



From the bench to the boardroom

Landing a former justice

Retirement lay ahead for two well-respected former justices. Then the law firms came calling.

If you want to attract a respected judge to your firm, you better act fast. On the day that Donald Brenner, chief justice of the B.C. Supreme Court, announced his resignation, his phone started to ring. Among the first to call was Keith Mitchell, chair of Farris, Vaughan, Wills & Murphy LLP (Farris). "I told him I could not have lengthy discussions with anyone until I wound up my work," says Brenner. "So when I was done, we started discussing." And one week after his 17-year career as a judge ended, Brenner walked into Farris as senior counsel. "I tried retirement, but I didn't like it," he says jokingly.

Brenner's decision to join the B.C. law firm made sense. In his entire career, he had never worked for another firm, aside from his own. He summered there in 1968 and opened Brenner and Co. right after being called to the bar. "I go back a long way with Farris. I know a number of the senior partners very well." They include Keith Mitchell, who was an acquaintance of his in law school. "We were goofy law students and he was out flying commercial airlines," says Mitchell. "I didn't wait around. I viewed recruiting him as a major strategic objective." Mitchell is very excited about having Brenner on board. "He is in on every kind of tricky, complicated and challenging legal situation. He has an uncanny ability to offer very practical strategic advice. He's got a rigorous set of intellectual equipment."

Attracting a former judge with a wealth of experience can be an exciting prospect for a law firm. The right fit for a judge within a law firm, however, can require some thought. He or she may be interested in returning to law practice, but *in what capacity* may not be obvious at first.

The work Brenner enjoyed most as a judge was dispute resolution. "I didn't know what I wanted to do, to be frank," says Brenner. "I wanted to pursue work in the dispute resolution field, but I was open to anything that was interesting and challenging. If there was something that I hadn't thought of that would have energized me, I would have done that, too."

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Brenner has an arrangement that suits him perfectly. As senior counsel, he offers his opinion and acts as an advisor on various Farris files. At the same time, he runs his own ADR company, Brenner ADR, which he operates out of the Farris office, with their full support. He briefly considered opening his own office, "But then I also thought about having to deal with the phone company, the photocopier company, etc., and I figured at 64, I was too old for that. For the kind of work I was doing, it made sense to be at a more local firm because of the conflict issues that national firms have."

Brenner now works alongside many lawyers who stood before him as a judge. "They treat me very well, notwithstanding what I did to them in the courtroom, which says more about their generous nature than mine." He's enjoying what he calls "some very good lawyering," and aside from how young the associates are, he has found few surprises upon his return. "I can't say I've been greatly surprised but I am enjoying the transition. Every day is different and I never actually know what I will be doing. I get satisfaction from helping parties resolve their disputes, because I can appreciate that if they go through formal adjudication, it can cost them a great deal of time, money and angst."

Unlike Mitchell's long relationship with Brenner, James Woods had no personal connection to the Hon. Joseph Nuss, Q.C. when he asked him to join his firm. The founding partner of Woods LLP, the boutique litigation firm based in Montreal, says he knew Nuss only as a Quebec Court of Appeal Justice and not on a personal basis. "He was certainly impressive, both with his respect for counsel and his profound knowledge of the law. I gave him a call, we went for lunch and the rest, as they say, is history."

After 14 years on the bench, Nuss joined Woods as senior counsel in December 2009. Like Brenner, he expressed an interest in working in arbitration. "So that fit very well with our firm. He brings a lot to the table." Echoing a comment made by Brenner, Woods believes judges are attracted to smaller firms because there are fewer potential conflicts of interest. "Having tried to appoint arbitrators from a variety of national firms over the past 10 years (I've found that) frequently, it is just impossible," says Woods. Also of interest to retired judges, says Woods, is the fact that his office competes with the national firms and, because it has a similar infrastructure to the bigger players, it is "relatively easy for someone like Joe to run right from the get-go."

Adds Woods: "Obviously, he brings a wealth of knowledge to the firm on very complicated litigation issues. He can review appellate and superior court briefs. We can get his input on those files, as well as on strategy. He is a great resource."

– Ava Chisling

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