constant feedback is not always possible," said Sangha. "Taking the time and energy to pass along a token of appreciation can often be more meaningful than a larger pay cheque. This is what makes people feel connected to their jobs."

"Making associates feel valued is very important," agreed Proctor. "Associates are only associates for a very short period of time. They are future partners."

Patting those future partners on the back makes good sense—and perks are a practical way to achieve this. There is also a quid pro quo inherent in acknowledging associates, noted Hugessen.

"If you want them to go the extra mile, you need to be pre-

pared to go the extra mile."

Of course, what is special today can become routine tomorrow. Indeed, noted Hayes, "when I started to practise what would have been considered perks are part of an expected benefits package today."

Former perks, she pointed out, include such standards today as a parking space and maternity benefit top-ups.

The recession has loomed large for many firms, but this should not be a reason to forego tokens of appreciation, said Morrissey. "In a recession, it is best to cut back rather than not give at all."

"People have come to expect this," she added. "If there is no perk, they may feel devalued."

It doesn't have to be a unanimous gesture to be effective. "For example," noted Sangha, "one associate worked particularly hard on a large

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We really try to recognize the contribution of associates... You have to let associates know that they matter.

transaction through the month of December. As a token of appreciation we sent the associate a gift card for an electronics store he was known to frequent."

At McInnes Cooper, an Associate Working Group identified a number of issues the firm was able to address—quickly and simply. These included providing financial advice for new associates, ensuring they could claim a meal if they worked late, and arranging for in-office dry cleaning drop-off and pick-up.

"We really try to recognize the contribution of associates," said

Proctor, an associate himself until two years ago.

"You have to let associates know that they matter," he added.

Such an approach is relatively new for law firms. "In the past, the view may have been that high salaries were a sign of appreciation and that was enough. I think that has changed," said Sangha. "We recognize that law firms have to do a better job of showing their people they are valued. I think that applies to everyone in the office."

It's also important to make

them feel part of the team—and that their team is special. At Stewart McKelvey, for instance, one senior partner was famous for doing the splits. "That was always a big crowd pleaser at events," said Hayes. And the only events where you'd be privy to these dance moves was at Stewart McKelvey.

Ultimately, however, perks are exactly what the name implies—nice but not essential. Associates do not stay with a firm because there is pizza or bowling or even one night to live like the rich and famous. "Our first concern is getting them interesting work," said Hugessen.

"The important thing is to have a professional staff that is engaged," she said. "That's what we do. That's our inventory." ■

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Segment Marketing Manager – Legal Markets

Job ID: LC514-2010-SMM-LM • Location: Markham • Type of Employment: Full-Time

We have an immediate opening for a Segment Marketing Manager – Legal Markets with our Marketing & Segment Management team. Reporting to the Director, Marketing and Segment Management, you will gain a deep understanding of customer needs within the small law, medium law and large law segments. You will create segment value propositions and this exciting position involves close coordination with sales teams as well as direct contact with customers, including attending customer sites with sales representatives.

Responsibilities:

- Work closely with customers and colleagues to gain deep insight into customer needs and trends, and develop relevant value propositions that support business strategy
- Develop and implement segment marketing strategy and programs, and track program performance
- Lead creation of promotional and sales support materials (advertising, e-marketing, direct mail, brochures, etc.)
- Implement programs and processes to improve customer feedback (advisory board, focus groups, user groups, etc.)
- Collect business intelligence, develop go-to-market strategies, help define segment-specific product offerings, and help form pricing strategy
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Qualifications:

- A university degree in marketing or a related field
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- Successful history of developing compelling value propositions and working with sales staff to communicate solutions to the market
- Ability to think strategically and act tactically to achieve desired results
- Enthusiasm, strong work ethic and ability to focus on customer needs
- Excellent time management, project management, planning and organizational skills
- Ability to solve problems and think both analytically and creatively
- Exceptional communication, interpersonal, presentation and leadership skills, with the ability to form strong working relationships and influence others
- Bilingualism (English and French) is an asset

Closing Date: April 23, 2010

Contact Information:

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Work at retaining top talent

Talent

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think about how to retain high performers and prevent competitors from recruiting them away. While there are no hard and fast rules on how to achieve these goals, best practices do exist. Consider these:

Define high-potential talent

Gear retention strategies toward top performers. Develop a common understanding amongst the leadership group of how to define high potential. Characteristics of high performers may include ambition, leadership ability and integrity. Ideally, the characteristics selected will align with the firm's values and provide managing partners with a consistent approach for identifying top talent and high performers.

Conduct a talent assessment

Once characteristics of high-potential talent are defined, identify those associates and partners within your firm who display these qualities. This can be accomplished through formal assessments or informal meetings. Either way, your goal should be to continuously identify top performers within your talent pool and give them access to appropriate personal and professional development programs.

In conducting this assessment, you may also find talent gaps. If your firm does not have access to the necessary skills to be successful long term, sharpen your knowledge of external talent markets and determine how to attract the resources you need. Other strategies for filling these gaps may include re-skilling and cross-training existing talent or building alliances with law schools to ensure new graduates have the real-world skills required of today's fast-paced firms.

Strengthen training and development programs

Provide key staff with the support they need to perform to their highest potential. This may seem a daunting proposition in today's budget-con-

scious economy. Fortunately, programs do not need to be expensive to be effective. Using internal experts often provides opportunities for cost savings as well as for more tailored and applicable learning. It also fosters a coaching environment.

When strengthening training and development programs, be sure to identify strategies for developing the next generation of leaders. As high performers progress through various stages of their career, it's essential that employers continuously provide training and tools that will enable them to effectively handle greater levels of responsibility. High-potential talent that is not properly developed is at particular risk of attrition. That may explain why nearly one-half of surveyed executives plan to increase employee development programs. A similar number are ramping up initiatives to develop future leaders and managers over the next 12 months.

Monitor progress

A final element of an effective retention strategy involves the development of measures that evaluate how well employees adhere to the performance criteria you've established. In addition to positioning you to assess the progress of high-potential employees, clearly defined key performance indicators (KPIs) provide a meaningful benchmark from which to measure talent.

Go on the offensive

As the economic outlook brightens, law firms with well-defined and implemented talent strategies will be better equipped to manage their workforce and retain top performers. Those that remain in a defensive position risk losing the fight for talent, leaving them without the workforce strength they need to benefit from the economic recovery. ■

Richard Lee is a partner and Sara Arnstein is a manager in Deloitte's Human Capital practice, based in Toronto. Deloitte's Human Capital practice helps organizations develop and implement effective talent management strategies.