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DE GRANDPRÉ CHAIT LLP
LAWYERS

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Notes of the month

Construction

Errors in Tenders: Preventing Them to Avoid the Very Worst

Preparing a tender is a meticulous process that is not always guaranteed to bear fruit. Tight deadlines, ambiguous call for tender documents and the desire to be the lowest bidder are a few of the elements which pave the way for errors and the potential liability of the tenderer. We will consider certain important aspects in the preparation of a tender with a view to avoiding or, at the very least, limiting errors. We have drawn inspiration from an analysis of various court decisions on this topic, thereby giving true meaning to the saying that we should "learn from the mistakes of others." [Complete text](#) By **Me Martin Tétrault**

Labour and Employment

Employers Beware: Whistleblowing Employees are now Protected!

On September 15, 2004, sections 2 to 8 of federal Bill C-13, namely Chapter 3 of the Statutes of Canada 2004, came into force. On the heels of the Enron and Martha Stewart affairs, among others, Bill C-13 amends the **Criminal Code** as regards capital markets fraud and insider trading. However, the Bill also introduces a **new criminal offence targeting employers in general**, although this was done with little fanfare: henceforth, employers may not impose or even threaten disciplinary measures or reprisals against an employee who provides information with respect to an offence committed by his employer or who reports his employer for a violation of federal or provincial legislation which the employee suspects the employer to have committed or be committing. [Complete text](#) By **Me André Gosselin**

Conferences

Intellectual Property

Taking Security Interests in Intellectual Property: Working Through the Maze

As part of the Eighth Annual Canadian IT Law Association Conference held on **October 21 and 22, 2004** in Calgary, **Me Marie Laure Leclercq** spoke about Québec's perspective on

Taxation

Trusts, an essential business component

The 1994 reform of the Civil Code had a significant impact on the civil law concept of trusts. Trusts, as they now exist under the new Civil Code of Québec, are an improved version of the common law trust, with all its benefits and flexibility and none of the disadvantages of the former concept of trusts found in the Civil Code of Lower Canada. Here is a brief outline of the major benefits of trusts and the potential they offer for favourable tax planning. [Complete text](#) By **Me Jules Brossard**

Important Judgment

Business/Insolvency

The Supreme Court of Canada acknowledges that company directors are not required to be perfect

In a judgment highly awaited by the business community, the Supreme Court of Canada on October 29, 2004 unanimously ruled that the directors of Peoples Stores, Lionel, Ralph and Harold Wise, were not responsible for the bankruptcy of their company. "The business community will be glad to learn that the law protects directors who, acting honestly and in good faith, attempt to redress the financial situation of an insolvent company," stated **Me Eric Lalanne**, who represented the Wise brothers. [Press Release](#)

Appointments

We are pleased to announce that five lawyers have joined our Firm, further solidifying our position as a leader in real estate law and our strength in litigation and business law.

Jules Brossard has joined our **Business Group**. Mr. Brossard's practice touches upon all facets of **taxation** law involving corporations, from voluntary disclosure to the tax

the problems involved in taking and enforcing security interests in intellectual property in Canada; these problems arise, in particular, due to federal/provincial jurisdictional conflicts. However, there is light at the end of the tunnel following the recent tabling by the Honourable Irwin D. Cotler, the federal Minister of Justice, of a bill intended to create and implement a federal registry of security interests in intellectual property.

Taxation

Voluntary Disclosure - The Administrative Process

On **October 7, 2004**, at a conference organized by **the Association de planification fiscale et successorale** (APFF), **Me Jules Brossard** lectured on the administrative process surrounding voluntary disclosures as well as the history of the voluntary disclosure program.

Environment

Environmental Assessments and Due Diligence in Real Estate Transactions: How to Avoid Litigation

On **December 7, 2004**, at the 17th Annual Conference on Environmental Law and Management, **Me Marc Beauchemin** and **Me Mark E. Turcot** will lecture on the impact of Bill 72 on real estate transactions. They will discuss the preventive and remedial measures which should be adopted, whether by the purchaser or the vendor. They will also examine contractual provisions that should be reconsidered in connection with real estate transactions, as well as new environmental provisions. To register, please contact the **Canadian Institute** at 1-877-246-4832

authorities, corporate and personal tax planning, to litigation of tax matters as well as the negotiation of notices of assessment and proposed notices of assessment.

Fredric L. Carsley has joined our **Real Estate Group**. Mr. Carsley practises exclusively commercial real estate law with particular emphasis on major retail projects. He specializes in acquisition, development, financing and leasing of commercial real estate, representing well-known majors in the industry.

L. B. (Les) Erdle has joined our **Litigation Group**. Specialized in civil and commercial litigation as well as construction and real estate matters, Mr. Erdle also practises in fields related to intellectual property law, competition law and information technology law.

Martin Raymond has joined our **Business Group**. Mr. Raymond, who holds a Masters in Taxation, practises primarily in matters involving personal tax planning as well as corporate restructurings.

Alyssa J. Yufe has joined our **Real Estate Group**. Ms. Yufe, who is a member of the Québec and Ontario Bars, practises real estate law exclusively. She worked for two years in Toronto in the fields of commercial litigation and securities.

Highlights

Class Action Against Tobacco Companies

Six years after the motion was filed, the class action filed by the **Québec Council on Tobacco & Health** and **Mr. Jean-Yves Blais** was set to be heard in Superior Court on November 4, 2004 for a period of ten days. The motion seeks an authorization to bring a class action on behalf of persons suffering from emphysema or having developed lung, throat or laryngeal cancer. **Me Marc Beauchemin of De Grandpré Chait** and **Me Michel Bélanger of Lauzon Bélanger** represent the plaintiffs.



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