

# ★ ★ ★ Top boutiques ★ ★ ★



## Success at all levels

*Canadian Lawyer's* top-rated insurance defence, tax law, and wills, trusts, and estates boutiques are all experiencing growth.

By Arshy Mann

**W**hen insurers sneeze, insurance defence firms are likely to catch a cold. There are only a handful of other practice areas that are as sensitive to the ebbs and flows of an industry controlled by a small number of corporations. And while recent developments in the insurance world might appear to

be trivial from the outside, they're having an outsized effect on the law firms that inhabit that domain.

Take the slow-moving consolidation amongst insurance companies. "There's a lot of smaller defence firms that have sort of fallen by the wayside because insurers have become extremely large and they require firms with capacity," says Paul Tushinski, managing partner at Dutton Brock LLP. "If you don't have the ability

to deal with those files either by way of numbers or resolution, they don't deal with you."

Cameron Godden, the managing partner at Bell Temple, takes note of the same trend. "There are fewer insurers — they keep buying each other — and there are accordingly fewer thriving boutique insurance defence firms," he says.

And as these insurers get bigger, some have been expanding their in-house legal

departments. "That's a pressure on the outside firms like ours to compete with the in-house departments," says William Chalmers, Hughes Amys LLP's managing partner. Tushinski predicts over time "you'll see more and more of that simple litigation, commodity work staying with the insurance companies because it's easier to deal with that internally."

Like many clients, insurance companies are increasingly pushing for alternative billing arrangements for much of the work they do send out. Tushinski says they're "used to adapting to" the new reality of pressure from insurers to work on a flat-fee basis or using reduced or block fees. Chalmers adds: "We're looking for alternative fee arrangements that really make sense on both sides and I think the insurance companies are looking for law firms that are not afraid of alternative fee arrangements and are willing to do some experimenting."

While smaller firms and large, full-service firms may struggle in this environment, many of the larger insurance defence boutiques are finding themselves in a sweet spot. Godden says Bell Temple, which already has 45 lawyers, is in "growth mode." Meanwhile, Hughes Amys has taken on half of another floor in anticipation of future growth. Dutton Brock LLP is also slowly adding lawyers as work from insurers piles on. "They beat a path to your door," says Tushinski. "We can turn down work or we can increase the size of the firm in order to deal with the work."

There are other tailwinds in the sails of insurance boutiques. According to Chalmers, insurance companies are becoming more comfortable taking an assertive line on small claims. "Insurance companies are at this time taking a bit more of an aggressive approach with respect to personal injury cases, maybe forcing plaintiffs to go to trial," he says. He's also seeing an explosion in accident benefit work in Ontario.

Of course, insurance defence lawyers don't just deal with injury litigation. "We are really lawyers dealing with complex forms of litigation that just happen to involve an insurance company paying

your fees," says Tushinski.

And it's the complex litigation that's bringing in more business and attracting young lawyers to the practice area. Derek Abreu, a partner at Bell Temple and the firm's articling chairman, says students drawn to litigation are increasingly moving towards careers in insurance. "We're finding that we're getting a lot of interest from young lawyers, and that interest has been growing over the last three, four, five years," he says.

Chalmers is optimistic about future growth for insurance defence boutiques. "I've always wondered why there isn't a mega-insurance defence firm. There's lots of work out there, there's lots of insurance clients, so why isn't there a 100-person insurance defence firm?" he says. "I think we will continue to grow and I don't think there's anything wrong with that."

**T**ax boutiques have continued on a path of steady, understated success. In some ways, it's surprising tax boutiques continue to do so well considering they can't get the spin-off work that their full-service brethren enjoy. "Because of the boutique model, it does change a little bit the way we deliver the service," says James Murdoch, managing partner of Thorsteinssons LLP. "We have always had to be entrepreneurial, we've always had to focus on client needs in order to get clients through the door."

Some firms like Thorsteinssons, continue to thrive as "full-service" tax practices, doing everything from personal income tax to big deal work. And with large offices in both Vancouver and Toronto, and clients throughout the country, the firm also bills itself as having a national practice. "Our Vancouver office is very substantial, it's 30-plus tax lawyers in that market. If you look around at Bay Street firms, you will probably have trouble finding 30 tax lawyers in one office in most of these firms."

Other firms, like Millar Kreklewetz LLP have succeeded by taking a narrow focus; in its case, commodity, and customs tax.

The boutiques associated with the Big Four professional services firms also continue to make their mark. This year, Couzin

Taylor LLP, the affiliated firm of EY Canada, and Deloitte Tax Law LLP are on our list. Murdoch says despite this development, his firm still gets referral work from the accounting firms. "It's relationship driven a lot of the time," he says.

The business of tax law continues to be driven by the steady stream of new rules the Canada Revenue Agency imposes on clients. "There is always, every year, new rules, new compliance requirements imposed on businesses and individuals in the tax realm," says Murdoch. "And those bring work to us — legal advice is needed in situations where maybe it didn't used to be."

**T**axes may be one of life's two certainties, but it's that other one — death — that drives the estates and trusts business. "I think there's a great deal more interest in talking about things like death, dying, disease, aging than there was five years ago," says Jan Goddard, founding partner of Goddard Gamage Stephens LLP.

She points out we're in an aging society, which inevitably leads to a greater volume of work for estate and trusts firms. "We're seeing a large transfer of wealth from one generation to the next. Sometimes people behave very well and plan ahead and sometimes people don't do any planning and don't behave very well either."

Her firm is well-positioned to take advantage of this trend. "I've always been very clear that we were interested in working in the area of elder law," says Goddard.

However, the practice area as a whole continues to face some challenges. The first is it's difficult for young lawyers to be adequately trained in estates and trusts. "A lot of legal work around estates and trusts and elder law is done by sole practitioners and smaller firms," says Goddard. "And in fact, some of the larger firms are really pulling out of offering those services at all." That means there are fewer articling positions available, despite a greater need.

The other challenge is finding ways to engage younger clients. "How do we help people who are in their 20s and 30s understand that it is useful for them to have a will and to have powers of attorney?" asks Goddard. "There's a real untapped market out there of younger people."



# Top 10 Insurance defence boutiques

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“Great solicitors and the service is very good,” says one fellow Bay Streeter.