



# The Verdict

Trial Lawyers Association of British Columbia

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## Building envelope failures – litigation and insurance industry responses

### TLABC MISSION STATEMENT

To support and promote diligence and excellence in advocacy and jurisprudence on behalf of consumers in British Columbia.

Together, we strive to: protect the rights of individuals, preserve the jury system, enhance trial practice, ensure access to the courts, advance the interests of innocent parties, and maintain judicial integrity and independence.

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‘Tort Reform’ Goes Global  
Litigating the LASIK Case

The Doctor as a Witness: What is Effective and What is Not?

# member profile

By Bentley Doyle  
Vancouver BC

## Art Vertlieb QC

### THE ART OF TLABC'S ORIGINS

#### AN ASSOCIATION FOUNDER TALKS

In one form or another, he has been volunteering as a coach and leader for a very long time. For certain, Art Vertlieb QC has been everything from a root, branch and leaf through his undying dedication to the Trial Lawyers Association of British Columbia (TLABC), a commitment that is merely a few months shy of 25 years.

#### TUCSON TRANSITION, SIZEABLE CONCERNS

Hamilton was Art's first hometown. He was born there in 1948. When Art was 13, his businessman dad moved the family to Tucson, Arizona. "That was the biggest social adjustment of my life," reflects Art of the period in which he wore glasses, weighed 150 pounds and stood five-feet-two-inches tall. And he was about to enter high school in a different country, culture and climate.

It was 1961 and this kid from Canada hadn't a clue what being a high-school freshman was all about in the US of A. "It's a whole different world," Art says today. The high school had 3,000 students and they attended in shifts. The school was situated on 40 acres of land. The football stadium seated 5,000 people and featured night lighting. The members of the marching band numbered in the 125 range.

Art decided he wanted to play football.

"I'm a little fat kid," he shrugs, but one who wanted to suit-up for the squad. So, Art set out to join either the freshman or the junior varsity team. He lined up to get his equipment. Two in front of him was a guy who was 6' 3" and 240 pounds – a would-be member of senior varsity, Art figured. The guy immediately in front of Art was sporting a 6' 4" 260-pound frame. It was the biggest specimen young Art had ever seen, so he nearly collapsed when the giant youth answered 'freshman football' when school officials asked what program he was getting fitted for. The next time Art was that awed by size would not occur until, many years later, he passed through the enormous doors of the Supreme Court of Canada.

Meanwhile, back at school, Art was then paying very close attention, he says of his time – which seemed to come suddenly – at the front of the equipment line. "Where's the tennis coach?" Art asked. It was an early dose of proof that he could think on his feet.

For sure, school and living down south was a big culture shock. Art experienced a profound culture shock for the second time in his life upon graduating from law school in Toronto and making his way to Vancouver. "I didn't know a soul when I moved here," Art says of his relocation in 1972. Art didn't like Toronto. "I was very, very determined not to live my life in Eastern Canada." He hunkered down on the West Coast a month after earning his law degree.

#### MUSIC & MEDICINE, FOR A MOMENT

Art gets amused when asked about the circumstances in which he first thought seriously about law as a career. "When I used to watch Perry Mason," he laughs. "I thought it was really neat." He admits to being impressed by Mason, as well as the character's Cadillac convertible, sharply dressed secretary and private investigator.

Despite television's influence, Art set out to please his mother with regard to a career. "My mum didn't want me to be a lawyer. My mum wanted me to be a doctor," he says. "So, I enrolled in pre-med at the University of Arizona."

"The first day of orientation, I remember it so vividly," Art chuckles of a career-dashing moment. He became bored nearly to tears while listening to the dean speak about the curriculum. Art was feeling wholly underwhelmed by his choice of education at the U of A – home of the Wildcats. "I left that thrilling session an hour later, walked across the campus and said: I want to go into law."

Technically, Art switched out of a liberal arts program and went into business. Despite the quick transition, Art emerged with the following two-pronged plan: He decided on getting a business degree and, later, going to law school. He emerged, in 1969, with a Bachelor of Science and Business Administration, essentially the Canadian equivalent, Art explains, to a Bachelor of Commerce.

Adding to his educational mix, Art attend university on a full-tuition music scholarship. He played saxophone. "I was second chair all-state, first chair all-city; meaning I was the top saxophonist in Tucson, in the school system, and I was second in the state."

#### NO NOTE OF ILLUSION

"Arizona had a big music program," Art explains. He wasn't pursuing music as a career, though. "I realized that unless you hit the top in

music, you'd just be some broken down guy playing seedy bars... I didn't want to do that." So, he chose to become a member of the bar rather than a fixture in one, as part of the late-night music scene.

"I used to perform on stage," Art says of his saxophone days. "My older brother and I had an act." Art also played accordion, while his sibling played guitar and clarinet. "I remember being nine-years-old and standing up in a big auditorium. We played concerts and benefits."

Be that as it was, Art envisioned playing in "an old, faded-white dinner jacket" and figured that would be his destiny if he chose music performance as a career. He still plays on occasion, but is far more often found on the spot as an actor of the court. However, music was not to be forgotten in Art's life. For six years, he was a member of the Vancouver Academy of Music's board of trustees.

From the age of 17, Art was certain law was the career for him. Art jests that while growing up in a Jewish home, one learns: If you're really smart, they make you a doctor. If you're somewhat smart, they make you a lawyer. Other professions didn't fare quite so favourably, as the saying went, in what was more of an amusement than a maxim.

#### INFLUENTIAL TRIO

Art credits three people as being key influences from the early stages of his career. Chronologically, the first was Roy Logie. "Absolutely," Art says without hesitation. "Roy taught me that you're never too important for any client or any case."



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Art recalls that Roy was always very smart, skilled and busy, but never too busy to deny a person help. During Art's articling experience, he recalls Roy handling a small claims case despite being a successful, highly active and experienced lawyer at the age of 42.

"I guess it really moulded my thinking," Art assesses, "because if someone came to see me... with a problem that I could help with... it didn't really matter whether it was big or small. If I thought I could help them... I'd take the case."

"Roy really taught me," Art says. "He had no pretension about himself." Roy retired a few years ago and Art still sees him on occasion. "He's a great guy," Art remarks. "He's one of those men who is just such a wonderful person. He has such an impact."

Another senior law professional made a mighty positive impression on Art during his young-lawyer days. "One of my heroes," Art states categorically about current Justice of the Supreme Court of BC John C. Bouck. Art admires Justice Bouck "for his courage and his independence."

Art recalls that, while a senior lawyer, Mr. Bouck won a big case opposite one of the lawyers in Art's articling firm. Word spread, Art says, about how hard Mr. Bouck worked and about what a good job he had done. He was appointed to the bench shortly afterward, Art recalls. Not long after that, Art remembers seeing Justice Bouck in the law library and he was pleasantly startled when the judge spoke to him with familiarity. "I couldn't believe it," Art says. "I was just this lowly little peanut, of low consequence." Needless to say, the peanut was impressed and had no reason to stay in his shell.

Art also counts his first law partner, Charles Anderson, among his key career influences. "My loyal friend and associate," says Art of Anderson. He paints praise for Charlie and their relationship with the words "great" and "importance." Art reflects, "Charlie is such a good guy... he put up with me for 30 years."

## THE ART OF COACHING

A one-time leader of Boy Scouts and Beavers, Art has also been a Little League coach and president. Whether his participation is leisurely or professional, Art often brings a pal-like enthusiasm to the activities he engages in; fond of adding a 'y' or an 'ie' when referring to friends and colleagues by their first names.

Are there similarities between coaching little league and running a law practice?

Art makes a light jocular comment about the officials in both forums, then gets a serious look on his face and mentions there are fewer parents to answer to in a courtroom. "There's nothing tougher than dealing with parents," Art emphasizes.

Upon gentle reflection, Art says there are lots of similarities between coaching baseball and managing a lawsuit. Simply put, someone wins and someone loses.

However, Art offers, sometimes you beat a team when it didn't look like you would and, conversely, sometimes you lose even when things appeared in your favour. "Sports are such a good parallel to being a trial lawyer," remarks Art.

Part and parcel with great competition is one's work ethic. Art says you must want to win and you must be prepared to work. Talent isn't the most necessary part of the mix, he says. Art qualifies this take by adding: "unless you're prepared to work, the talent's wasted." He concludes: "You don't have to be brilliant to be a good lawyer." Instead, "you've got to be smart and hard-working."

## GREAT SAINT, SONS & MEMORIES

Art is a proud father to three young men; Dan - 22, Mike - 21, Dave - 19.

His wife is a chartered accountant. Is it Bev or Beverly? "She goes by

saint," laughs Art. "Ah, she's great. She's so great."

Art and Bev have been together for more than eight years, though their actual meeting time goes back to 1977, the year they dated - once. They met again 18 years later and picked up where they never left off.

While attending her first TLABC holiday party, Art says Bev was impressed to witness the strong degree of kinship between TLABC members who are also competitors. Art recalls her saying: 'You're all so good to one another and you care about one another.' Their mutual appreciation of this friendly climate offers some proof as to why they're so happy together.

Calling it "one of the great memories of my life," Art begins to tell a story about coaching all-star ball, alongside his eldest son, Dan, his assistant coach. "My youngest boy was the catcher," explains Art of this unique triangular experience.

"So, we're coaching ball," recalls Art, setting the scene with a boyish grin. It's the bottom of the sixth inning in a one-run game and they are the visiting team. The challenge: base runners are at second and third, with nobody out.

## THE TAIL WAGS THE DOG

"We're sitting there and my 15-year-old son says: 'Dad, we've got to intentionally walk him to get the force,'" Art reminisces. "I'd never thought of that," he adds while casting his mind back to this classic moment.

Art says son Dan urged him: "'Dad, you've got to do it. I'm telling you, you've got to do it.'" Art figured his son was right. They called a timeout to approach their pitcher, as well as son and brother, Dave, behind the plate.

"I'd never seen an intentional walk in Little League," Art says. Though he knows they exist, Art is certain he hadn't been involved in one prior to this occasion. Regardless of what level the game is being played at,

it is a risky move. A move made more risky by the potential for a balk to be called if the catcher isn't in a proper crouching position when the pitch is delivered.

"So, we walked the guy," Art explains, "people in the crowd started to boo."

Adding to the drama, parents of their own players thought they'd lost their minds.

The next play led to a grounder, which was grabbed by the pitcher, who threw home to complete the force. One away; two to go. The following batter struck out. Two away; one to go. The next batter hit a grounder that was promptly gobbled up before another toss home ended the inning.

It remains a memory he'll always recall with fondness. "It was fun," Art says. "We always talk about that."

By the way, they won the game.

## LAW PARTNERSHIPS

Art was called to the bar in 1973. After articling with Vancouver-firm Kincaid Epstein Logie, Art soon opened his own firm and deliberately set-up in downtown Vancouver, believing the hub of activity was precisely the right place for him. It was a challenge for a new lawyer, of course, made more so given that he was still a newcomer to BC and lacked the backing of a wide circle of contacts.

He practiced alone for two years until Charlie Anderson joined him. "Charlie and I had been together from June 1975 until August of 2004," Art says with a heavy dose of sentiment.

Lawyer and TLABC member Russ MacKay was on board by the early 90s. "It was a very tough decision to leave these two wonderful people," Art says of his recent exodus from the downtown core – moving from Vertlieb Anderson MacKay – and into an office with brothers Aseem and Pavel Dosanjh. The brothers are young lawyers who joined TLABC in 2002.

The firm of Vertlieb Dosanjh started taking shape this summer. As the move occurred, back in August, Art took comfort in knowing he would remain blessed with great law partners. Art and his new office colleagues work together at the corner of Cambie and King Edward, in Vancouver. Art's partners are sons of former BC Premier and Attorney General Ujjal Dosanjh, the current Federal Health Minister. Art literally took over the office Minister Dosanjh occupied after his time as BC's Premier and until he won a seat in last June's federal election. "Had Ujjal not been elected, he would have stayed on," Art explains. "He worked very hard," adds Art of Minister Dosanjh's most recent political triumph.

## PROFESSIONAL PRIDE & APPOINTMENT

These days, the necessities of getting the job done are clear to Art. "You've got to be smart, you've got to be really hard-working, you've got to be really honest and you've got to have great pride in your profession... and be proud of who you are," Art insists. "It's a tremendous profession." He then makes reference to law's great history and tradition, to Cicero and more.

"They hire us for our brains," Art says. "I think it's a great compliment." Art says his clients aren't hiring him because they think he's pretty. In effect, "they're saying, I need your brains to help me through this problem." He lines that thought with a contrasting take on professional sports, where people are hired for their physical abilities, skills that are immense though fleeting. As long as the mind stays healthy, Art encourages, a lawyer can be effective for a very long time.

As a consequence of the lawyer-client relationship, Art finds it easier representing highly intelligent people. He says there's a lot more pressure when dealing with a client who isn't so intellectually sophisticated, with the pressure being proportionate to how much they depend on their lawyer to make decisions.

As a result of the quality of his work, Art was nominated for a

Queen's Counsel appointment a number of times. He was appointed QC in 2001.

Mr. Justice Lance Finch; the Honourable Chief Justice, Court of Appeal of British Columbia, wrote Art a letter of congratulations regarding his QC appointment. It was the first such letter Art received. "I think the world of Judge Finch," Art says. "He's a great judge," adding that he was a great trial judge, too.

The judge and the lawyer seem to be travelling on a street of shared respect. "I've known Art for a long time," Chief Justice Finch says. "He always does a good job," adding, "he's always cheerful."

A year ago, Art asked Chief Justice Finch to speak at a TLABC seminar. The Chief Justice suggested to Art that he could pass for being Irish due to "the blarney" he packed on during his successful pursuit of landing him as a participant in Winning At Trial (October 2003).

## LEGAL CHALLENGE, COURAGE

Though practicing law is always a challenge, Art says it's always a good challenge. He adds, "I've always had great confidence in myself." Nonetheless, Art also speaks about the importance of having a grip on what you don't know. "That's one of the reasons I'm so solid on trial lawyers (the association)," Art explains. "It's so important to help one another," he says. "When I started out, there was none of that."

Art is especially pleased to note that TLABC has established an environment of sharing techniques, tactics and related topics of conversation. He says being an effective trial lawyer is not a matter of style because "everyone has their own." There's no question, he explains, that the judgment ability one acquires over time is really important.

Art also talks about courage. "Say what you think and stand by it," he contends.

"You have to have the courage of your convictions." And you may also require the courage of your acquittals. Art successfully defended a person accused of murder.

"When you do criminal law – like I did when I was young – you have to have courage because the weight of the system is not in favour of the criminal defence lawyer." Also, Art says, from an emotional standpoint, it's easier being on the other side. "It's not about me; it's about the client," Art insists.

These days, the vast majority of his practice involves personal-injury work.

Respect within the profession is important to Art. "I think that's the ultimate test," he states. "You'll never be a good lawyer unless you're respected by the bench, by your colleagues and by your clients." And out of that, "may flow financial success," but, it's incidental, he adds.

## THE IMPORTANCE OF LAW & ASSOCIATION

"The law is absolutely the foundation of our democratic society," states Art. "Absolutely! It's what allows us all to enjoy these wonderful freedoms that we have. It's the great equalizer. It keeps us free. It gives us civility."

He says lawyers should be given credit when they take up an unpopular and difficult cause, then immediately cites the important work TLABC has accomplished in its near 25-year history.

"When we started off, we were not a popular group, but we were on the right side. We were right about the issues that we were speaking out about," affirms Art. He knows this first-hand. Art was one of a handful of lawyers who got TLABC started.

Thirty years after he graduated from Osgoode Hall Law School, at York University, Art was honoured with the school's Alumni Gold Key Award. As part of his commitment to giving back, he now donates the Art Vertlieb, QC Award through Osgoode to assist law students, from BC, who demonstrate leadership in extra-curricular activities, though lack financial resources. The award was established in early 2004. Osgoode

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Alumni have it listed among “gifts that have made a difference.”

## ULTIMATE SATISFACTIONS

“I’ve always been very proud of being at the Supreme Court of Canada at the age of 27,” Art says of his remarkable and successful occasion before the high court, on a criminal matter.

“I had two dreams as a lawyer,” Art offers of his mindset when he was young. He wanted to successfully argue a case before the Supreme Court of Canada and he wanted to, in effect, become Perry Mason by successfully defending a person accused of murder. “I did both of those by the age of 27.” Adding to the accomplishment was the fact these feats were achieved a mere two years after Art was called to the bar.

“It was so special,” he says of his experience before the high court. Art recalls being awed by the massive doors to the main hearing room (similar to his astonishment of the two freshman footballers he met in the equipment line at the U of A, 14 years earlier).

The judges looked very old to young Art. When they walked in, he thought it was going to take them all day to get from the entrance to the bench.

Art was there by himself. It was his case all the way, taking it from the jury trial to the BC Court of Appeal to the ultimate venue. The case featured an evidentiary issue of law revolving around statements made by the accused. The trial judge agreed with Art’s position. The Crown appealed. The Crown lawyers weren’t seeking a new trial. They just wanted to clarify a point of law. However, even though Art’s client wasn’t at risk of losing anything, the case still demanded – and received – Art’s full attention. He remained mindful of the trial judge’s position. At 4:00 o’clock in the morning on the day it was set to be heard by the BC Court of Appeal, Art located a case from Australia that supported his position, one that helped him withstand that appeal.

In Ottawa, Art witnessed the Supreme Court reject the Crown’s argument outright. And so – suddenly – it was all over. Art’s efforts led to a changing of a long-entrenched law, one that withstood two appeals. “It was fascinating,” he says. “It was an amazing event.”

To date, Art has appeared before the Supreme Court of Canada on three occasions, though no experience there will ever compare to the first one. It left an indelible impression on Art.

## BIRTH & DEVELOPMENT OF TLABC

Art laughs at himself while looking back, saying: “By the age of 30, I sort of thought I had done everything I wanted to do.” Art mentions: “I sort of thought I knew everything. It was a stupid feeling.”

“Then, my life as a lawyer changed because of the March 1980 meeting,” says Art of a pivotal career moment, the event that led to the birth of TLABC.

Art received a notice about a meeting in which some lawyers were gathering to discuss jury trials. Art had no idea what he was in for on March 8, 1980. He wasn’t even sure he was all that interested in attending. And he didn’t know much about the group of people involved. Though, he figured it wouldn’t be a bad idea to find out.

A small, unnamed group was gathered, led by Bob Mackay. Art got there and was stunned by it all. “I couldn’t believe what I was hearing,” he reflects. There were lawyers on hand that he knew of, but had not met. “I’d heard of Tom Griffiths. I’d heard of Bert Oliver,” Art recalls thinking. “Bert Oliver was speaking and he was saying things to help us do a better job with juries. I couldn’t believe it. I sat there all day and I said: Man, this is incredible; these people coming and helping us like that.”

Art was simultaneously intrigued, impressed and excited. “I’m a young guy and the great Bert Oliver is standing up there trying to help me be better,” says Art with fond recollection. “That’s pretty impressive. There’s no finer trial lawyer in the province,” Art affirms. “And the next

day, Dan Sullivan – who was a senior lawyer in Seattle – came up and he talked about medical negligence,” continues Art of this highly memorable occasion, still early in his career.

Indeed, it was the southern-based Sullivan who encouraged the group to form an association of their own. Washington State already had an association of trial lawyers. Sullivan suggested that operating without one would needlessly leave lawyers on their own, without a cohesive voice on important issues. Conversely, as the thinking went, as an association, they could do a better job of looking after themselves and their clients.

Art and the others recognized the wisdom in what was being said.

## SEMINAL SEMINAR

Bob Mackay then put it to those gathered to see if there was an interest in forming an association. It was a Saturday and the group numbered in the 30 range. The lawyers on hand didn’t know then that they were attending what amounted to TLABC’s first seminar. But, they figured forming an association had to be done. And the rest, as they say, is TLABC history; a timeline that now stretches for nearly a quarter century.

“Bob Mackay was the catalyst,” Art confirms. “We should all be forever grateful to Bob Mackay.” Art says the appreciation of what Bob did could be extended by a great many plaintiff victims, as well. “He started it,” Art confirms of Bob with an equal dose of praise and gratitude. “He organized the seminar, he did the leg work and he got the speakers.” Art says that Tom Griffiths also helped hard-working Bob a great deal.

Bob was the first TLABC president and the first editor of *the Verdict*. The publication was born a newsletter and, though primitive if held up to today’s magazine, it contained the time-honoured mantra that members of the association would be guided by from day one onward, i.e. “we dedicated our organization to the cause of injured parties in the Province, to the promotion of jury trials, and to the improvement of the advocacy skills of the trial bar.”

## FOUNDING ACTIONS, ACTORS

Art accepted when Ian Sisett nominated him vice-president. The respective founders were as follows: Bob Mackay – president; Art Vertlieb – vice-president; Humphrey Waldock – secretary; Ian Sisett – parliamentarian; Glenn Kereluk – treasurer; and Tom Griffiths – chair of the legislative committee.

Art recalls that Ian Sisett undertook the task of getting this budding group registered as a society. Once achieved, Art remembers that other lawyers took issue with the group’s existence. “The establishment of the day didn’t like what we were doing,” Art recollects of people who didn’t want anything to do with TLABC and didn’t want them to succeed.

Nevertheless, another seminar was in the works within the first few months. And they were astounded when 175 people turned out for Presenting Medical Evidence on June 20, 1980. If the founders weren’t convinced before, they were now assured of TLABC’s value to the profession.

Art spoke at that event. It would be the first of many occasions where he made a presentation and/or chaired a TLABC seminar. He’s done so throughout the association’s existence. Most recently, he co-chaired *Winning At Trail II* (October 29, 2004) with close friend and long-time association colleague Tony Vecchio.

## CRITICAL CLAIM

In March 1981, “we had a press conference and openly criticized the Supreme Court of Canada,” recounts Art, “for what they had done with their non-pecuniary cap on damages.” It was a sprawling three-page press release, signed by Art as President.

Art explains: “No other bar group was saying anything about it,” adding: “It was terrible what the Supreme Court of Canada did without

any evidence – with only an argument by the lawyers – just to impose an arbitrary cap on damages in Canada.” He reflects: “We said: It’s wrong. It’s unjust.”

Regardless of how strongly they felt, “it was language that people thought was inflammatory,” explains Art. They were thought of by some as being brash and disrespectful. As alluded to, it was a perception they had battled from the start.

Indeed, there was a degree of derision from the outset. Some voiced disapproval of TLABC’s entire approach. Right away, they were criticized for claiming to speak for trial lawyers in the province and for not letting insurance lawyers vote.

“We believed we were right and we weren’t going to back down,” Art confirms. He says it was important to form TLABC and speak out in order “to protect our clients and to make us better lawyers.” Art says that is what it’s all about and it remains as true today as it was in the 80s.

### **BRINGING IN BELLI**

Just before the critical press conference, the founders were preparing to bring famed US attorney Melvin Belli, and others from south of the border, to Vancouver for a speaking engagement at TLABC’s seminar, one scheduled to coincide with TLABC’s first annual general meeting. It was the next big event and it took place at the Hotel Vancouver in March 1981, barely a year into the TLABC’s existence. Belli was in his 70s by this time. He practiced internationally, but it was in the US where he became known as ‘The King of Torts.’ Among his clients were: Jack Ruby, Mae West, Errol Flynn, Rosano Brazzi and Tony Curtis.

Needless to say, landing Belli in Vancouver for a seminar would be an impressive feat for any organization, let alone a group that had just a single year to its credit.

Bringing Belli in for a seminar represented a significant financial risk and a personal one, too. The founders started to make the arrangements for Belli’s appearance and soon realized the expenses were running at around \$20,000. Each person on the executive signed promissory notes, Art recounts. “We believed in what we were doing.”

Belli was a founder and president of the Association of Trial Lawyers of America (ATLA). Since 2000, Art has co-chaired ATLA’s Canadian Membership Committee. Art has been an ATLA Governor since 1997 and was an ATLA delegate for the 13 years prior to that.

Art says Belli’s appearance and that entire period was amazing for TLABC. “We seemed to be rolling.”

Art and his association colleagues are still bringing high-profile US lawyers up for TLABC seminars. Most recently, they had Atlantic City-based attorney Thomas J. Vesper Esq. on hand as the keynote speaker for *Winning At Trial II*, in October.

### **PRESIDENTIAL STEPS**

Art was elected president of TLABC at the inaugural AGM.

From the beginning, Art has always been drumming up support to build a strong TLABC. He used to carry around membership applications in the front pocket of his coat.

As a process, the act of selling wasn’t a totally new task for Art. He once worked as a Fuller brush salesman, though he found selling the merits of TLABC a lot more to his liking than the door-to-door job he had in Tucson, while attending university.

TLABC’s membership number was 50 when Art was named president. It was at 350 by the time he concluded his two years at the helm. Today, TLABC’s membership exceeds 900.

Early on in his presidency, Art approached lawyers John McAlpine QC and Peter Butler QC in a bid to get some of BC’s best on board. Art’s pitch to them was both straightforward and successful: “We need the top lawyers in the province in our association. What we’re doing is important and we need your help.”

In 1982, McAlpine earned the accolade of being the first recipient of TLABC’s Outstanding Lawyer Award. In 1992, Butler was bestowed with the same honour.

Art won the award in 1993.

### **MUTUAL ADMIRATION**

TLABC’s Tony Vecchio regards Art as a born leader and mentor. The two are the best of friends. “I love the guy dearly,” states Tony. He explains that Art has been a personal influence of his for a long time. Tony admires Art for being gifted both professionally and socially. He says Art is revered as “an inspiration to so many lawyers,” adding that Art is forever giving of his time.

Tony points out that Art goes the extra mile with his efforts, citing the work he has done helping lawyers with personal troubles as a perfect example. Tony concludes: “He is a man of great integrity and will.”

In 1982, the aforementioned Honourable Justice Bouck became the first to receive TLABC’s Outstanding Judge Award. Justice Bouck took part in the recent seminar Tony and Art co-chaired. He spoke about a new approach to assessments, at trial and on appeal, with regard to general damages and apportioning liability.

“I think a lot of him,” Justice Bouck offers of Art. “He’s a very generous and thoughtful person.” He adds that Art is a hard-working guy who takes an interest in everyone and is also adept at recognizing and praising people for their good work.

Like Tony, Justice Bouck points to Art’s efforts in helping lawyers on a personal level as something that “shows what a kind and thoughtful person he is.”

### **HARD WORK, GAME PLANS**

“I’ve been around. I’ve made lots of mistakes, which you learn from,”

says Art with both ease and appreciation.

Art doesn't work quite as many cases as he did in the early days, but he's plenty busy. In early 2004, he added the role of Law Society Benchers to his duties; a commitment that has required the equivalent of at least a full day's work each week. He loves it, too. It gives him a view of the bigger picture. In the early 90s, Art was an ad-hoc benchers of the Law Society on a couple of occasions (competency and communications committees). At present, he is a member of the discipline committee.

Art is comfortable with all of his current career duties and he maintains a strong sense of duty with each of his tasks. "You never want to go to court and feel you should have worked harder," Art remarks. "Then, you weren't true to yourself or your client." And with that Art draws a parallel to team sports. "In a baseball game... even if you're down, you never quit," Art states, his love of the game clearly evident. Coincidentally, Art made this comment the day the Boston Red Sox defeated the New York Yankees in Game 7 of this year's American League Championship Series, coming all the way back from a 3-games-to-none deficit.

With regard to TLABC's development, Art reminds: "We did it against lots of odds."

### DEPTH OF THE PROFESSION

"We all have different abilities," Art says of the profession's members. He believes an overwhelming majority of lawyers care deeply about what they do and want to be as good as they can be. For instance, Art points out: "That's why they pay money to go to seminars, they take the time to learn and they try and help one another." Art adds, "I think lawyers are really good people... across the board, not just trial lawyers." He appreciates that lawyers are community oriented and collegial. "They care. I really believe that's the hallmark of our profession."

As far as TLABC goes, Art says "credibility comes from who you are and what you do. You don't look for credibility," remarks Art. "You achieve it or you don't." Art admits the association might not have the same type of edge as it did 20 years ago. However, he's certain TLABC hasn't lost a step. "We've got the right edge," he estimates. And he agrees this can be demonstrated by TLABC's public efforts fighting against any developments of no-fault legislation. "I think our leadership's done a wonderful job." Effectiveness is what matters, Art contends. "And I think we're as effective now as ever."

To aid along the way, Art has been a constant contributor to TLABC's Public Affairs Committee (PAC) fund.

Art says he's learned a great deal from TLABC. "It just changed my life," he adds with youthful exuberance. "It's a wonderful group of people. I'm proud to be part of it."

### LAWYERS ASSISTANCE PROGRAM

Art's commitment to the profession extends far beyond legal issues. In the late 80s, he was asked, and appointed, by the Law Society to replace Bert Oliver on a provincial-government advisory committee on substance abuse. Bert Oliver was headed for the bench. Art didn't know much about the committee. However, he recalls, "I was so honoured to do anything that had any relationship to Bert Oliver." Art recalls saying "I'll do it," without hesitation. And with that he was on board before he even knew what the task entailed.

During the course of his duties, he met representatives from many associations, each with an interest in helping address the problems of addiction.

During a break, Art shared a conversation with Dr. Ray Baker. The doctor asked Art how the legal profession handled interventions. Art thought he said intersections. He'd never heard of the term intervention and certainly didn't know how effective they could be in helping a person in need of assistance.

Art was fascinated by what he learned that day and about how the

medical profession was helping its own. Soon after, Art wrote a letter to the Law Society about the topic. To his delight, he received a letter of reply indicating a willingness to discuss the issue. Art and the issue were soon before the competency committee. Art explained what the doctors were doing for their profession and pledged to put together a similar program for lawyers.

It was a simple yet powerful plan. Art advised about the necessity of funding and was astounded that the committee agreed to undertake it, right from the get-go.

"Peter Leask was chair of competency," Art explains. Peter Leask QC is a "very smart and far-sighted person... a wonderful guy," trumpets Art. "I'm a fan."

The support has been strong from day one onward. A committee was soon formed and the Lawyers Assistance Program (LAP) was born. Dr. Baker was the advisor and the committee's membership was represented equally by recovering addicts and people who did not suffer from an addiction. It was a crucial mix. And perhaps the only one capable of effectively handling the challenge. It was 1989. As part of his commitment to this cause, Art visited some of the bigger law firms in Vancouver to talk about the program. He also travelled to Prince George for a meeting, about LAP, with a large group of lawyers.

### WORKING LIKE A LAP DOG

To Art and the other non-addicts on board, it was about looking after their brethren.

"That was an enormously wonderful time," Art says of the founding board and ready mandate of LAP. Art chaired the committee from 1989 to 1995. The program continues to do an outstanding job of helping lawyers in the province. It does so by way of both hardball and soft-sell interventions. The hardball interventions are carried out with a treatment-facility booking already made, suitcase packed. And the consequences of carrying on with any form of denial are also spelled out to the person, e.g. the potential loss of professional relationships.

The hardball interventions involve several people, each with a distinct message for the person suffering from an addiction. This usually involves family members of the person, as well as office colleagues and law professionals from outside the office. The softer interventions need only involve a pair of people. In every instance, a message of concern gets delivered. The interventions Art has been part of have been very powerful. More importantly, they've helped saved careers, families and lives.

Art says lawyers should not be handling cases if they are impaired by alcohol or drugs. "Clients don't deserve that," Art states, adding: "Denial is part of the illness."

With LAP now 15 years strong, Art says: "I'm so proud of all the people who've worked so hard to make that successful."

Incredibly, Art says even LAP encountered some resistance. "There was a stigma around it all. We tried to de-stigmatize booze and drug addiction," Art explains. "This isn't about morality; it's about people who are sick."

LAP will seek to help lawyers struggling with virtually any addiction. Basically, anything that plagues a person (e.g. alcohol, narcotics, gambling). LAP has grown. Today, the program provides confidential support to lawyers and their families, as well as support staff suffering from alcohol abuse, addictions, stress, depression and other problems. This can involve counselling referrals and peer interventions. LAP is still funded by the Law Society and is aided by numerous volunteers, today under the guidance of lawyer Derek LaCroix, LAP's executive director.

### HISTORIC AWARD, HORRIFIC ATTACKS

In 2001, Art became the first recipient of LAP's Lawyers Helping Lawyers Award.

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The plaque in his office reads: “In honour of his vision, hard work and dedication in helping found the Lawyers Assistance Program of British Columbia, and in recognition of his selfless dedication to helping other lawyers in need.”

Less than three months after Art received this award, the United States suffered the ghastly 9/11 Attacks, events that would lead Art to another form of helping.

Landon Goodleaf – a Mohawk ironworker from the Kahnawake Nation in Quebec – was in Brooklyn, New York at the time of the 9/11 Attacks. He, along with several dozen other Mohawks, rushed to help at what was left of the World Trade Center towers. Getting there was no mean feat given the terror and transit chaos. Goodleaf rode a bike. He was injured as a result of his efforts at what became known as Ground Zero. Art and TLABC’s Gary Lauk QC worked on this behalf. They went to the US at their own expense to increase the compensation amount offered. They were successful. Art and Gary were among a group of lawyers from various parts of Canada who came to the aid of 35 Mohawk ironworkers.

It was part of the ATLA-led Trial Lawyers Care program – the largest pro bono project in American history – an effort to help victims access a portion of the federal compensation fund set up as a result of the Attacks of September 11th.

Ironically, many of the Mohawk ironworkers in New York that ill-fated day were relatives of some of the people who helped build the World Trade Center towers, more than 30 years earlier. As with all those on hand, they tried desperately to provide help amid the carnage. The ironworkers had to get atop the rubble in order to torch through massive steel beams before the beams could be taken away safely by crane. This enabled access to the human and structural wreckage beneath. Some of the workers were there for two weeks and others stayed for up to five months. They suffered various forms of injury and respiratory ailments while working through the debris.

## **CASE CLOSED**

Art was the first president to double-up on TLABC’s typical one-year term. He’s stunned by the amount of time that has passed since those early days, but Art says he’s happy with “the great memory of building this wonderful brotherhood and sisterhood.”

As far as life’s certainties go, unequivocally Art calls law “a great and noble profession.” It is a comment he says connects with him deep down in his soul.

For Art, life’s certainties reside at home. “I know I’ve got a great wife and wonderful children,” he states proudly. “That, I know for certain.” Art then adds that he’s grateful for the wonderful friends in his life. Also, the man who admits he thought there was nothing left to learn by his late 20s, now says he is certain how wrong he was back then. Nevertheless, Art’s not complaining about any of the steps he’s taken nor the stages that have made his life in law so rewarding.

