Small but Mighty

Canadian Lawyer’s top-rated insurance defence, tax law and wills, trusts and estates boutiques are working hard to provide value

By Mallory Hendry

Carolena Gordon, senior equity partner at Clyde & Co. in Montreal, says all her conversations these days have a common focus, and that is modernization.

“What are we doing as firms to modernize our practice and better respond to client needs? Particularly, clients are saying to us what can you do that's innovative, that's different, that's interesting in terms of servicing us?”

Gordon says they are focusing on innovative practices in all facets of their business — rethinking how services are delivered to the client, how technology fits into that, even examining how artificial intelligence could play a role. Using technology to give clients access to their files and the ability to follow along with documents as their case progresses is one example of this.

It’s about starting a dialogue with clients about options to get the services delivered better, faster, Gordon says.

One of the ways the industry is attempting to modernize is through alternative fee arrangements. Bill Chalmers, managing partner at Hughes Amys LLP in Toronto, says he would like to...
expand his firm’s use of AFAs — in particular fixed fees — but finds it can be a challenge at times to get people to engage in that conversation.

“It seems like people want to talk about AFAs, but we always go back to the hourly rate fee basis — whether that’s just easier, whether it’s something we’re familiar with, I don’t know, but it’s hard to really change the way we bill for our services,” Chalmers says.

Gordon says in her experience, clients are often requesting a flat fee, and “we look at changing some of the ways in which we deliver the service.

“Can we do certain things for a flat fee? Can we do the services differently? Is there a blend of technology and professional services that are going to be delivered in lieu of what was the traditional pure lawyer service?” Gordon asks.

Chalmers puts it down to trust. When you have an excellent relationship, you can work together to come up with an AFA that works for both sides.

“I think we could really improve the way we do business if we could do a better job of developing these AFAs,” Chalmers says.

For the past few years there’s been an increase in in-house departments at insurance companies and a growing willingness of companies to keep a lot of their legal work in-house, Chalmers notes. What follows is therefore less work being referred to external counsel.

For Chalmers, it’s simply a different form of competition for Hughes Amys LLP — in-house counsel instead of other firms.

“There are just more players in the business,” he says.

Gordon has noticed the trend, too, but she says she doesn’t think it’s stopping a lot of the carriers from still referring out work “of a certain level of complexity or that is a jurisdictional challenge.”

Ontario insurance defence firms are facing uncertainty with the new accident benefit regime. Along with other changes over the past few years, there were major reductions made by the provincial government to statutory accident benefits, beginning in June.

Another of the big changes is procedural. Disputes under the Statutory Accident Benefits Schedule will now fall under the jurisdiction of the Licence Appeal Tribunal instead of the Financial Services Commission of Ontario.

Chalmers says nobody really knows how it’s going to work or what the implications might be for insurance defence firms in Ontario. He notes it could mean fewer files for outside counsel, which leads to managing partners trying to predict the future of accident benefits in the province so they can position their accident benefits departments accordingly.

“I think we had in the past few years a real bulge in which there was a number of AB files going through the system, and now we’re looking at this new regime and thinking, How many AB lawyers do we really need?” he says. “How many files are there going to be going forward? And because of the uncertainty of the LAT, we really don’t know. It’s kind of a wait-and-see approach.”
Hughes Amys LLP [Toronto, Hamilton]
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Frank Hughes and Thomas Agar established the firm in 1918 and were later joined by Jack Amys. In 1930, Hughes became the first lawyer to be appointed directly to the Supreme Court of Canada. This 44-lawyer firm works in a variety of practice areas including automobile insurance, libel and slander, property claims, personal injury, products and professional liability and fire and property insurance.

“Expertise, collegiality, depth and breadth of knowledge and experience, skill and ability” were cited by one voter as key qualities of the firm.

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