

BUSINESS & CAREERS

Lawyer takes on former law firm in lawsuit

BY JEREMY HAINSWORTH

Civil actions by lawyers against their firms can be avoided through the creation of and adherence to codes of conduct for all staff, Canadian employment lawyers say.

The eyes of the North American legal community were drawn to a Toronto-based firm in early February as an up-and-coming lawyer filed suit against her former firm claiming violations of New York State and New York City human rights laws.

It's a case that has drawn the cold light of day onto the issue of lawyers suing their law firms.

Jaime Laskis is suing Osler, Hoskin & Harcourt LLP, a firm she joined in Toronto in September 2003 as an associate, according to documents filed in the United States District Court, Southern District of New York.

Laskis moved to the New York office of the firm in 2004 where she claims her performance was "very dependable and resourceful" with "very good long-term prospects."

Court documents say things changed dramatically for Laskis when senior partner Kevin Cramer was appointed as the New York representative for the company's legal professional committee, an internal Osler committee based in Toronto overseeing and reviewing associates.

"Mr. Cramer was hostile and demeaning toward women," Laskis' claim says.

Among instances mentioned



Jaime Laskis

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[Osler, Hoskin & Harcourt LLP Senior Partner Kevin] Cramer was **hostile** and **demeaning** toward women"... [He told a law student going to Harvard that he] might meet some pretty women **pretending** to get a legal education, [and that he hated working with women] because they just get **pregnant** and leave. Out of every three years you only get one good year out of them.

—Jaime Laskis' court filings against Osler, Hoskin & Harcourt LLP

in the court filings are Cramer referring to a female director of one of the firm's clients as being in charge of "oral communications," his telling a law student going to Harvard that he "might meet some pretty women pretending to get a legal education," and that he hated working with women "because they just get pregnant and leave. Out of every three years you only get one good year out of them."

Laskis further claims that in a February 2008 annual review Cramer told her, despite consistently good performance, that he didn't think that she wanted to be partner and that "she must be more than a pretty face" and she was "not helping herself coming to work looking well put together."

Laskis claims that when she was asked for objective ways she could improve, Cramer gave her no criteria.

Laskis claims she brought the issues to the attention of a New York managing partner.

Cramer was later sent for sensitivity training, says the claim, adding he later asked his assistant, Nancy Tucker, if she had said something about him. She said she hadn't and was terminated a month later, documents say.

In June 2008, Laskis says she received her first negative performance review. Her salary remained frozen and she was told if she did not improve, she would not be there at the end of the year. Despite this, the claim says, she was assigned to a highly valuable client and received praise from a high net-worth client.

Laskis claimed she continued to get poor reviews and was told in March 2009 she was on probation. Three months later, she was fired.

She claims Osler then tried to "harm her reputation and disrupt her ability to gain new employment."

She claims the situation is a course of willful discrimination and retaliation based on sex. She is claiming back pay, front pay and compensatory and punitive damages.

Laskis referred *The Lawyers Weekly* to her attorney, Jim Batson of New York's Liddle & Robinson LLP who said he could not comment on the case.

According to Osler's website, Cramer practises U.S. mergers and acquisitions and securities law. He previously practised at two major international law firms in Washington, D.C., Sydney, Hong Kong and New York.

He did not respond to phone calls or emails for this story.

Batson said could not comment on whether or not a defence

had been filed. He said Osler has some time yet left to respond.

Laura Fric, a partner with Osler and the current co-chair of the firm's legal professionals committee which is responsible for associates, confirmed Laskis was an associate with the firm in Toronto and New York until 2009.

"We regret she felt it in her interest to start a legal complaint concerning her time with us in New York," Fric said in a Feb. 23 statement to *The Lawyers Weekly*.

"As you would expect, we have investigated the background to her allegations thoroughly and will of course be defending the firm against the claim. We wish her well in her new firm, but have no further comment since the matter is before the courts."

Laskis is now an associate in the Corporate and Securities Practice Group of Pepper Hamilton LLP in New York. She concentrates her practice primarily on U.S. and international mergers and acquisitions, corporate finance and securities law.

An analogous case is *Diane M. LaCalamita v. McCarthy Tétrault LLP*, filed in the Ontario Superior Court of Justice on April 15, 2008.

The case concerns lawyer Diane LaCalamita, who was terminated by McCarthy's in mid-2006 with the offer of a \$200,000 settlement. She turned down the money and sued for \$12 million, alleging that the firm was "plagued by systemic gender-based discrimination and a culture of discrimination."

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More Canadian law firms to merge with international behemoths?

While much of the buzz within the legal community last year centred on the mega-merger of Lang Michener LLP and McMillan LLP, creating a new, major player in the Canadian legal market, it was the joining of Ogilvy Renault LLP and Norton Rose Group that caught the attention of the broader business community. While intra-Canadian law firm mergers may have greater personal impact on those in the legal community (many of our friends are directly affected by such mergers), the broader implications of an inter-continental legal alliance may signal a more dramatic change to the manner in which legal services are offered in Canada.



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The context for this potential market shift was set in motion as a response to the latest global economic downturn, as most (if not all) law firms closely re-examined best practices, cost controls, and effectiveness of service provision (read: alternate fee agreements). In short, firms closely examined how they could best improve their competitiveness in the delivery of legal services. In addition, a number of

firms went a step further to examine whether the delivery of international legal services formed a key component to best match client needs.

A number of Canadian firms aggressively staked out their international brand, aiming to secure Canada as the powerbase for their growing international presence: Fasken Martineau Dumoulin LLP enhanced their global offerings to include offices in London, Paris, and Johannesburg—all consistent with their growing reputation as one of the world's leading mining practices. Similarly, Heenan Blaikie LLP, with their growing presence in French speaking Africa, has

focused on growing their footprint in the Paris market (recently snagging 16 lawyers from Norton Rose's Paris office).

In South America, Macleod Dixon has opted to best service their growing oil and gas practice to include offices in Venezuela, Columbia and Brazil, along with a growing presence in Russia.

On the West Coast, McMillan, through their legacy firm Lang Michener, has an established and growing China presence, with plans to expand their China offices in the coming months. The Vancouver office of Gowlings has increased their presence and marketing efforts both at home and abroad into the

Chinese and Korean communities, with increased visibility in both markets. Similarly, Blakes continues to maintain their strong presence in Beijing, while Heenan Blaikie recently acquired a leading business immigration lawyer to assist with their growing relationship with the Chinese market.

In Japan, Davis recently expanded their presence through the acquisition of seven leading Japanese practitioners in the Tokyo market.

By contrast, Ogilvy Renault went the other direction, opting to pursue a more formal relationship with Norton Rose, one of the U.K.'s

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Future Canadian law firm mergers likely

Mergers

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leading transactional firms. While the partnership represents the first true foray by a major international firm into the Canadian market, it is unlikely to be the last. With the arrival of Norton Rose scheduled for June 1 rumors of other top tier, international firms trolling Canadian waters for likely merger candidates will only continue to increase.

For those skeptical of future international merger activity in the Canadian market, consider this: until recently, the last two remaining industrialized countries whose legal markets were

not dominated by large, international law firms were Australia and Canada. Last year, Allen & Overy LLP, one of London's fabled "magic circle" firms, launched two Australian offices, while Clifford Chance LLP explored merger opportunities with Australia's legal giant Mallesons Stephen Jaques. Most recently, DLA Piper announced it will merge with leading Australian firm DLA Phillips Fox, making it the largest firm in the world, with over 4,000 lawyers worldwide. The similarities between the Australian and Canadian legal landscapes and their relationship with the global marketplace suggest there may

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be some lessons learned from Australia for Canadian law firms contemplating the future of the delivery of legal services to their clients in the global context.

In the end, the key to making the most of the changing global legal landscape lies in understanding your clients' needs: would they benefit from an integrated, international legal services platform? Are they already seeking this out? Have they created a make-shift solution through a combination of various firms around the world? As their strategic advisor on legal matters, this is an excellent question to broach over your next lunch—it demonstrates leadership, forethought and critical insight on your part in attempting to best understand and service their needs in the marketplace. It may also provide you with the ammu-

munition for you and your partners to begin exploring how best to position your firm in capturing a larger share of the legal marketplace beyond the Canadian borders in the next market cycle. ■

Warren Smith is a managing director of The Counsel Network, a lawyer recruitment and career consulting firm. He is also the only Canadian elected to the Board of Directors for the National Association of Legal Search Consultants (NALSC), North America's leading legal recruitment industry association.

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First impressions count

What people think generally impacts their behaviour. This has been demonstrated in medicine with the placebo effect — you take a pill thinking it will make you feel better, and it does. First impressions become lasting self-fulfilling prophecies.

So consider these thoughts and impressions from a prospect or client point of view. The elevator doors open, they enter your lobby and think, this must be a successful firm, and so it is. They meet a lawyer for the first time and decide that they are smart, know their stuff and the relevant industry. And so it is. The initial impression makes a lasting impact.

Perceptions, snap judgments

In the marketing and sales space we are surrounded by the snap judgment effect. Prospects tend to have the experiences they expect to have based on what occurs preceding those experiences. Perceptions and snap judgments can create expectations, and those expectations really influence their future experience.

Shape judgments

Knowing that there is a strong probability that prospects will experience what they expect to experience, the marketing challenge is to shape those expectations—you need to manage the forces that influence snap judgments. And that is where an



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objective strategic business evaluation comes into play.

See things from clients view

Stand back and objectively view everything through the eyes of a new prospect.

■ Start in your parking lot — is it accessible? Is there sufficient parking? Do clients have to pay to park?

■ What is your impression of the building lobby? The elevators?

■ Walk into your reception area and what do you notice?

■ Have someone you trust (if you can't do it yourself) visit the offices of your top competitors and provide you with a similar critical evaluation.

■ What do the public meeting areas look like to a first time visitor?

■ If you advertise, no matter where, does this communication distinguish you?

■ Is your website smart, quick, clear and distinguishable from the herd?

■ Do you have a dress expectation of professionals and office staff? Lawyers don't have to wear suits to make an impression (in fact to some sectors a suit is a huge turn off).

■ Walking to public meeting

rooms through the office, what is your impression of the surroundings, people, the noise level, the level of your anticipated personal success?

■ Call a few of the lawyers, partners and associates after hours and listen to their voice mail messages.

■ Call your firm during business hours from a phone other than one that clearly identifies you on the call display.

■ Check a number of your lawyers' email signatures for consistency and impression.

■ Your business card — what does it say about you as a silent first impression?

■ Are your lawyers trained in networking finesse and selling skills?

■ How do you welcome new prospects?

■ What client service standards are in place and are they being followed?

Stop them from going for the exit

Study everything that will affect a snap judgment. Master and control their first seconds. When a prospect is not at all vested in your firm, you want to be very sure that all snap judgments will allow them to move forward in the relationship process and not have them running for the exit. ■

Paul Kuttner is a principal of innovate! marketing.

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