



Newsletter

April 2019

Membership

Thank you to **Jacquelyn Stevens of Willms & Shier Environmental Lawyers LLP** for inviting myself and our president, Rob McConnell to attend the Smart Remediation Conference in Mississauga last month. It was very informative and we also had an opportunity to hear Jacquelyn speak on Court's Upholding of the MECP's EPA No-fault Order. Of special interest was the topic of Managing Real Estate (re)Development Risk & Environmental Insurance, from **Carl Spensieri of Berkley Canada** and how it may affect our industry. Therefore, I arranged for **Jason Wiesner of Wiesner Insurance** to speak to us in October at our conference about the availability of **Environmental Insurance** for our membership.

I also had the opportunity to attend a conference on **Understanding Environmental Insurance and Insured Claims** presented by the **Ontario Bar Association** on March 5, 2019. As the only representative of the dry cleaning industry, I was welcomed by everyone and had the opportunity to learn more about what the industry can expect in dealing with solvent pollution and the costs involved with prevention, cleanup, and lawsuits.

The Program Chair was **Matthew Gardner**, a **Senior Associated at Willms & Shier Environmental Lawyers LLP**, who is members of CFA and well represented by Jacquelyn Stevens who was also in attendance.

Carl Sapenseri, VP Environmental, Berkley Canada presented policy examples of Director/Officer Liability and **Lori Festarini, VP Environmental Services, Stantec Consulting** discussed Environmental Claims and lastly **David Zuber of Zuber & Company LLP** discussed a number of Case Studies which went to court.

I was impressed with the knowledge of all the speakers, and the manner that they presented the information gave me new insight on how we as an industry must go forward. The questions and answers that followed were of great assistance in understanding the problems and difficulties that arise from the current and possible future legislation.

It is imperative that you consider attending the upcoming conference in October, as we will have speakers from the insurance industry explaining what coverage is available to protect you, your family and your business. **Jacquelyn Stevens** will also give us the updated legal ramifications involved with environmental pollution, especially as it applies to our industry. In the meantime, if you know you have or may have a problem, you should contact **Jacquelyn** for advice. She can be reached directly at (416) 862-4828,

As a result of attending this conference, I was able to improve my knowledge about environmental pollution and how it affects our members and the dry cleaning industry.

The following companies have registered to participate in the partnership with the Salvation Army to donate unclaimed garments to their Thrift Stores to help the less fortunate: Bathurst Village Cleaners, Gibson's Cleaners, Goodfellow Cleaners, Magiclean, Orr Cleaners, Premier Cleaners, Sketchley Cleaners, and TSC Wet Cleaning. This group represents hundreds of locations. It is not too late to register to be part of this program. Certificates of participation will be sent out soon.

Editorial comment by Executive Director Sid Chelsky:

I cannot impress upon you the importance of attending Conferences, Trade Shows, Cost Groups, etc. From my first entering the industry, I realized how much I did not know. I made it my goal to learn as much as I could by attending trade shows, conferences and joining a cost group. As I learned more and more, I was able to get our business in a growth position and keep my costs under control.

Help also came from the members of the allied trades who provided me with the knowledge and support to invest in new technology and cost saving ideas. You will see by the attached CFA Conference program which is being held on October 5th and 6th that you have an opportunity to learn from the best in the industry.

For example, we start out with Karen Maxwell of GreenEarth who spoke last year on how to increase our sales and we all felt that we could listen to her for hours on end, to Nick Chapeau of Starchup, a new CFA allied trade member who will help us grow our business through route sales. We then have the good fortune to learn from Jeff Jordan of Fabritec (your Sanitone dealer) on how to motivate and retain valuable employees (who we depend on), from one of the top experts Bob Edwards of A. L. Wilson Chemical Corporation on improving our ability to remove stains to listening to Peter Wennekes, the President and C.E.O, of CINET, the largest Professional Textile Care Association in the world on dealing with the changing world market demand.

We are also fortunate that Diane Vollmer of Methods for Management will be coming to discuss the merits of belonging to a cost group and to this end, she will be conducting a workshop on Sunday morning for a limited number of members to see firsthand how these cost groups function and the merits of belonging to one.

As a result of our partnership with MacDonald, Sager, Manis LLP, our corporate lawyers, we will have the benefit of their leading Employment Law experts Christine Jonathan and Chris West to explain many of the new requirements of employers that we have to reach in order to accommodate our employees. Failure to abide by these rules may result in heavy fines and ill will with your employees.

This will be followed by our own Jacquelyn Stevens of Willms & Shier Environmental Lawyers LLP, who will bring us up to date on the current Environmental Law and rules that we must follow. There has been a lot of new legislation that can and will affect your businesses. This will be followed by a talk by Jason Wiesner of Wiesner Insurance who will discuss among other things, new environmental insurance availability. If you do not think that you need that because of the solvent or lack of solvent you are currently using, you should be aware that this may change in the future and be retroactive (i.e. use of perc). Be prepared to protect yourself and your company with this insurance availability.

On Sunday morning, we have arranged for four workshops of which any one member in attendance will be able to attend two of them for the same price. Among those workshops, we have arranged for Peter Wennekes of CINET who will go into more detail on the change in world market demand. He has the benefit of information from members in over one hundred countries.

Another workshop will also be conducted by our new allied trade member SPOT, who are one of the leading Point of Sales Systems companies. They recently purchased Compass Max and many companies are now using their system.

As I mentioned before, Diane Vollmer will also conduct a mini cost group introduction. In addition to this, Karen Maxwell of GreenEarth will expand her previous talk on utilizing social media to increase your sales and image in the marketplace.

There will be limited space for these workshops, and I urge you to register as soon as you can in order to insure a spot at these workshops. Each one is limited to twelve persons and will be held in the hotel boardrooms.



Thomas Ferris <thomas.ferris@tillsoncleaners.ca>

Congratulations to Thomas Ferris

AREA BUSINESS JOINS INTERNATIONAL ASSOCIATION OF WEDDING GOWN SPECIALISTS

Thomas Ferris, Drycleaner, of Tillson Cleaners, announce their affiliation with the Association of Wedding Gown Specialists. Ferris, member of the Canadian Fabricare Association, noted the company is the only company in Southwestern Ontario that offers the Association's trademarked MuseumCare ZeroCarbon wedding gown preservations and gown restorations. Association members throughout the United States, Canada, Mexico, Ecuador, Peru, South Africa, and Australia are certified to ensure that wedding gowns and heirloom textiles of all kinds are cleaned according to established museum-care standards and preserved in archival-quality materials.

Ferris noted that an independent blind test of gown preservation services conducted by the prestigious National Bridal Service, a membership organization of more than 400 independently-owned bridal salons and 600 other wedding professionals, judged MuseumCare preservations unmistakably cleanest and best preserved. MuseumCare preservations are Endorsed by the Association of Bridal Consultants and Green Bride Guide. More than seventy gown designers and manufacturers recommend MuseumCare preservations.

"We take pride in the quality of our work," said Ferris, and our affiliation with the Association of Wedding Gown Specialists is a natural extension of our determination to provide consumers with the .best available product Now our brides will know for sure we are the gown preservation service they can trust! We also look forward to making it possible for today's brides to wear the family gowns they thought were hopelessly yellowed and stained. No matter how old the gown, a MuseumCare restoration can return it to the true color." Serving Oxford, Elgin and Norfolk Counties, Tillson Cleaners looks forward to helping brides and their wedding parties treasure the memories a wedding brings to their lives.

Microfibers problems

Recent article in Wall Street Journal and Toronto Star "**Tiny plastics in your clothes are becoming a big problem**". The World Health Organization found that Microfibers from synthetic clothing have made their way into seafood, drinking water, beer, honey and sugar. Previously, we brought this information to you in an earlier newsletter.

New York and California have pending legislation that will require labels on clothes made from more than 50% synthetic material to tell consumers that these shed microfibers when washed. Companies have started selling washing bags and balls intended to catch fibers in washing machines.

It appears that the laundry and wet cleaning industry will be facing some new concerns and possible regulations in the future. Home washers currently do not have any ability to prevent these microfibers from going into the sewage system.



Hello and good morning Sidney,

I just want you to know that I appreciate the time you take to help our members in this industry. I enjoy our talks and resolving issues with clothing manufacturers.

We have owned Wright and Cotty's cleaners since June of 2002. We have grown our business of 5 staff to just under 40, work side by side and keep things as successful as possible. We do help other local cleaners when they are down as good neighbors and do other charitable things for the community.

Over the past 7 years I have been directly involved with our customer service department. I have had many successes and a few failures. Both welcomed for growth. The one thing I have come to notice in our industry is the quick and ease of the customer to try and take dry cleaners down if something goes wrong. Either our fault or not. Clothing failures and misrepresentation happen more and more. Making it difficult to clean and maintain for our customers whom purchase these items. There are tricks we have learned like many but sometimes they fail. And we are again stuck at the hand of a customer claiming fault and demanding a refund or credit etc. They still have no issue with supplying a rough Google review anyway.

The day in age of instant gratification and customer satisfaction has brought me to a point in my customer service experience. That we should no longer be at fault for products that simply don't stand up. Gone are the days of a customer threatening to take "one to the cleaner's".

I have a format that works for a customer complaint and with success it is handled and resolved within 24 hours.

I feel my time has come and my experience in the industry has allowed for my knowledge to expand. I enjoy speaking to people and providing service that leaves them speechless.

I would like to extend this knowledge to our group and others whom may have a language barrier or smaller staff or lack of experience with clothing whom are susceptible to being taken advantage of.

I'm not sure how this format would look like, but I would love to sit and talk with you about it. We can change the way the industry is seen and has been seen for years. Technology has changed, society has changed along with demands of our customers. If we can bind our industry and strengthen how we respond to issues at hand, we can rid the impression viewed by the upcoming generation.

We don't lose your clothes on purpose

We don't wear them on weekends

We don't ruin them for our benefit

And we don't like being taken for.

We are here to make your clothing investments last longer. Keeping you looking better. We are a valued industry that has been around a long time.

I trust you run into issues all the time. Perhaps we can make something out of experience, so others don't feel trapped at their business in fear of lawsuit over a shirt or tie.

I Am looking forward to your thoughts on this. Feel free to call me.

Regards

Kim Sekleski

he following companies and individuals again have indicated their sponsorship of the upcoming conference in October 2019:

- Fabricare Cleaning Centers (Clark McDaniel) – Luncheon on Saturday
- GreenEarth Cleaning Canada (Robert Kuenzlen) – Coffee Breaks (2)
- Willms & Shier Environmental Lawyers LLP – Saturday Night Cocktail Hour
- Harco – Saturday night Cocktail Party
- SPOT Business Solutions – Friday night Cocktail Party
- Sparkle Solutions – Saturday morning Breakfast
- Sparkle Solutions – Speakers Gifts
- Dalex Canada – Overall Conference Support
- Rivard Investments, Newtex Cleaners & Gibson’s Cleaners – Saturday night wine at dinner



The following events need sponsors or co-sponsors:

- Sunday morning workshops; Gift Certificates; Overall Conference Support

If you would like to participate as a sponsor, please contact Sid Chelsky to reserve your choice of sponsorship.

The following companies and individuals have reserved a Table Top for the upcoming conference in October 2019:

- Exttox Industries (Artur Keyes)
- Green Earth Cleaning Canada (Robert Kuenzlen)
- Harco (Rob Jackson)
- Sparkle Solutions (Bruce Miller)
- Ontario Laundry Systems (Craig Gibson);
- A.L. Wilson Chemicals (Bob Edwards)
- Starchup (Nick Chapeau)
- CINET (Peter Wennekes)
- Environment Canada and Climate Change - Compliance



Clean Show 2019 New Orleans

If you plan to attend the Clean Show in New Orleans, please drop by the Fabricare Canada Magazine booth and say hello to me. I will be available ON FRIDAY AND SATURDAY TO discuss any industry matters. Please wear your CFA member buttons at the show and CLATA cocktail party. Hopefully, you will have an opportunity to meet and talk with other CFA members, as well as show our commitment to the industry.

Social Media and Just Cause by *Matthew Riskin*

Social media provides a world-wide platform to an individual's thoughts and opinions, for better or for worse. When ill-considered statements are posted, the response backlash can be quick and at times passionate. This means that within hours, an employer can find themselves in a reputational crisis based on the comments posted by an employee.

Social media activity typically falls into the category of off-duty conduct. While social media cases are still rare, there are several examples of case law on off-duty conduct, generally. For instance, in a recent B.C. Supreme Court case *Klonteig v West Kelowna (District)*, 2018 BCSC 124, the Court confirmed that off-duty conduct can constitute just cause for termination, but to do so "it must be or be likely to be prejudicial to the interests or reputation of the employer." This case highlights that, for the most part, there is no such thing as off-duty when it comes to social media activity that could be prejudicial to an employer.

It is within the employer's right to use the social media posts from an employee's public account as cause when carrying out a termination. That being said, it is also beneficial for an employer to have a strong policy with regards to social media use. So long as the policy is reasonable, this is a way to ensure that employees are aware of the parameters around their conduct, and can provide employers a stronger basis for termination, should the need arise.

Great comments:

"Train people well enough so they can leave. Treat them well enough so they don't want to". – Richard Branson

CFO asks CEO: "What happens if we invest in developing our people and they leave us?"
CEO: "What happens if we don't and they stay?"

"It does not make sense to hire smart people and then tell them what to do. We hire smart people to tell us what to do." Steve Jobs

"If you want to hire great people and have them stay working for you, you have to let them make a lot of decisions and you have to be run by ideas, not hierarchy. The best ideas have to win; otherwise, good people don't stay. Steve Jobs

"The bitterness of poor quality remains long after the sweetness of low price is forgotten". Steve Jobs

Certification & Re-Certification

Please check your due date for re-certification. Currently Seneca College is conducting on-line certification courses. However, if there are enough candidates to justify a course conducted by an instructor at the college, they may consider doing so. Let me know when you are due for re-certification or have a new person to be certified and I will try to put a class together.

<http://www.senecacollege.ca/ce/environment/environ-sustain/dry-cleaners-environmental-management.html#ContactInfo>

Canada: Employee Privacy: Right To Access Personnel Files

Last Updated: February 27 2019 - Article by [Khalfan Khalfan](#), [Stikeman Elliott LLP](#)

One area of practical importance to employers is an employee's right to examine material contained in his or her personnel file. Often times an employee will request a copy of his or her employee personnel file. Sometimes the request arises in the context of a workplace dispute or in a civil claim against the employer where the employee's representative makes such a demand. In most instances, an employer does not know whether to cooperate or push back. That's when the phone rings and the caller says: "Person X asked to see his/her personnel file, do I have to provide it?" In classic lawyer fashion, the answer is: it depends.

Provincial Differences

Employee privacy law is not uniform across all jurisdictions. In particular, for federally regulated employers (such as banks and airlines), the collection, use, disclosure, storage and security of personal information is governed by the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA). Alberta, British Columbia, and Quebec are exempt from PIPEDA's purview as each of these provinces has its own privacy legislation which governs employers carrying on business in those Provinces.

Employees in federally regulated workplaces, as well as employees in Alberta, British Columbia and Quebec are entitled to access their personnel files. In fact, not only can employees in these jurisdictions view their personnel files (subject to certain limitations including related to the sharing of information about third parties or ongoing investigations), they also have the right to challenge the accuracy and comprehensiveness of the information in their personnel files and to ask to amend their contents, if inaccurate.

In Ontario, where employer/employee privacy legislation does *not* exist, an employer's obligation in connection with an employee's request to view his or her personnel file may be governed by a workplace policy or contractual agreement. If an employment contract or a workplace policy does not impose any obligations on an employer to provide an employee with a copy of his or her personnel file, an Ontario employee's request for a copy of same may be properly denied on the basis that an employer's file about an employee is considered to be the employer's property, even though it contains information about the employee. However, is that the right answer?

Practical Tips

From a practical perspective, we usually recommend that if the employee had received a document in the first instance, they be given access to it (and a copy) upon their request. Moreover, you need to consider if you have employees in jurisdictions that allow for access, in which case you may want to adopt that practice across the board.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances. **For specific information you can contact Christine Jonathan of MacDonald, Sager, Manis LLP, our corporate lawyers at 416-364-1553. Christine will be speaking at our upcoming conference in October.**

Today's Chuckle Why did the bee get married? Because, he found his honey.

Sign in optometrist office: *If you don't see what you're looking for, you've come to the right place.*

I have included the following ruling and information as it may pertain to you hiring an independent person to do your pick up and deliveries for you and it may be considered that the person may be treated as an employee of your company.

Canada: When You Become Dependent On Independent Contractors: The Risk To Employers

Last Updated: March 1 2019; Article by [Michael F. Horvat](#); Aird & Berlis LLP

A recent decision of the Ontario Superior Court is a reminder to all employers of the liability associated with engaging individuals as contractors in circumstances where the practical, day-to-day nature of the economic relationship is that of an employee. This can become particularly tricky to manage when there are transitions in that relationship from contractor to employee or from employee to contractor.

As highlighted in the court's decision in *Cormier v. 1772887 Ontario Limited c.o.b. as St. Joseph Communications (2019 ONSC 587)*, it is of particular concern where the contractual relationship begins as an independent contract, but develops into a dependent relationship, seemingly on an indefinite and implied basis, unchanged and without regular review. *Cormier* underscores the need for employers who regularly use long-term independent contractor relationships to understand the real risk of accruing liability that can arise when such contractual relationships are not ended and managed.

Ms. Cormier graduated from college in 1989 to begin a career in the marketing and advertising industry. In 1994, as an independent contractor, she began to work for St. Joseph Communications as a "freelance" Wardrobe Stylist. Over the first five years of this contract, she was wholly occupied by St. Joseph Communications, particularly during their busy seasons, but engaged with other clients occasionally when there was a slowdown. She routinely invoiced St. Joseph Communications, and no deductions were taken or benefits paid. Eventually, however, as her working relationship continued, she seamlessly transitioned into a regular contractor, working exclusively for St. Joseph Communications.

After 10 years of this "contractor" relationship, Ms. Cormier was hired as a direct employee of St. Joseph Communications. The terms of the written employment contract expressly identified her hire date as the date she joined the company as an employee. In addition, the company sought to limit and restrict any future notice and severance liability to that imposed by the *Employment Standards Act, 2000*, in respect of her employment service with St. Joseph Communications.

After thirteen years as an employee, St. Joseph Communications terminated Ms. Cormier's employment without notice. Notwithstanding the contract, she was offered notice and severance of 34 weeks (approximately 8 months) for her 23-year relationship with the company. Ms. Cormier rejected the offer and filed a wrongful dismissal claim.

The court first rejected the enforceability of the restrictive termination clause in her contract (for a number of reasons based on current changing state of the law on such clauses). This meant that Ms. Cormier was entitled to common law damages, which St. Joseph Communications stated should be limited to her 13 years of employment, while she claimed it should also include her prior 10 years when she was a contractor.

The court agreed with Ms. Cormier. The applicability of the three types or "classes" of workplace relationships that could be attributed to Ms. Cormier was considered, namely: was she an employee; a dependent contractor (which the court considered to be an "intermediate" classification akin to employment where reasonable notice may be implied); or an independent contractor. Generally, the test for determining whether an individual is an independent contractor or employee is difficult on its own, where the court considers and weighs: the intentions of the parties; how the parties themselves regarded the relationship;

the behavior of the parties towards each other; the economics of the relationship; and how the parties conducted themselves in the business, the delivery of services and/or performance of duties.

The dependent contractor classification is wholly another concern, because it can include elements that are both indicative of an employment relationship and an independent contractor. Fundamentally, however, the question remains, has the individual become (by design or result) economically dependent on the relationship with the company such that the individual becomes "exclusive" for the one company, with all of the day-to-day characteristics of any other employee (except for the invoicing). In this case, the court concluded that while Ms. Cormier was more "independent" for the first year or two, she clearly had become dependent as time passed, and St. Joseph Communications was or should have been aware of this change in the nature of their relationship.

The court, therefore, awarded Ms. Cormier wrongful dismissal damages of 21 months, commensurate for an employee with 23 years of total service (in her position, for her age).

For employers, the *Cormier* decision should not act as a deterrent to engage in independent contracts. However, it serves to remind employers of the risks and liabilities that can accrue when these contracts are simply allowed to stagnate. An independent contractor arrangement with an individual, such as Ms. Cormier, has a shelf life, and after a year or two, a strong contractor arrangement carries with it the real risk of dependence, often because the company itself becomes more reliant and demanding on the contractor for work and exclusivity. These contractual relationships should be regularly reviewed and (subject to factual exceptions) be transitioned early into true employment contracts (with appropriate consideration and restrictions, as negotiated) or ended for the next contractor.

Cormier is a reminder that, in terms of employment law, the courts will acknowledge and enforce the factual nature and practical characteristics of the day-to-day relationship – and not simply defer to the terms of a purported independent contractor agreement that simply masks the true (or dependent) employment relationship. The courts will ultimately hold the employer liable for the costs that accrue over the duration of the relationship.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

For any specific information or advice, contact Christine Jonathan of MacDonald, Sager, Manis LLP at 416-364-1553.

Electrical Outlets: How Much Can I Plug In? Plugging too many electrical items into one outlet can do more than just trip a breaker. There's actually a serious risk of an electrical fire if you overload a circuit with too many gadgets. The United States Consumer Protection Safety Commission reports that there are over 5,000 electrical fires in American homes caused by overloaded electrical outlets.



Husband Store

A store that sells new husbands has opened in Toronto , where a woman may go to choose a husband. Among the instructions at the entrance is a description of how the store operates:

You may visit this store **ONLY ONCE!**

There are six floors and the value of the products increases as the shopper ascends the flights. The shopper may choose any item from a particular floor, or may choose to go up to the next floor, but you cannot go back down except to exit the building!

So, a woman goes to the Husband Store to find a husband.

On the first floor the sign on the door reads:

Floor 1 - These men Have Jobs She is intrigued, but continues to the second floor, where the sign reads:

Floor 2 - These men Have Jobs and Love Kids. That's nice,' she thinks, 'but I want more.' So she continues upward. The third floor sign reads:

Floor 3 - These men Have Jobs, Love Kids, and are Extremely Good Looking. 'Wow,' she thinks, but feels compelled to keep going.

She goes to the fourth floor and the sign reads:

Floor 4 - These men Have Jobs, Love Kids, are Drop-dead Good Looking and Help With Housework. 'Oh, mercy me!' she exclaims, 'I can hardly stand it!' Still, she goes to the fifth floor and the sign reads:

Floor 5 - These men Have Jobs, Love Kids, are Drop-dead Gorgeous, Help with Housework, and Have a Strong Romantic Streak. She is so tempted to stay, but she goes to the sixth floor, where the sign reads:

Floor 6 - You are visitor 31,456,012 to this floor. There are no men on this floor. This floor exists solely as proof that women are impossible to please. Thank you for shopping at the Husband Store.

PLEASE NOTE:

To avoid gender bias charges, the store's owner opened a New Wives store just across the street

The first floor has wives that love sex.

T he second floor has wives that love sex, have money, and like beer.

The third, fourth, fifth and sixth floors have never been visited.