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SOCIETY NEWS

IMPORTANT: NSBS Mandatory Online Assessment for the new Code of Professional Conduct

The Nova Scotia Barristers' Society [Code of Professional Conduct](#) was approved by Council on September 23, 2011, and will come into effect on January 1, 2012.

The new *Code* has a new format and, while there are only a few substantive changes to the rules of ethics, it is important that all lawyers become familiar with the new *Code* and the changes that have been approved.

Council has also approved a new regulation requiring all practising lawyers and articled clerks to successfully complete a mandatory online *Code of Professional Conduct* assessment. Successful completion of the assessment will be required before a non-practising, retired or life member may change their category of membership to a practising lawyer.

The purpose of this assessment is to ensure that lawyers become familiar with the new format of the *Code*, are able to navigate through the new rules when seeking guidance on ethical matters, and are made aware of those areas where the rules have been amended in any substantial way.

All lawyers must complete this online assessment **no later than April 30, 2012**.

Over the next week, members will receive an email from assessment@nsbs.org with detailed instructions on how to access and complete the mandatory online assessment. Please keep an eye on your 'junk mail' folder in case this important email becomes diverted.

For more information on the new *Code*, watch for the feature article in the October 2011 edition of the *Society Record* magazine, being mailed out to members this week. Also be sure to read **Current Issues in Legal Ethics**, an ongoing series of *InForum* articles by Elaine Cumming, Professional Responsibility Counsel. Today's article pinpoints some of the specific changes to be aware of in the new *Code*.

The *Code of Professional Conduct* is available on the Regulation & Licensing page of the Society's website: <http://www.nsbs.org/regulationLicensing.php>. An Executive Summary will soon be available.

On the Move: NSBS changes of category since June 20, 2011

This regular feature of InForum is published several times a year.

We welcome the following members, called to the Nova Scotia Bar since June 20:

Ms. Jasmine Mary Ghosn	Mr. Michael Peter Madden	Ms. Lynne José Poirier
Mr. Joel Daniel Henderson	Ms. Vanessa Grace Nicholson	Mr. Mark Tipperman
Mr. Thomas Joseph Kayter, III	Ms. Jacqueline Ann Martha Penney	Mr. Jamie Andrew Vacon
Ms. Catherine Jean Logan	Mr. Benjamin Neil Perryman	
Mr. Christopher Gordon MacIntyre	Mr. David Benjamin Pink	

The following members have returned to practice from Non-Practising status:

Ms. Jennifer Sarah Bond	Ms. Claire Levasseur	Ms. Christine Elizabeth Nault
Mr. Ian Jacob Breneman	Ms. Catherine June MacDonald	Ms. Kelly Anne Peck
Ms. Janice Lynn Brown	Ms. Alanna Rebecca Mayne	Ms. Brenda A. Roberts-Harmon
Ms. Heather Ellen Burchill	Ms. Amy Elizabeth Moen	Ms. Michelle Joyce Rogers
Mr. James Sinclair Janson	Mr. Scott Cameron Morrison	Mr. Wilfred Dean Smith
Ms. Telaina Michelle Kallis Kelly	Ms. Dorianne Margaret Mullin	Mr. Colin John Taylor

Mr. Robert Paul Thorne
Ms. Dawn Marie Watters

Ms. Shannon Webb
Ms. Denise Elsie Zareski

The following members have moved to Retired status:

Mr. John William Arnold QC
Ms. Kathleen E. Beall
Mr. Robert Alain Deveau QC
Mr. Steven Robert Enman

Mr. Gilbert L. Gaudet
Ms. Kathleen Jane Hall
Mr. Craig M. Harding
Mr. Hugh M. Kindred

Mr. Robert Philip McCarroll
Mr. Gordon C. Morrison
Mr. David Henry Reardon QC

Register soon for Movember: Help put a new face on justice in Nova Scotia

Throughout November, lawyers and judges across the province will be sporting a hirsute upper lip for a good cause and renaming the month "Movember". In the spirit of the annual Glube Cup Charity Hockey Tournament for Feed Nova Scotia, groups of lawyers, Crown attorneys and judges are picking sides again ... this time, for a friendly follicle faceoff. They will be growing moustaches in support of another worthy cause: prostate cancer research.

Movember: Putting a new face on justice – See the poster online for registration details; print it out and post in your workplace.

With encouragement from the Nova Scotia Barristers' Society and the Canadian Bar Association - Nova Scotia Branch, private law firms, the Public Prosecution Service, the Department of Justice Legal Services, members of the Judiciary and many others are forming teams at this very moment.

To register: Go to www.movember.com – You can decide whether to enter as an individual or as a member of an existing team, or to start a new team. If you form a team, please contact local organizer **Dan MacRury QC** at **(902) 563 3530** or macrurda@gov.ns.ca, so he can keep track of and communicate with the teams.

Before and after photos

Participating lawyers and judges are encouraged to attend the launch of the month-long challenge, **October 31 at 10:00 am in Courtroom 301 at the Halifax Law Courts**, for 'before' photos to contrast with the 'after' photos, which will be taken at the end of November. (*Similar events may be organized elsewhere in the province; details are not yet available.*)

To donate and canvas for donations: The interested donor (sponsor) or "player" can decide to make a contribution to either the individual, or the team on which that individual "plays". When an individual makes a donation by credit card, the tax receipt is issued almost immediately.

If the participant prefers to canvas door-to-door, or contact people who do not have computers, the Movember.com website has printable copies of posters, donation forms, etc. When a donor provides cash, it is logged on the pledge sheet (as with any other campaign) and eventually the donor will receive a tax receipt from Prostate Cancer Canada.

All teams are encouraged to register as quickly as possible so the organizers at PCC can establish the networks that will join all of the "competitors" in a kind of provincial competition. For more details, please contact Dan MacRury QC at (902) 563 3530 or macrurda@gov.ns.ca or visit www.movember.com.

Disposal of Undistributed Trust Funds: Submissions due October 25, 2011

The next Application for Disposal of Undistributed Trust Funds has been set for **November 1, 2011**. Submissions should be received at the Society's office **no later than October 25, 2011**.

Members who wish to make an application for disposal of undistributed trust funds should refer to the procedures at www.nsbs.org under [Trust Accounts](#), or contact Elaine Cumming, Professional Responsibility Counsel, Tel: (902) 422 1491, ecumming@nsbs.org.

Notice from the Supreme Court Liaison Committee (Family)

Lawyers are reminded that an application for child support for a child attending a post-secondary program must include evidence of the child's budget and resources.

2011 Statistical Snapshot of NSBS membership now online

Results from the 2011 Annual Member Reports have been tabulated, and the new [Statistical Snapshot](#) is now online. For easy reference anytime, it's located under "About the Society" on the homepage at www.nsbs.org.

Follow the Society on Twitter.com/NSBS

If you would like to receive Twitter updates from the Society, please follow us at <http://twitter.com/NSBS>.

FROM THE COURTS

New: Hints & Tips from the Prothonotary, dated October 24

The new edition includes an update on the November court docket for the Nova Scotia Supreme Court and Court of Appeal. To view the Prothonotary's Hints & Tips, visit the "Notices to the Bar" page on the Courts of Nova Scotia website: <http://www.courts.ns.ca/General/bar.htm>.

Notice to the Profession: Provincial Court of Nova Scotia

The 2012 intake dates have been set for Provincial Court matters in Courtroom #6 (long trials) in Halifax Provincial Court on Spring Garden Road. To view the new intake schedule, see the "Most Recent Notices" on the Courts of Nova Scotia's "[Notices to the Bar](#)" page.

Also please note the following:

- All intake is at 9:00 am.
- To qualify for dates in Courtroom #6, a matter must require four days or more. All cases will be pre-trialed and time requirements will have to be justified.
- CR#6 will continue to provide relief to CR#5, by hearing Youth Court matters one week a month during March through June and September through December 2012. Youth matters for CR#6 are docketed by the Youth Court (CR#5).
- The clerk for CR#6 is Arthena Devoe (424-3516; devoea@gov.ns.ca)

Notice to Media (October 2011) Re: Access to Search Warrant Logs

Beginning this month, Provincial Courts across Nova Scotia will provide, on request, access to a binder containing log sheets for search warrants which are accessible to the public and the media. This binder will only contain log sheets for accessible warrants issued or unsealed on or after October 1st, 2011.

Here is the new policy, which is posted on the "[Information for the Media](#)" page on the Courts of Nova Scotia website:

1. Each Judicial Centre of the Provincial Court will, in addition to the search warrant log it currently maintains, keep a separate binder which contains copies of the log sheets for all search warrants which are accessible to the public (i.e., executed warrants on which reports to a justice have been made and which are not sealed). Such binder will be available for review to members of the public upon request.
2. When a sealed warrant is unsealed, the log sheet for that warrant will be updated to include information that is normally recorded for unsealed warrants, unless such information has been redacted. A copy of the updated log sheet shall be placed in the binder available for public viewing.

Archived video online for swearing-in ceremony for the Honourable Justice Michael J. Wood

The Honourable Justice Michael J. Wood was sworn in on October 17 at the Law Courts building in Halifax, where he now sits as a justice of the Nova Scotia Supreme Court. An archived video of the ceremony is available for viewing on the Courts of Nova Scotia website – follow the links from the News section on the homepage: <http://www.courts.ns.ca/>

Discussion Paper on a possible global review of the Federal Courts Rules

At its last plenary meeting, the Federal Courts Rules Committee agreed that the Discussion Paper on a possible global review of the Federal Courts Rules should receive wide distribution to members of the public and the profession. **Closing date for comments January 6, 2012*****

Global Review of the Federal Courts Rules: A Discussion Paper

The Rules Committee of the Federal Courts has established a subcommittee to conduct a global review of the Federal Courts Rules. In this message, we invite you to participate and to provide input.

Why a global review?

In 1998, the Federal Courts Rules came into being. They made many significant changes to the previous rules. Many of those changes implemented certain broad policies aimed at furthering fairness and efficiency in the management and governance of litigation. But much has happened in the last 13 years. Over that time, and partly in response to the changing nature of litigation, many piecemeal amendments to the rules have been made. To some extent, the rules are now like a quilt on which many patches have been sown. Now is the time to conduct a global review of the rules, examining whether they still further their purposes. In other words, now is the time to look at the entire quilt and assess it.

What has happened so far?

The Rules Committee is the body that considers and approves changes to the Federal Courts Rules. It is a committee comprised of representatives of the Federal Courts, the Bar, and the academic community. Recently, that Committee decided that a global review of the rules should be conducted. The original vision of the framers of the rules was that such a review should take place roughly once a decade. As a result, a subcommittee on global review has been established. The subcommittee is to study the matter, consult widely with the Federal Courts' various stakeholders, and report back to the Rules Committee. The subcommittee has begun its study.

What might change as a result of the global review?

Upon receipt of the subcommittee's report, the Rules Committee will discuss the matter and reach certain conclusions about particular policies that need to be adopted and implemented in the rules. The global review process is a policy review and policy adoption process, not a consideration of particular rule changes. However, if new policies are adopted in the global review process, the Rules Committee will consider how those policies should be implemented in the rules. Specific proposals for amendments to the rules may then be made. The global review process is now under way. Now is the time for you to have your say on the policy matters that could result in important amendments to the rules.

Some of the policies being discussed right now

The subcommittee on global review has identified several policy issues for discussion and consideration. In identifying these issues, the subcommittee does not express any opinion at this time on the significance or the merits of these issues. Professor Janet Walker has prepared a [discussion paper](#) on these issues.

To summarize, the policy issues are as follows:

1. The involvement of the courts in proceedings. At present, with the exception of case-managed proceedings, the rules largely permit parties to manage their own proceedings, with little input from the courts. Should the Federal Courts seek to engage more actively in the management of proceedings, and, if so, in what sort of proceedings, and how should management take place? Should litigation plans be required from the parties and assessed by the court, and, if so, in what sort of proceedings and on what basis should the assessment proceed? Does the existing system of case management work well? Do cases with self-represented litigants raise special considerations? Should the courts be empowered to impose sanctions for abuse of procedures and, if so, in what circumstances, and what sort of sanctions?

2. Judicial determination vs. alternative disposition (e.g., settlements)? Currently the rules are aimed primarily at getting matters ready for a judicial determination on their merits. For example, rule 3 provides that “[t]hese Rules shall be interpreted and applied so as to secure the just, most expeditious and least expensive determination of every proceeding on its merits.” Can the rules do more to promote settlements? Should they? How might they do so?
3. Proportionality. Should the extensiveness of court procedures vary according to the magnitude of the dispute? What procedures might be attenuated, and in what sorts of cases? If proportionality is to be implemented as a policy, is this best done under rule 3, or under specific rules concerning particular procedures?
4. Practice directions. These allow for minor procedural matters to be addressed quickly and flexibly. However, they are not the product of wide consultation and counsel and self-represented litigants are often unaware of them. Are too many matters being regulated by practice direction? Should any existing practice directions be promoted to rules or vice versa? What can be done to ensure greater compliance with practice directions? Can practice directions be better publicized? How?
5. “One size fits all” procedures vs. specialized procedures. For the most part, the rules adopt a “one size fits all” approach – virtually all of the rules apply to virtually all proceedings. Should there be specialized procedures for specialized areas, e.g., intellectual property, immigration, or does the “one size fits all” approach work well even for specialized areas?
6. The architecture of the rules. Is the current structure, ordering, numbering and indexing of the rules “user-friendly”? In this regard, it should be remembered that some users are self-represented litigants. Might “user-friendliness” be accomplished in other ways, such as through the use of information technology, and, if so, what ways?
7. Other issues. We invite you to suggest other policy issues that should be discussed and considered, and to offer your views on those issues.

Please note that another subcommittee is examining issues relating to the rules and whether they pose an obstacle to the use of information technology. Those issues are not within the mandate of this subcommittee. Ultimately, the work of both subcommittees will be considered together by the Rules Committee, and specific reforms may be proposed.

We invite you to participate

You can participate in two ways. First, you can provide written comments directly to the subcommittee. Second, there will be an opportunity to meet and discuss these issues with members of the subcommittee; dates and locations for the meetings will be announced in the New Year. Please feel free to circulate this document to others who may be able to assist the subcommittee in its task. All input is welcome.

To make written comments, please email or write **by January 6, 2012** to:

Ms Chantelle Bowers
Executive Assistant to the Chief Justice
Federal Court of Appeal
90 Sparks Street,
Ottawa, ON K1A 0H9
Chantelle.Bowers@fca-caf.ca

We sincerely thank you for your assistance.

The Subcommittee on Global Review
Chantelle Bowers (Secretary to the Federal Courts Rules Committee)
Nathalie Daigle (Executive Officer to the Chief Justice of the Federal Court)
Professeur Denis Ferland (Université Laval)
Justice Johanne Gauthier (F.C.)
Justice Roger Hughes (F.C.) (Chair of the Rules Committee)
Robert MacKinnon (Department of Justice)
Justice Donald Rennie (F.C.)

Justice David Stratas (F.C.A.) (Chair of the Subcommittee on Global Review)
Cecily Strickland (Stewart, McKelvey)
Prothonotary Mireille Tabib (F.C.)
Professor Janet Walker (Osgoode Hall)

Document de travail sur une révision globale possible aux Règles des Cours fédérales

Lors de sa dernière réunion du comité plénier des règles, il fut déterminé que le document de travail sur une révision globale possible aux Règles des Cours fédérales soit distribué de façon globale aux membres de la profession et au public.

[Examen global des Règles des Cours fédérales: un document de travail](#)

Si vous désirez faire des commentaires par écrit, veuillez les envoyer par courriel ou les écrire d'ici **le 6 janvier 2012** à:

Mme Chantelle Bowers
Attachée de direction du juge en chef
Cour d'appel fédérale
90, rue Sparks
Ottawa (Ont.) K1A 0H9
Chantelle.Bowers@fca-caf.ca

Notice: New fax number for Pictou Family Court

As of October 15, 2011, Pictou Family Court's fax number will be **1 902 485 8934**.

All other fax numbers will NOT be monitored for incoming documents and correspondence. The fax number 902-485-7060 will be disconnected.

Notices to the Bar

Important updates for the legal profession are routinely posted on the Courts Nova Scotia website, on the "Notices to the Bar" page under the RESOURCES links on the left side of the website. Subscribe to the RSS service to be automatically notified whenever something new is added to the web page. For instructions, visit <http://www.courts.ns.ca/General/bar.htm>

Updates to the profession can also be accessed at any time on the Federal Court's web page titled [Notices to Parties and the Legal Profession](#).

FROM THE PROVINCE

Notice from the Department of Justice: Expressions of interest for Local Counsel

(This [notice](#) is also available on the Career Opportunities page: www.nsbs.org/careers.php)

The law firms of Bennett Jones LLP and Siskinds LLP have been jointly retained to act on behalf of the Governments of Nova Scotia, New Brunswick, Manitoba and Saskatchewan, in actions contemplated under the *Nova Scotia Tobacco Damages and Health Care Costs Recovery Act*, and similar legislation in other provinces.

We are seeking EXPRESSIONS OF INTEREST from lawyers who are willing to act as Local Counsel in Nova Scotia for the contemplated action. Local Counsel will become part of a skilled and dedicated legal team that will be advancing this important legal action.

Principal criteria for selection as Local Counsel:

- Demonstrated excellence in the practice of law;
- Significant civil litigation experience before Nova Scotia courts, including experience in complex multi-party litigation;

- A reputation for integrity; and
- No conflict of interest with any of the anticipated defendants or their related entities.

Local Counsel will interact regularly with counsel from both firms, as well as Crown Counsel at the Nova Scotia Department of Justice. Remuneration models are flexible and subject to discussion with the Local Counsel upon being selected.

All expressions of interest will be seriously considered by the two firms in partnership with an independent consultant appointed by the government of Nova Scotia.

Lawyers who are considering this opportunity and who would like an information package can contact either of the following persons:

- Mike Eizenga, Bennett Jones LLP: (416)777-4879
- Mike Peerless, Siskinds LLP: (519)660-7866

Letters of interest should explain how the criteria outlined in this Notice are met, and should be received at the following no later than **November 30, 2011**:

Attention: Mike Peerless
Siskinds LLP
680 Waterloo Street
London ON N6A 3V8
- or -
mike.peerless@siskinds.com

JUSTICE: Investigation finds procedures followed in offender death

Correctional officers followed proper policies and procedures when an offender died in custody July 25, says a report released Oct. 17. The man, 48, was found deceased in his cell at about 4:30 a.m. at the Central Nova Scotia Correctional Facility in Burnside. He was remanded awaiting trial.

The incident review found that correctional officers followed policy and procedures when conducting staff rounds before the incident and responding to the incident. The Halifax Regional Police investigation determined the death was not suspicious or a criminal matter. The Nova Scotia Medical Examiner Service has ruled the death a suicide. See the full [incident review report](#) online.

JUSTICE: Update on federal negotiations with RCMP

To read the October 24 [op-ed piece](#) from Justice Minister Ross Landry, visit the Latest News section of the [Department of Justice](#) website.

EXECUTIVE COUNCIL: Applications Sought for Agencies, Boards, Commissions

Nova Scotians who want to serve the public are encouraged to apply for the many positions available through Nova Scotia's agencies, boards and commissions. Executive Council Office deputy president Frank Corbett launched the fall recruitment campaign on October 14 to encourage more people from all parts of the province to get involved.

There are more than 170 agencies, boards and commissions in the province. Adjudicative agencies, boards and commissions serve a variety of roles and interests and have quasi-judicial functions. They review evidence, make findings of fact and law, and make decisions affecting the liberty, security or legal rights of individuals. Members must apply legal principles and sound professional and technical principles for their decisions. Some examples of adjudicative agencies, boards and commissions include:

- Labour Board
- Nova Scotia Natural Products Marketing Council
- Teachers' Certification Appeal Board.

Non-adjudicative agencies, boards and commissions make financial, regulatory, business, or policy decisions or recommendations to government. They have far-reaching implications for Nova Scotians in many areas, from children and youth services to loan and licensing boards. Some examples of non-adjudicative agencies, boards and commissions include:

- Advisory Council on the Status of Women
- Council of the College of Physicians and Surgeons of Nova Scotia
- Nova Scotia Human Rights Commission

Applicants are assessed on skills and qualifications and the needs of individual agencies, boards or commissions.

For board position profiles, current opportunities and how to apply, visit www.gov.ns.ca/exec_council/abc or contact the Executive Council Office at 424-4877 or toll free at 1-866-206-6844.

The application deadline for adjudicative agencies, boards and commissions is Nov. 21. Applications for non-adjudicative agencies, boards and commissions are welcome any time, with assessments beginning Nov. 18.

The province has an Employment Equity Policy and welcomes applications from Aboriginal people, African Nova Scotians and other racially visible people, persons with disabilities and women. People are encouraged to self-identify on applications, covering letters or resumes.

LABOUR/ADVANCED EDUCATION: Province seeks feedback on first contract settlement

Nova Scotians are invited to comment on a proposal to introduce measures that would settle first contract disputes. A first contract is the first collective agreement that a union negotiates with an employer once the union is certified.

The consultations are being led by the Labour Management Review Committee, established earlier this year to improve labour relations in Nova Scotia and to provide a forum to discuss issues of mutual concern.

"We continually see the benefits of the good labour relations in this province and we are undertaking this discussion so we can do everything possible to ensure even greater stability," Marilyn More, Minister of Labour and Advanced Education, said in this October 21 [announcement](#). "Having a mechanism in place to deal with first contract disputes will help protect productivity by avoiding damaging, prolonged strikes."

Six provinces and the federal government have established legislation to settle first contracts without a strike or lockout. The legislation includes mechanisms for assistance when the employer and the union have not be able to conclude a first collective agreement, including the ability to help to resolve a first agreement.

A discussion paper on this issue can be found at www.gov.ns.ca/lae. The deadline for feedback is **Friday, Nov. 4**. All feedback will be considered.

LABOUR/ADVANCED EDUCATION: Province seeks feedback on citizenship leave

Nova Scotians are invited to comment on a proposal to introduce a leave under the Labour Standards Code for immigrants to attend their citizenship ceremonies.

Between 800 and 1,000 people in Nova Scotia become Canadian citizens every year, the goal of most immigrants to the province. Citizenship leave would ensure immigrants can take time off work to attend their citizenship ceremony. The province's immigration strategy, released in April, highlights the need for a welcoming environment that encourages immigrants to move, settle, and make a life in Nova Scotia.

A discussion paper, in both English and French, asks a series of questions about the concept of such a leave and what it should involve. It can be found at www.gov.ns.ca/lae. The deadline for feedback is **Monday, Nov. 7**. All feedback will be considered.

SERVICE NOVA SCOTIA/MUNICIPAL RELATIONS: Change to *Vital Statistics Act* would help grieving families

A proposed amendment to the *Vital Statistics Act* will allow some grieving families to make arrangements more quickly after a death. The change would allow nurse practitioners and others authorized to sign medical certificates of death in certain circumstances.

Currently, only doctors and medical examiners are allowed to sign medical certificates of death, and funeral directors cannot remove a body until the certificate is signed. This can cause hardship for families in remote and rural areas, in some long-term residential facilities and deaths at home.

Early consultations indicate strong support for the proposed amendments. More consultation is needed to determine when nurse practitioners and other authorized people can sign the certificate. There are more than 100 licensed nurse practitioners in Nova Scotia. For more details, see the Oct. 21 [announcement](#).

FISHERIES/AQUACULTURE: Province seeks feedback on draft coastal strategy

Nova Scotia is another step closer to having a new strategy that will protect the coastline, while supporting sustainable coastal development. The draft of the province's first coastal strategy was released for public review and feedback on Oct. 13.

The draft strategy focuses on seven issues that are crucial to effective coastal management:

- Coastal development
- Working waterfronts
- Public coastal access
- Sea level rise and storm events
- Coastal ecosystems and habitats
- Coastal water quality
- Governance

For each of these issues, the strategy establishes goals, objectives and actions. The draft coastal strategy and feedback form are available at www.gov.ns.ca/coast or by calling 902-424-5830. The feedback form will be available **until Nov. 30**. The draft strategy is only available in English but the final strategy will be bilingual.

ENVIRONMENT: Legislated review of *Environmental Goals and Sustainability Act* to proceed

The province welcomes an independent review of the *Environmental Goals and Sustainable Prosperity Act*. The act requires a review every five years.

Environment Minister Sterling Belliveau said Oct. 24 that the Minister's Round Table on Environment and Sustainable Prosperity has begun its work on the review. It is made up of interested parties from industry and environmental organizations. The review includes public consultations. The act requires that recommendations be made to the minister within six months.

"The Environmental Goals and Sustainable Prosperity Act was a pioneering step forward five years ago, enshrining in law the desire to integrate environment and economy towards our best future," said Martin Janowitz, chair of the round table. "Now we have the ability and responsibility to look at how we can refine this act to better achieve these goals."

The public can provide input on the act **until Dec. 16** by emailing EGSPAreview@gov.ns.ca, phoning 1-888-320-0555, or by mail: Round Table on Environment and Sustainable Prosperity, c/o Department of Environment, EGSPA Review, Box 442, 5151 Terminal Road, Halifax, NS B3J 2P8.

For more information on the review, visit www.gov.ns.ca/nse/EGSPAReview/.

ENVIRONMENT: Province releases Wetland Conservation Policy

The province is conserving Nova Scotia's wetlands through a new policy, released Oct. 14. The new policy's goal is to prevent the net loss of wetlands. It protects wetlands of special significance, promotes wetland protection and

stewardship, encourages a long-term net gain in wetland types that have experienced high losses, and raises awareness on the benefits of maintaining buffers near wetlands when developing new areas.

There is also an updated application process that clarifies what is required before altering a wetland. More than 700 Nova Scotians participated in consultations on a draft wetlands policy in late 2009. The consultation period was extended to accommodate the high level of interest.

The release of the wetland policy meets a goal of the *Environmental Goals and Sustainable Prosperity Act*, provincial heritage strategy and the Water Resources Management Strategy - Water for Life.

The Nova Scotia Wetland Conservation Policy is available at www.gov.ns.ca/nse/wetland/.

IMMIGRATION: Class action suit certified

NOTE: The following is released as part of the settlement agreement in a class action between the province of Nova Scotia and the law firm of Branch MacMaster LLP on behalf of their clients.

On Sept. 26, the province of Nova Scotia and the law firm of Branch MacMaster LLP announced that they reached an agreement to settle the class action brought to address issues surrounding the former Economic Stream of the Nova Scotia Nominee Program.

The agreement has been approved by the court, and class action members are now able to make a claim. Eligible class action members will each be entitled to \$75,000, less the 15 per cent for legal fees that the court approved as fair and reasonable. Class action members who were paid under a business mentorship will get \$75,000 less any payments the class action member received as part of their mentorship agreement. The 15 per cent legal fees will be taken from the net amount.

To get a claim form, eligible class action members should visit <http://immigration.gov.ns.ca/settlement-agreement> . Alternatively, they may contact **Greg McMullen**, lawyer for the class, at **604 654 2999**.

LABOUR/ADVANCED EDUCATION: Province seeks feedback on Proposed Adult Learning Act Regulations by Oct. 31

Nova Scotians are invited to respond to proposed regulations for the *Adult Learning Act*. The deadline for feedback is Monday, Oct. 31. The regulations will provide a guide to help administer the act, which was passed in the legislature in December 2010. Consultations are being held throughout the province with adult learning partners.

The regulations are to provide consistency for operations among organizations that teach adult education, including how they qualify to get public funding, what records they must keep, and how they report what they do. They also state adult learner responsibilities and what must be included in the Nova Scotia School for Adult Learning annual report to the minister of Labour and Advanced Education.

The proposed regulations in both French and English, and with details on how to submit comments can be found on the Department of Labour and Advanced Education's website at www.gov.ns.ca/lae/.

AFRICAN NOVA SCOTIAN AFFAIRS: Unsung heroes sought for African Heritage Month

The African Heritage Month Information Network is looking for six unsung heroes to grace the 2012 African Heritage Month poster. As a follow-up to the 2010 theme, Leading Ladies, Lasting Legacies, the network wants to recognize six men from across the province who have made a lasting impact in their communities.

Nova Scotians can nominate their unsung hero by downloading a nomination form at <http://www.gov.ns.ca/ansa/AHM2012.asp>

Nominations close on Nov. 1. Community organizations can also submit their events now for the 2012 African Heritage Month brochure. Forms are available at the same web address, and must be returned by Dec. 9.

Error & Omission Notices

A number of new *Land Registration Act* and *Registry Act* Error & Omission notices have recently been posted online. Please note the new notices from the **Colchester, Halifax and Kings County Land Registration Offices**.

To view these notices in full, refer to the Errors & Omissions page on the [Property OnLine](#) (POL) website.

NOVA SCOTIA SECURITIES COMMISSION: CSA publish for comment proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers

The Canadian Securities Administrators (CSA) have published for comment proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers (NI 51-103), which includes proposed amendments to related instruments, forms and consequential amendments. The proposed rule introduces a new mandatory regulatory regime for venture issuers. It is designed to streamline and tailor venture issuer disclosure to make it more useful and user-friendly for investors. The proposal:

- outlines disclosure requirements that are more suitable and manageable for issuers at this stage in their development; and
- streamlines requirements so venture issuers have more time to focus on business growth and development.

The CSA developed the proposed rule with the assistance of feedback collected during in-person consultation sessions that were held across the country in the spring and fall of 2010, as well as written comments from market participants.

The CSA is seeking written comments from investors and industry on the proposed national instrument and related amendments. To comment, please refer to the CSA Notice and Request for Comment announcing proposed NI 51-103 and related consequential amendments, which is available on the website of the Nova Scotia Securities Commission at the following link: http://www.gov.ns.ca/nssc/CSANotices/noticerequestJuly_29_2011.pdf

The comment period is open until October 27, 2011.

OTHER NOTICES

Walter O. Newton QC retirement

muttarts law firm congratulates **Walter O. Newton QC** on his retirement from the practice of law, and is proud to continue to assist the clients of **Newton Law. muttarts law firm** serves individuals, businesses and local governments throughout the Annapolis Valley. www.muttartslaw.ca

AWARDS & APPOINTMENTS

Sir Graham Day named to the Order of Nova Scotia

Sir Graham Day of Hantsport, a member of NSBS, will be among five Nova Scotians invested into the Order of Nova Scotia at a ceremony at Province House on November 30. Premier Darrell Dexter made the announcement on October 11.

Sir Graham Day is internationally recognized as a business leader and one of the most influential lawyers in Canada. He has served as an advisor to several of the largest companies in Nova Scotia, and to numerous corporations in Canada and abroad. He taught at Dalhousie University, where he served two terms as chancellor. In 2010, a scholarship fund was raised in his honour to recognize his immense contribution to Nova Scotia business. He dedicated the fund to the Faculty of Management at Dalhousie University to support students who want to enter family businesses or gain experience in trade and transportation or government. Sir Graham was knighted in 1989 by Her Majesty Queen Elizabeth II. He has been inducted into the Nova Scotia and Canadian Business Halls of Fame.

The other 2011 Order of Nova Scotia recipients are F. Wayne Adams, East Preston; Joseph Benjamin Marshall, Eskasoni; Bruce MacKinnon, Halifax; Budge Marjorie MacGregor Wilson, Halifax. The recipients were selected by the Order of Nova Scotia Advisory Council from 76 nominations.

The Order of Nova Scotia was established in June 2001 and is the highest honour bestowed by the province. For more information on the new recipients, visit <http://www.gov.ns.ca/iga/2011recipients.asp>

Fulbright Chair to study international law enforcement: Researching Canada-United States treaties

Vaughan Black, professor with the Schulich School of Law, has received a prestigious Fulbright Visiting Chair and will conduct research on international law at Arizona State University.

Prof. Black's research focuses on bilateral treaties between the United States and Canada. While there are several treaties between the two countries, covering everything from trade to tax, there are no treaties about legal enforcement of court decisions. In other words, a United States resident found liable of negligence in Canada may be able to avoid paying damages because a United States court won't enforce the decision. This is unusual considering that other Western countries such as Australia and New Zealand have legal enforcement treaties.

"There's little formal legal integration between the two countries," says Prof. Black. "Most countries that have the level of economic integration that we have usually have a greater measure of legal integration."

Prof. Black will study why there is such a low level of legal integration and identifying different solutions. Some of his research will look at the European Union, which has incorporated civil law integration. He believes that politics plays a major factor in the U.S./Canada dilemma. Read the rest of the [article](#) on Dal News.

VOLUNTEER & PRO BONO OPPORTUNITIES

Nova Scotia Health Organizations Protective Association (NS HOPA)

The Nova Scotia Health Organizations Protective Association (NS HOPA) is seeking volunteers for the Board of Directors. NS HOPA is a non-profit provincial insurance reciprocal providing liability insurance to member organizations. Board meetings are quarterly and approximately six (6) hours in length. Board members also sit on a minimum of one (1) committee. Board terms are three (3) years, renewable for one term.

For more information please contact:

NS HOPA Nominating Committee

Attention: Deborah Rozee

Bedford Professional Centre

2 Dartmouth Road, Bedford NS B4A 2K7

Phone: 902. 832. 8520 | Email: deborah.rozee@nshopa.ca

Artists Legal Information Services (ALIS)

Artists Legal Information Services (ALIS) is a legal support organization based in Halifax. It currently consists of volunteer law students at Dalhousie University who seek to promote the legal rights of artists.

Our mission is to make a stronger, more vibrant arts community in Nova Scotia by helping to resolve legal issues for artists living there. This will be accomplished by providing free clinics, workshops and library resources to artists in Atlantic Canada. We work with all types of artists to help them understand how the law impacts them, and provide a framework for navigating potential obstacles.

If you are a lawyer with experience in contract law, entertainment law, tax law, or just have an interest in the needs of local artists, then we would love to hear from you. We are looking for support from the Atlantic Canada legal community on a *pro bono* basis.

If you are interested in getting involved, please contact us at daniel.pink@gmail.com. For more information please visit www.nsalis.com.

reachAbility Volunteer Opportunities

reachAbility's Legal Referral Service is a community-based service that bridges the gap between existing local resources and public need. We provide an opportunity for persons living with disabilities to better understand their legal rights, as well as providing lawyers with an opportunity to use their legal skills in a volunteer capacity to address the needs of an often marginalized segment of our community.

reachAbility's Legal Referral Service offers access to free legal advice for any person with a disability. Lawyers throughout the province volunteer their time and expertise to our clients and we're always looking for new perspectives. The time commitment that we ask from our volunteers is small – a single one-hour consultation each year – but it is a commitment that will make an immediate difference in the life of a Nova Scotian with a disability.

Join other volunteering members of the Legal Community by completing our online Lawyer Volunteer Form at: <http://reachability.org/legal-programming/lawyer-sign-up-form/>

For further information, contact us: (902) 429-5878 or legal@reachability.org

Or visit us online: <http://reachability.org/legal-programming/legal-referral-services-lawyer-information/>

LIANS and NSBS Mentorship Program

For information, visit the [Mentorship Program](#) section on the LIANS website, under the Risk and Practice Management heading at http://lians.ca/rpm/mentorship_program/. Documents available on the website include the **Mentorship Program Application Form**, a **Model Mentoring Activity Plan** for participants and a **Mentoring Guidelines** booklet.

MISSING WILLS

Missing will for Robert Clifford Joseph Murdock

Lawyers with any information on a will for the late Robert Clifford Joseph Murdock are asked to please contact his wife, Mrs Cathy Kennedy Murdock at 613 634 9107 or 613 351 8229.

Mrs. Murdock currently lives in Ontario but is certain her husband's will is with a law firm somewhere in Nova Scotia. Mr. Murdock resided in the province from August 1982 to 1987. His date of birth date is January 25, 1949.

Seeking missing will for current resident of Clayton Park

Mrs. Elizabeth Lough, an 84-year-old Clayton Park resident, is unable to recall the name of the lawyer who prepared her will. Lawyers with any information on the location or existence of a will for Mrs. Lough are asked to please contact her son Robert Lough at 443.3506.

Public Trustee seeks last will and testament of Lilyan Mae Brodrick of Lower Sackville

The Public Trustee of Nova Scotia is looking for the Last Will and Testament of Lilyan Mae Brodrick. She died June 14, 2011. The family believes she may have hired a lawyer in the Sackville area to prepare the will. But the Public Trustee hopes that all lawyers would check their records to see if they did a will for this lady. She had resided at 13 Howland Drive, Lower Sackville, Nova Scotia.

If you have any information, please contact **M. Estelle Theriault QC**, the Public Trustee of Nova Scotia, at **424-7760** (phone) or **424-0616** (fax).

Seeking will for the late Helen Frances Smith

Lawyers with any information on the location or existence of an original Last Will and Testament of Helen Frances Smith are asked to please contact:

Laurie C. LaViolette
Bedford Law
Suite 100, 1496 Bedford Highway
Bedford, NS B4A 1E5
(902) 832-2100
laurie@bedfordlaw.com

At the time of her death, February 25, 2011, Helen Frances Smith had been a resident of Northwood Center in Halifax since 2004. Prior to 2004, Ms. Smith was a resident of St. John's, Newfoundland.

CAREER OPPORTUNITIES www.nsbs.org/careers.php

:: CONFERENCES & SEMINARS ::

NSBS ADMISSIONS & PROFESSIONAL DEVELOPMENT

Visit the [CPD](#) page at [NSBS.org](#)

Land Registration Act Training

Registration is open for the Online *Land Registration Act* training program.
Cost for this program is \$600 plus HST and registrants have one week to complete the course.

Dates for next LRA course:

- January 18 to 25, 2012
- April 18 to 25, 2012

LAST CHANCE – One-day seminar: Advanced Cross-examination Techniques

Thursday, October 27, 2011

Schooner Room, Casino Nova Scotia, Halifax

Register online: [Details and registration](#)

Pozner & Dodd's first live presentation of Advanced Cross-Examination Techniques to the Nova Scotia Bar!

America's top trial advocacy team, Larry Pozner and Roger Dodd, are bringing their one day program on Advanced Cross-examination Techniques to Halifax on October 27, 2011.

Whether your practice is civil or criminal, or you're preparing for your first or fiftieth trial, this is a presentation that no litigator can afford to miss. With practical tips and instructive true-life examples, Pozner and Dodd teach you simple, straightforward, effective techniques from the Chapter Method of Cross-examination that will surprise and reinvigorate even the most experienced litigators.

This powerful program plays to dozens of sold-out audiences of trial lawyers and non-litigators across Canada and the United States every year. Register early, as space is limited. Early bird deadline closes September 27, 2011. For more information and to register, see the detailed [program brochure](#).

OUTSIDE CONFERENCES & SEMINARS

Also visit the [Other Professional Development](#) page on our website.

Access to Justice for Women: Why not?

October 25, 2011, 4:30-6:30pm
Schulich School of Law, Room 104
6061 University Ave, Halifax

An engaged workshop sponsored by the Canadian Bar Association (Nova Scotia), Nova Scotia Legal Aid, Women's Legal Educations and Action Fund (Halifax) and the Schulich School of Law.

Who should attend? Anyone with an interest in current, emerging and future challenges and solutions to the issues of access to justice for women including family law lawyers, legal aid lawyers, government policy makers, law students, community groups and volunteers who work with access to justice issues.

RSVP: Email: lawdean@dal.ca | 902-494-2114

Halifax Leaf Persons Day Breakfast

The Annual Halifax LEAF Persons Day Breakfast celebrates the landmark 1929 "Persons Case" that guaranteed women the right to participate in all aspects of public life in Canada. This Persons Day, we invite you to join us. All tickets must be purchased in advance. Thank you for your support of LEAF's work towards advancing substantive equality.

Wednesday, October 26 from 9-10:30am

Saint Mary's Boat Club

Tickets: \$30 for waged / \$15 unwaged

Speaker: Melina Buckley will talk about gender, legal aid and women's rights. Across Canada and around the world we are faced by a growing "no women's land" created by the gulf between legal rights and the assistance required to meaningfully access them. What steps can we take to reverse the long-term erosion of legal aid and its devastating consequences for women?

Melina Buckley is an associate with Camp Fiorante Matthews in Vancouver and is currently serving as Policy Counsel to the Missing Women Inquiry in British Columbia. Melina has had an eclectic legal career working as a lawyer and legal policy consultant working primarily in the areas of human rights, constitutional law, access to justice and dispute resolution. She is called to the Bar in Ontario and British Columbia and holds a Ph.D. in law from the University of British Columbia. She has served as co-counsel in numerous public interest litigation cases and has directed several national research projects as well as a comprehensive justice reform project in Jamaica.

Contact: halifax@leaf.ca

The Schulich School of Law Mini-Law School

The Law School welcomes the community to a series of engaging lectures on contemporary legal topics

Wednesdays 7:00-8:30pm

Weldon Law Building, Room 105

NEXT LECTURE:

October 26, 2011

Law and Religion: Interactions in a Modern Democratic State

Diana Ginn

Attendees may be requested to show picture identification to get into the Weldon Law Building

Executor Insurance Mitigating Risk on Estate

Free one-hour accredited webinar presented by ERAAssureTM

October 27, 11:00 am (Eastern)

Presenter: Jane Tracogna, RIB

[Register online](#)

Federal Court of Appeal and the Federal Court Education Seminar: The Jurisdiction of the Federal Courts

Presented by the National Judicial Institute / Institut National De La Magistrature

October 27 – 28, 2011

Ottawa, Ontario

Keynote Address: The Right Honourable Beverley McLachlin, P.C., Chief Justice of Canada

[Download agenda and registration](#)

Upcoming events from CBA-NS

- **Wills & Estates Conference** – *All You Ever Wanted to Know About Death & Taxes But Were Too Afraid to Ask*, Friday, Oct. 28, 2011 at the Casino Nova Scotia – [Register online](#)
- **Constance Glube Spirit Award Dinner** – Oct.28, 2011 at the Casino Nova Scotia. [Register online](#)
- **Online CLE:**
 - **Assessment of Legal Capacity: The Challenges for Law and for Lawyering** with Jeanne Desveaux & Prof. Sheila Wildeman on Friday, November 18 – [Register online](#)
- **Family Law for Legal Assistants Conference**, Friday, December 9 at the Halifax Marriott Harbourfront– [Register online](#)

5th Annual Curl for Cancer – Halifax

Friday, October 28, 2011
Mayflower Curling Club
3000 Monaghan Drive, Halifax

Curl For Cancer – Halifax is an afternoon of friendly competition, instruction, games, prizes, snacks and friendship. You're invited to join as a corporate team, gather your friends together or enlist clients to help you challenge some of last year's winners. No curling experience necessary - only your good humour and enthusiasm are required!

[Registration form \(PDF\)](#)

Deadline to register is October 14, 2011 (*first come, first served*)
Questions? Email curlforcancer@ns.cancer.ca

Dalhousie Health Law and Policy Seminar Series

Weldon Law Bldg, Room 104, 6061 University Ave, Hfx, NS
12:10 - 1:30 pm

NEXT SEMINAR:

Implications of the Rx Revolution: The Changing Scope of Practice of Pharmacists

Friday, October 28

*Neil MacKinnon, Mel and Enid Zuckerman College of Public Health,
University of Arizona*

Light lunch served at noon in the Faculty Lounge (Rm 312)
No registration required! No fee. Call 902.494.6881 for more information

The Lunenburg County Barristers' Association invites you to its Fall Conference Conference: Challenges and Opportunities of Rural Practice in Nova Scotia

**November 3 and 4, 2011
The Best Western, Bridgewater, Nova Scotia**

In working groups and discussions facilitated by Matt Homann of LexThink, the conference will explore these main topics:

- Operational Models for Rural Practice in the 21st Century
- Serving our Communities – Access to Justice for All
- The Good Life – Attracting and Retaining Young Talent in our Communities

For the complete Conference Program and other details, visit the [Challenges & Opportunities website](#). Registration is available on the website through PayPal, or by contacting Elizabeth Dumke at 902 530 3404 or edumke@dumkemaclod.ca.

Please register soon, as hotel spots are limited. Accommodation information is available on the website; the conference venue, the Best Western in Bridgewater, will provide preferred rates.

The Second Annual Innis Christie Lecture in Labour and Employment Law Why the Right-Freedom Distinction Matters to Labour Lawyers Professor Brian Langille

Friday, November 4, 2011 at 4 pm
Room 105, Weldon Law Building,
6061 University Avenue, Halifax, N.S.

Reception to Follow:
RSVP - lawdean@dal.ca - (902) 494-2114

Canada Rocks vs. Britain Rocks - Sixth Annual Halifax Rock for Dimes – November 18, 2011

On **Friday November 18, 2011**, local amateur musicians will once again strap on their instruments to battle for the title of "Halifax's Best Band" and raise much-needed money for Nova Scotians with physical disabilities. Over \$90,000 has been raised to date by March of Dimes Canada at this annual rocking event in Halifax. Last year's "Retro 80s" event at the World Trade Convention Centre was one of the biggest and best Rock for Dimes events across Canada in March of Dimes Canada history.

This year's novel musical theme for the "two stages" event will be **CANADA ROCKS vs. BRITAIN ROCKS**. If last year's cool costumes for the Retro 80s theme were any indication, there should be many fans of Canadian and British Rock music dusting off their favourite Maple Leaf and/or Union Jack costumes for this one! Once again, the Battle includes not only lawyers but also other professionals, such as medical professionals and software experts, which proves to be a very entertaining cross-disciplinary experience. Ask anyone who went last year!

Eight bands are preparing for this Clash of the Bands. They are: **Loose Garage** (Capital Health), **Project 501** (Stewart McKelvey), **Red C** (McInnes Cooper), **Terminal Road** (N.S. Department of Justice), **Piranha Brothers** (Various in-house and private lawyers), **Gene** (Government and private lawyers), **Buck McFate** (Burchells LLP) and **Fonts & Pixels** (ISL – Internet Solutions Ltd.). As you can see, six of the 8 bands comprise your fellow bar society members, all of whom are back to compete for a really great charitable cause. Best bar event of the year!

Mark your calendars now. The date is **Friday, November 18, 2011**. Doors open at 7:00 P.M. Be there or be square. For tables (of 10), tickets and more detailed event & sponsorship information, go to: www.rockfordimes.ca or call 1-800-263-3463.

Halifax Rock for Dimes benefits March of Dimes Canada's Conductive Education (CE) Nova Scotia Program, which helps children and adults in our province. CE is an innovative program that blends elements of education and rehabilitation to

improve the independence, mobility and confidence of children with disabilities, and has proven especially beneficial to children with cerebral palsy, multiple sclerosis and developmental apraxia. March of Dimes Canada is a nationally registered charitable organization providing support services to people with disabilities, their families and caregivers across Canada. Last year, November 2nd became March of Dimes Conductive Education Awareness Day at Province House in Halifax and prominent MLAs delivered resolutions in the House of Assembly recognizing the "immense benefit" of March of Dimes and Conductive Education in Nova Scotia.

LIANS Solo and Small Firm Conference

November 21, 2011 – 9:00 am to 4:15 pm | Westin Nova Scotian, Halifax

Please be advised that the LIANS Risk and Practice Management Conference for Solo and Small Firms is scheduled to take place on November 21, 2011, at the Westin Nova Scotian in Halifax. The conference will offer sessions on Fact Patterns of Risk Management, Succession Planning, Red Flags of Fraud, the Incoming *Code of Professional Conduct*, as well as a vendor expo.

Confirmed speakers for the conference include **Jocelyn Frazer**, Equity Ombudsperson and Acting Practice Advisor at the Law Society of Alberta; **Barney Christianson QC**, Practice Management Advisor for the Law Society of Manitoba; **Darlene Jamieson QC**; **Victoria Rees and Elaine Cumming** of the Professional Responsibility department for the Nova Scotia Barristers' Society; and **David Penney** of Homewood Human Solutions™, who will offer a health and wellness session.

Online registration is now available on the LIANS homepage at www.lians.ca.

- **Early-bird rate: \$200 + tax; after Oct. 28: \$250 + tax**
- **Discounts for two or more registrants from the same firm!**

Sessions will appeal to lawyers, office managers, paralegals and legal assistants. Lawyers and staff from all sized firms are welcome.

The Role of Proponents in Crown Consultation with Aboriginal Peoples

Nova Scotia Office of Aboriginal Affairs Learning Seminar

November 22, 2011

Westin Hotel, Halifax Nova Scotia

As Aboriginal consultation continues to evolve across Canada, Proponents and Third Parties are playing an increasingly important role in the consultation process. This learning seminar offers essential information for the business sector, industry and professional associations, consultants, legal professionals, governments, non-governmental organizations, Mi'kmaq groups, and those who need to gain a better understanding of the elements of the Duty to Consult and the Crown's delegation of procedural aspects of consultation to Proponents.

Seminar Highlights

- Fundamentals of Duty to Consult and Accommodation
- Case Law for Proponents
- Provincial and Federal government perspectives
- Delegation of procedural aspects - Nova Scotia's approach
- Establishing relationships with First Nations
- Exploring and developing Impact Benefits Agreements (IBAs).

Registration information and the seminar program are available at: <http://www.gov.ns.ca/abor/resources/learning-seminar/>

Seminar Rate: \$275 **Student Rate:** \$175 (limited seating)

All prices include taxes, conference materials, breakfast & lunch.

Keynote Speakers

Sandra Gogal, Partner, Miller Thomson Law Firm
W. Ming Song, Principal, Songbird Law Corporation

For more information, please contact:

Tracy McHarg
Tel: (902) 424-4174 | Email: mchargta@gov.ns.ca

Aboriginal Law: Consultation and other emerging issues

November 23, 2011

World Trade and Convention Centre, Halifax, NS

Course Leader: Tom Isaac (Partner, McCarthy Tétrault LLP)

Course Highlights:

- Update on Consultation Caselaw
- Quasi-Judicial Tribunals and Administrative Boards - Their Role in Consultation
- Federal and Provincial Trends in Consultation and Aboriginal Issues
- Best Practices - Consultation and The Negotiations and Drafting of Benefits Agreements
- Modern Treaties and Crown Agreements with Aboriginal Peoples
- U.N. Declaration on the Rights of Indigenous Peoples and Free, Prior, Informed Consent

[Download brochure](#)

REGISTER BEFORE OCTOBER 14 AND SAVE \$300! Register online for this course [here](#).

For more information or to register for this course, please contact Lexpert® Events:

Toll-Free: 1-877-298-5868

Direct: 416-609-5868

Fax: 416-609-5841

Email: register@lexpert.ca

RELANS is pleased to announce that registration is open for our upcoming conference.

The Real Estate Transaction: From Beginning to End

WHEN: Afternoon, Monday, December 5, 2011

WHERE: Westin Nova Scotia, Lower Water Street, Halifax

ATTENDANCE: Registration is open to RELANS Members, non-Member Lawyers and Real Estate Assistants.

Registration can be done individually, or by firm.

Please click the link below for more information and to sign up for the meeting:

http://www.surveymonkey.com/s/RELANS_December2011

Notice: Sign up is via the above link only. Space is limited.

This legal education program is for anyone wanting to learn the details, subtleties, problems (and their solutions) of real estate transactions. This program will include a detailed review of the various elements of standard and special real estate transactions; using small group sessions, panel discussions, short-snapper presentations, lectures and Q&A. It is open to anyone who wishes to attend, but will be of particular value to those lawyers who are young in practice or those who do not yet do a high volume of real estate transactions.

We will follow the December 5th Conference with RELANS's Annual Christmas Party, which will run from 5:00-7:00 also at the Westin. It is for all RELANS Members AND their Real Property Staff, to mix and mingle and raise a glass of good cheer. If you attend the conference, please plan to stay... and even if you don't please plan to come down and join your RELANS colleagues!

Upcoming Events from the Atlantic Provinces Trial Lawyers Association

APTLA ONLINE LEGAL EDUCATION

The Atlantic Provinces Trial Lawyers Association invites you to enhance your practice through online legal education. Eliminate travel expenses and hear from top trial lawyers from the convenience of your office, home or hotel room using a desktop computer or laptop. **SeminarWeb Live!** provides real-time delivery of papers, presentations, podcasts and video presentations. Participants can ask questions, participate in surveys, and post comments from their computers. There is also a broad selection of self-paced online programs, canvassing all areas of a litigation practice; including:

- Case Intake and Evaluation
- iPhone and iPad for Lawyers: Apps You Need to be Using
- Trying a Case on a Budget
- Powerpoint and Trial: Persuading a 21st Century Jury
- After 25 Years: Lessons Learned Every Trial Lawyer Should Know
- Chronic Pain & Unemployment Equals Depression: A Rateable Disease

To learn more about upcoming programs or the list of available self-paced seminars, visit APTLA's SeminarWeb Live! page at <http://www.seminarweblive.com/ap> or call support at 800 443 1757. More information about these and APTLA's other legal education events can be found at www.apvla.ca.

Truth & Reconciliation Commission: Atlantic National Event

In preparation for the Atlantic National Event (ANE) in Halifax (**October 26-29**) the TRC has been holding hearings across the Atlantic region to give residential school survivors the opportunity to share their truth.

PLEASE NOTE: **All hearings begin at 9:00 am Atlantic time.**

Halifax event Location: World Trade and Convention Centre

For more information: <http://www.trcnationalevents.ca/websites/atlantic/>

Where are the Children? Healing the Legacy of Residential Schools

The Schulich School of Law is hosting this archival photo exhibition exploring the history and legacy of Canada's Residential Schools. The exhibition is located on the second floor of the Weldon Law Building

October 4 - November 4
M - F 8:30 am - 4:30 pm

Note: Public opening reception is October 25

Mundiavocat update – June 1 to 10, 2012

Dear Friends and Colleagues,

The last few weeks have been really full of emotion for the whole community of the MUNDIAVOCAT. First of all, around 40 teams were represented in Rovinj (CROATIA) to attend our General Assembly. This was the occasion for team captains to meet their colleagues for a few days and to discover the hosting city of the 16th MUNDIAVOCAT.

Then, French teams had a meeting in Ste-Maxime (next to St. Tropez), as we were organising the 1st French Football Cup for Lawyers. This tournament gathered 5 teams, and finally Lyon Bar Association, that some of you may have met earlier this year during the EUROLAWYERS 2011, won the competition.

Finally, September signaled the opening of the registration for the next Football World Cup for Lawyers. Many teams have already confirmed their participation and the number of participating countries is still increasing!

In addition to our most faithful participants who use to come to our tournament every two years, such as Paris (FR), Tokyo (JAP), Táchira (VEN) or La Barranca (ARG), among others, we can also notice the first participation of two new teams: Stavropol (RUS) and Panama!

We remind you that the 16th MUNDIAVOCAT will take place from June 1st to 10th 2012 in Rovinj (CROATIA). You will find all information about our hosting city and our tournament online on our website www.mundiavocat.com, as well as a complete guide "How to get to Rovinj," which will help you find the best way to come meet us in Croatia for our tournament.

Let's not forget that we have a limited room quota in each hotel. We invite you to confirm us your participation as soon as you can, because for the latecomers, we could not guarantee your first choice.

All CSO's team stays at your disposal for any additional information. Do not hesitate to contact us by email at info@mundiavocat.com or by phone at +33 (0)1 77 70 65 15.

We are looking forward to hearing from your teams!

Vincent PINATEL

Lawyer at the Bar Association of Marseille and Founder of the MUNDIAVOCAT

:: CLASSIFIEDS ::

Books and Reports available for free

Available for the taking:

- Canada Federal Court Reports – 1971-2003//
- Canada Law Reports (Exchequer Court) – 1952-1970//
- Coutlee's Supreme Court Cases – 1875-1907(1v.)//
- Dominion Law Reports – v.1-70, 1912-1922; 1923-1955
- Draper's King's Bench Reports (Canada) – 1828-1831 (1v.)//
- Exchequer Court Reports (Canada) – v.1-21, 1875-1922//
Digests: 1891-1922 (Morse)
1823-1946 (Quain)
- Federal Courts Reports – 2004-2005 v.3
(Continues Canada Federal Court Reports)
- Maritime Provinces Reports – v.1-53, 1929-1968//
Digest: 1929-1952 (3v.) (Doull)
- Law Reports (UK) Statutes – 1866, v.1; 1868, v.3; 1870, v.5; 1871 – 1884, v. 6-21; 1887-1911, v. 24-49; 1913-1941, v. 51; 1943-1986

Please contact Lindy Stephens at lindy.stephens@mcinnescooper.com or 902 444 8606.

Female court clothes for sale – never worn (please note email address correction)

For sale: New, never worn, court clothes for female, size 6 to 9. Includes tabs, two white shirts (neck size 14), skirt and jacket/vest (with arm vents). Purchased for over \$850 at Colwell's. Will sell for \$450 OBO. For more information, please contact sdenney@nsbs.org.

:: NEW FROM LIBRARY & INFORMATION SERVICES ::**Research tip: Finding forms and precedents**

Forms and precedents – forms, sample clauses, commentary, and checklists to save you time in legal drafting – are available in the Barristers' Library in both broad, multi-volume collections and subject-specific publications.

O'Brien's Encyclopedia of Forms is a multi-volume Canadian looseleaf collection of forms and precedents covering a broad range of legal subjects, including commercial, corporations, real property, leases, wills & trusts, employment and information technology (IT). One set is available for loan; one set is kept on reserve. The library does not have the volume containing Ontario Court Forms.

(KB 218 O133 1987 in Aisle 28 and reserve room)

Canadian Forms and Precedents is a multi-volume Canadian looseleaf forms and precedents series. Volumes available for in-library use cover commercial transactions in corporations, employment, commercial tenancies, licensing, IT, entertainment, intellectual property, sale of goods, and sale and operation of a business, as well as banking & finance, land development, debtor/creditor, and wills & estates.

(In-library use in Aisle 4)

American Jurisprudence (Am Jur) Legal Forms is a multi-volume American collection of forms and precedents covering a wide range of legal and business transactions. This collection offers a deep level of specificity in legal drafting, making it a useful reference for obscure or non-standard business transactions.

(In-library use in Aisle 4)

Subject-specific looseleaves and texts can also contain forms and precedents. These materials, often accompanied by forms and sample clauses on CD-ROM, are available for loan. The list below provides a brief sample of materials available; search the [library catalogue](#) [keyword *forms*] to see a more comprehensive list. Many of L&IS' [Resource Lists](#) identify subject-specific forms and precedents publications as well. CD-ROMs are kept at the library front desk.

- Stockwood, David. *Civil Litigation: A Practical Handbook* (Toronto: Thomson Carswell, 2004). KB 190 S966 2004
- Gold, Alan D. *The Practitioner's Criminal Precedents*, 3d ed. (Markham, Ont.: LexisNexis Canada, 2011). KB 91 G618P 2011 + CD-ROM
- Babe, Jennifer E. *Sale of a Business*, 8th ed. (Markham, Ont.: LexisNexis Canada, 2011). KB 117 B113 2011 + CD-ROM
- McGuiness, Kevin. *Sale and Supply of Goods*, 2d ed. (Markham, Ont.: LexisNexis Canada, 2010). KB 123 M145 2010 + CD-ROM
- Landau, Barbara, et al. *Family mediation, arbitration and collaborative practice handbook*, 5th ed. (Markham, Ont.: LexisNexis Canada, 2009). KB 138 L253 2009 + CD-ROM
- Lipson, Barry D. *The Art of the Real Estate Deal*, 3d ed. (Toronto: Thomson Carswell, 2011). KB 170 L767 2011 + CD-ROM
- MacGregor, Mary L. *Preparation of Wills and Powers of Attorney: First Interview to Final Report*, 4th ed. (Aurora, Ont.: Canada Law Book, 2011). KB 153 M147 2011

Need help with a forms and precedents search? Contact Library & Information Services at 425 2665 (BOOK), toll-free 1 866 219 1202, or nsbslib@nsbs.org.

Case Commentators needed for Nova Scotia Law News

Are you interested in sharing your views on recent, significant decisions from the Nova Scotia courts? Would you like to see your work published in *Nova Scotia Law News* and Library & Information Services' online article database, Secondary Sources?

Library & Information Services is looking for experienced practitioners in the following fields to write case comments for the *Nova Scotia Law News*:

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at info@nsbs.org.

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For more information, please contact Barbara Campbell, Director of Library & Information Services, by calling 425 2665 (BOOK), toll-free 1 866 219 1202, or by sending an e-mail to bcampbel@nsbs.org.

:: NEW DECISIONS ::

Library & Information Services - Keeping you informed

BANKRUPTCY – Limitation defence - disallowed *Drum Head Estates Ltd. v. Chapin Estate*, C.A. No. 342923, Hamilton, J.A., October 18, 2011. [2011 NSCA 93](#); **S636/5**

BARRISTERS AND SOLICITORS – Conflict of interest - between lawyer and client *Nova Scotia Barristers' Society v. Colpitts*, Hfx. No. 174729, September 15, 2011. [2011 NSBS 2](#); **HP2/6**

BUILDING CONTRACTS – Breach of contract - monies owing *Dennis Lively Construction & Backhoe Services Ltd. v. Beaver Bank Children's Learning Centre Ltd.*, Claim No. 341627, Slone, Adjudicator, August 31, 2011. [2011 NSSM 53](#); **SmCI19/9**

CIVIL RIGHTS – Exclusion of evidence - seized property, detention *R. v. Farmakis et al.*, Ant. No. 316298, Duncan, J., March 10, 2011. [2011 NSSC 101](#); **S635/27**

CONTRACTS – Bailment - duty of diligence in care and preservation of property, damages *Jackman v. Cape Breton Exhibition*, Claim No. 352256, Ripley, Adjudicator, September 26, 2011. [2011 NSSM 50](#); **SmCI19/6**

CONTRACTS – Bailment - duty of diligence in care and preservation of property, damages *Collins v. Cape Breton Richmond Federation of Agriculture*, Claim No. 351874, Ripley, Adjudicator, September 26, 2011. [2011 NSSM 51](#); **SmCI19/7**

CONTRACTS – Breach of contract - delivery of material *Turner v. O'Neil*, Claim No. 351903, Slone, Adjudicator, September 20, 2011. [2011 NSSM 56](#); **SmCI19/12**

CRIMINAL LAW – Arson - circumstantial evidence *R. v. Boucher*, C.R.Y. No. 348127, MacAdam, J., October 18, 2011. [2011 NSSC 364](#); **S635/22**

CRIMINAL LAW – Assault and uttering threats - guilty *R. v. Nguyen*, No. 1943095; 1943096; 1943097, Whalen, J.P.C., October 14, 2011. [2011 NSPC 74](#); **M25**

CRIMINAL LAW – Evidence - admissibility of supplementary occurrence report, hearsay *R. v. Lunn*, No. 2039559; 2039560; 2039561, Whalen, J.P.C., April 18, 2011. [2011 NSPC 73](#); **M25**

CRIMINAL LAW – Home invasion - appeal from conviction for aggravated assault and assault with a weapon *R. v. Roach*, C.A.C. No. 339422, Saunders, J.A., October 17, 2011. [2011 NSCA 95](#); **S636/4**

CRIMINAL LAW – Impaired driving - not guilty, reasonable doubt *R. v. MacInnis*, No. 2252040; 2252041, Atwood, J.P.C., October 4, 2011. [2011 NSPC 70](#); **M25**

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CRIMINAL LAW – Sentencing - multiple driving convictions *R. v. Dubois*, No. 1868881; 1868885; 1868886; 1868887; 2101445, Atwood, J.P.C., August 12, 2011. [2011 NSPC 69](#); **M25**

CRIMINAL LAW – Sentencing - trafficking in marijuana *R. v. Forrest*, No. 2149000; 2219794; 2219799; 2219801; 224241; 2228428, Whalen, J.P.C., July 14, 2011. [2011 NSPC 71](#); **M25**

CRIMINAL LAW – Sentencing - trafficking in substance, weapons trafficking, joint recommendation *R. v. Maltais*, C.R.H. No. 330050, Cacchione, J., October 13, 2011; September 6, 2011 (orally). [2011 NSSC 368](#); **S635/23**

EMPLOYMENT LAW – Occupational Health and Safety Act - offences, asbestos *R. v. Della Valle*, No. 2202580, Ross, J.P.C., September 14, 2011. [2011 NSPC 67](#); **M25**

FAMILY LAW – Child in need of protective services - permanent care and custody order *Nova Scotia (Minister of Community Services v. B. (R.) and R. (D.))*, S.F.H.C.F.S.A. No. 068631; 073934, Campbell, J., October 12, 2011. [2011 NSSC 370](#); **S635/25**

FAMILY LAW – Child in need of protective services - review of temporary care and supervision orders *Nova Scotia (Minister of Community Services) v. L. (N.)*, No. 72248, Forgeron, J., October 13, 2011; September 29, 2011 (orally). [2011 NSSC 369](#); **S635/24**

FAMILY LAW – Custody and access - interim parenting plan and support *Wellmann v. Moss*, S.F.H.M.C.A. No. 075674, Legere-Sers, J., October 5, 2011. [2011 NSSC 360](#); **S635/18**

FAMILY LAW – Custody and child support - variation *McKinnon v. Serroul*, Syd. No. 46788, MacLellan, J., October 20, 2011. [2011 NSSC 386](#); **S635/31**

FAMILY LAW – Custody - joint custody reinstated *T. (D.M.) v. L. (C.R.)*, No. C, Comeau, J.F.C., October 7, 2011. [2011 NSFC 22](#); **FC38**

FAMILY LAW – Divorce - joint custody, parenting plan and division of assets *Parsons v. Parsons*, No. 1206-006019, Forgeron, J., September 15, 2011. [2011 NSSC 347](#); **S635/14**

LANDLORD AND TENANT – Residential tenancies - appeal, rental rebate *Tynes v. Omers Realty*, Claim No. 352839, Slone, Adjudicator, August 29, 2011. [2011 NSSM 52](#); **SmCI19/8**

LANDLORD AND TENANT – Residential tenancies - appeal, rental rebate, parking tickets *McCrae v. Metlege*, Claim No. 347840, Slone, Adjudicator, September 16, 2011. [2011 NSSM 54](#); **SmCI19/10**

MAINTENANCE – Spousal and child support - terminated *Price v. McCulloch*, No. 1210-000656; S.A.T.D. No. 020385, MacDonald, B. J., September 28, 2011. [2011 NSSC 357](#); **S635/15**

NEGLIGENCE – Appeal - new trial ordered *W. Eric Whebby Ltd. v. Doug Boehner Trucking & Excavating Ltd. et al.*, C.A. No. 274238, Saunders, J.A., October 20, 2011. [2011 NSCA 97](#); **S636/7**

PRACTICE – Appeals - security for costs *Lienaux v. Campbell et al.*, C.A. No. 352526, Saunders, J.A., October 12, 2011. [2011 NSCA 94](#); **S636/3**

PRACTICE – Costs - delayed / incomplete filing, disclosure, settlement offer *Simpkin v. Chalmers*, S.F.H.M.C.A. No. 71808, Legere-Sers, J., October 19, 2011. [2011 NSSC 372](#); **S635/29**

PRACTICE – Costs - mixed success, parties bear own costs *Hoopey v. MacDougall*, S.F.H.F. No. 031164, Gass, J., October 13, 2011. [2011 NSSC 362](#); **S635/28**

PRACTICE – Costs - where application discontinued *Moore v. Moore*, Ken. No. 348513, Warner, J., October 14, 2011. [2011 NSSC 376](#); **S635/21**

PRACTICE – Motions - to amend defendants' pleadings and consolidate actions granted and plaintiffs' motion for summary judgment on pleadings also granted BMO's motion for summary judgment on pleadings is granted *Bank of Montreal v. Ross*, Hfx. No. 332478, LeBlanc, J., October 6, 2011. [2011 NSSC 359](#); **S635/16**

PRACTICE – Pleadings - striking out pleadings for abuse of process *Can-Euro Investments Ltd. v. Industrial Alliance Insurance and Financial Services Inc.*, Hfx. No. 336961, Pickup, J., October 19, 2011. [2011 NSSC 381](#); **S635/30**

PRACTICE – Stay of proceedings - pending appeal *Armoyan v. Armoyan*, C.A. No. 351722, Saunders, J.A., October 13, 2011. [2011 NSCA 92](#); **S636/2**

PRACTICE – Summary judgment - arguable issue to be tried *Wilson v. BMO Nesbitt Burns Inc.*, Hfx. No. 321705, MacAdam, J., October 17, 2011. [2011 NSSC 373](#); **S635/20**

PRACTICE – Summary judgment - genuine issue for trial *Cameron Seafoods (2005) Ltd. v. Jumelet et al.*, S.K. No. 310467, MacAdam, J., October 13, 2011. [2011 NSSC 365](#); **S635/19**

PRACTICE – Summary judgment - issues of material fact *Poole v. Tibert et al.*, Hfx. No. 342548, MacAdam, J., October 18, 2011. [2011 NSSC 384](#); **S635/26**

REAL PROPERTY – Land titles - chain of title *3209292 Nova Scotia Ltd. v. MacDuff*, Hfx. No. 309982, Scaravelli, J., October 7, 2011. [2011 NSSC 363](#); **S635/17**

SALE OF LAND – Negligent misrepresentation - Property Conditional Disclosure Statement, water *Barbour et al. v. MacDonald et al.*, Claim No. 350734, Slone, Adjudicator, September 27, 2011. [2011 NSSM 55](#); **SmCI19/11**

WORKERS' COMPENSATION – Appeals - interpretation of "accident" *Halifax (Regional Municipality) v. Hoelke et al.*, C.A. No. 326354, Farrar, J.A., October 21, 2011. [2011 NSCA 96](#); **S636/6**

SUPREME COURT of CANADA — recent decisions

Library & Information Services - Keeping you informed

The following decisions were released on the [Supreme Court of Canada Judgments](#) website since the last *InForum*. The subject headings and summaries have been prepared by the Supreme Court of Canada.

October 20, 2011

[R. v. Katigbak](#)

Neutral citation: [2011 SCC 48](#) (CanLII)

File No.: 33762.

2011: February 21; 2011: October 20.

Present: McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Abella, Charron, Rothstein and Cromwell JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Criminal law — Child pornography — Defences — Accused charged with one count possession of child pornography between 1999 and 2006 — Statutory defences amended 2005 — Accused testifying purpose of collecting child pornography to create artistic exhibition from perspective of exploited children — Trial judge accepting testimony and

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acquitting accused on basis of pre-2005 artistic merit defence — Whether accused's actions constituted artistic merit or served public good per pre-2005 defences — Whether accused's actions had legitimate purpose which did not pose undue risk of harm per post-2005 defence — Criminal Code, R.S.C. 1985, c. C-46, ss. 163(3), 163.1(6).

Criminal law — Appeal from acquittal — Powers of court of appeal — Accused charged with one count possession of child pornography between 1999 and 2006 — Trial judge acquitting accused — Court of Appeal overturning acquittal and registering conviction — Whether substituting conviction exceeded Court of Appeal's jurisdiction limited to questions of law — Criminal Code, R.S.C. 1985, c. C-46, ss. 676(1)(a), 686(4)(b)(ii).

Criminal law — Information — Accused charged with one count possession of child pornography between 1999 and 2006 — Statutory defences amended 2005 — Whether Information defective because only one count of offence charged for period during which statutory defences amended.

The appeal concerns the nature and scope of the child pornography defences found in the *Criminal Code* as they existed before and after Parliament amended those provisions. Prior to November 1, 2005, the defence under s. 163.1(6) applied if the accused raised a reasonable doubt as to his or her guilt by establishing, inter alia, the material's artistic merit. In addition, the accused would be acquitted where the acts served, but did not extend beyond what served, the public good (s. 163(3)). After November 1, 2005, the public good defence no longer applied and s. 163.1(6) was amended to provide a defence if the acts: (1) had a legitimate purpose related to the administration of justice or to science, medicine, education, or art; and (2) did not pose undue risk of harm to persons under the age of eighteen. The accused was charged with one count of possessing child pornography between 1999 and 2006, therefore engaging both versions of the defence. He testified that he was in possession of child pornography for the purpose of creating an artistic exhibition that would present the issue of child exploitation from the perspective of the child. Accepting that testimony, the trial judge held the accused was entitled to rely on the defences as they existed before and after the 2005 amendments and acquitted him on the basis of the pre-2005 artistic merit defence. The Court of Appeal set aside the acquittal and registered a conviction, concluding that none of the defences were available to the accused on the record.

Held: The appeal should be allowed and a new trial ordered.

October 19, 2011

[Crookes v. Newton](#)

Neutral citation: [2011 SCC 47](#) (CanLII)

File No.: 33412.

2010: December 7; 2011: October 19.

Present: McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Abella, Charron, Rothstein and Cromwell JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

Torts — Libel and slander — Publication — Internet — Defendant creating hyperlinks to allegedly defamatory articles — Whether hyperlinking, in and of itself, constitutes publication.

N owns and operates a website in British Columbia containing commentary about various issues, including free speech and the Internet. One of the articles he posted on it contained shallow and deep hyperlinks to other websites, which in turn contained information about C. C sued N on the basis that two of the hyperlinks he created connected to defamatory material, and that by using those hyperlinks, N was publishing the defamatory information. At trial, the judge concluded that the mere creation of a hyperlink in a website does not lead to a presumption that someone actually used the hyperlink to access the impugned words. The judge agreed that hyperlinks were analogous to footnotes since they only refer to another source without repeating it. Since there was no repetition, there was no publication. Furthermore, in the absence of evidence that anyone other than C used the links and read the words to which they linked, there could not be a finding of publication. A majority of the Court of Appeal upheld the decision, finding that while some words in an article may suggest that a particular hyperlink is an encouragement or invitation to view the impugned site, there was no such

encouragement or invitation in this case. In addition, the number of "hits" on the article itself was an insufficient basis for drawing an inference in this case that a third party had read the defamatory words. The dissenting judge held that there was publication. The fact that N's website had been viewed 1,788 times made it unlikely that no one had followed the hyperlinks and read the impugned article. Furthermore, the context of the article suggested that readers were encouraged or invited to click on the links.

Held: The appeal should be dismissed.

October 14, 2011

[R. v. Côté](#)

Neutral citation: [2011 SCC 46](#) (CanLII)

File No.: 33645.

2011: March 15; 2011: October 14.

Present: McLachlin C.J. and Binnie, LeBel, Deschamps, Fish, Abella, Charron, Rothstein and Cromwell JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC

Constitutional law — Charter of Rights — Enforcement — Exclusion of evidence — Accused charged with second-degree murder — Search of accused's home conducted by police without valid warrants — Trial judge finding that police had not acted in good faith and demonstrated blatant disregard for accused's Charter rights throughout investigation — Trial judge concluding that admission of evidence in face of extraordinarily troubling police misconduct, even when decision would lead to acquittal of serious crime, would bring administration of justice into disrepute — Whether Court of Appeal erred in intervening on bases that police had not deliberately acted in abusive manner and that offence was serious — Whether Court of Appeal erred in intervening on basis that evidence could have been obtained legally by warrant without accused's participation — Canadian Charter of Rights and Freedoms, s. 24(2).

Around 9 p.m. on July 22, 2006, C called 911 to report that her spouse, H, had been injured. The attending physician at the hospital established that H was suffering from head injuries and confirmed the presence of a metal object in H's skull, and communicated this information to the police. The police attended at C's home around midnight. The lights of the house were off and the house was calm. C answered the door in her pyjamas. The police explained that they were there to find out what happened and to make sure the premises were safe, but they did not tell C that they believed that H was suffering from a gunshot wound. The police, accompanied by C, inspected the interior and the exterior of the residence, as well as a gazebo. The police questioned C about the presence of firearms in the house. She confirmed the presence of two firearms but could only locate one, to which she led the police. The police later obtained warrants which were executed at C's residence. A .22 calibre rifle, of the same calibre as the bullet recovered from H's skull, was located by the police.

C was brought to the police station around 3 a.m. but not until 5:23 a.m. was she given a warning as an important witness in the attempted murder of H and advised of her right to counsel. After being warned, C spoke with a lawyer and invoked her right to silence. She then described the events to the police and was placed under arrest for attempted murder. She was cautioned again, advised of her right to counsel, and spoke with a lawyer again. After being placed under arrest, C was interrogated by the police throughout the day. C exhibited extreme anxiety about having the interrogation room closed, seemed to be exhausted and on several occasions told the interrogator that she had had enough, did not want to talk anymore or wanted to go lie down. C's interrogation ended at 8 p.m. on July 23, when she was advised of H's death and charged with second-degree murder.

C applied to the trial judge to exclude the evidence against her. The trial judge concluded that the police embarked on a systematic violation of C's rights from the time they first entered onto her property until the end of her interrogation. The trial judge held that the police's entry on C's property, and the search of her house, property and gazebo constituted unreasonable searches and seizures contrary to s. 8 of the *Charter*. He held that the police detained C without telling her why in violation of s. 10(a) of the *Charter*, and that the police violated C's right to obtain the assistance of a lawyer and to

be advised of that right, in violation of s. 10(b) of the *Charter*. He also held that the police violated C's right to silence as protected by s. 7 of the *Charter* and obtained a statement that was not voluntary. The trial judge also found that the investigators had misled a judicial officer to obtain warrants. The trial judge excluded all of the evidence pursuant to s. 24(2) of the *Charter*, finding that its admission would bring the administration of justice into disrepute, and C was acquitted of the charge. The Court of Appeal found that the trial judge was right to exclude C's statements to police. However, it concluded that the trial judge had erred by excluding the observations the police made of the exterior of C's home before the warrants issued as well as the physical evidence obtained at C's home in execution of the warrants. It ordered a new trial.

Held (Deschamps J. dissenting): The appeal should be allowed and the acquittal restored.

:: NEW BILLS ::

Library & Information Services – Keeping you informed

There are no new bills at this time.

Nova Scotia Bills: <http://nslegislature.ca/index.php/proceedings/status-of-bills/>

:: PROCLAMATIONS UPDATE ::

Library & Information Services - Keeping you informed

The following proclamations were published in the *Royal Gazette, Part II* since the last issue of *InForum*:

Counselling Therapists Act, SNS 2008, c 37, s 67.

NS Gaz Pt 2, [10/21/11](#)

NS Reg 286/2011

Halifax Regional Municipality Charter and Municipal Government Act, SNS 2011, c 17, s 4.

NS Gaz Pt 2, [10/21/11](#)

NS Reg 278/2011

Proclamations are published in the *Royal Gazette, Part II*, which is issued every other week and is available by [subscription](#). Unofficial copies of the *Royal Gazette, Part II* are available [online](#) through the Registry of Regulations website.

The Office of the Legislative Counsel maintains a Proclamations of Statutes database, providing the effective dates of proclamations for statutes from 1990 to date. The database is updated with information received weekly from the Executive Council Office. To access the database, go to the Office of the Legislative Counsel's [website](#), then select Proclamations from the list of links on the left side of the page. The information provided by the database is for convenience only. For purposes of interpreting and applying the law, please consult official sources.

The orders in council authorizing the proclamations can be searched via the [Orders in Council](#) database maintained by the Executive Council Office. This database contains information about orders in council dating back to 1991.

:: PR: DECISIONS & DISPOSITIONS ::

Settlement Agreements – Reprimand and Fine

R. Blois Colpitts – Reprimand – September 15, 2011

The lawyer was charged with failing to identify potential conflicts of interest, which constituted professional misconduct and conduct unbecoming.

While providing legal services to a group of related companies, the lawyer acted as director and shareholder of one company, chaired that company's audit committee, and became a limited partner in one of the related companies. At no time, however, did he identify and address potential conflicts of interest in accordance with Chapter 7 of the *Legal Ethics Handbook*.

He was reprimanded previously by the Society for a breach of Chapter 7 of the *Handbook*, relating to conflicts of interest between lawyer and client, and for entering into a business transaction with a client without ensuring the client had independent legal advice.

The lawyer admitted that his conduct constituted professional misconduct and conduct unbecoming and on September 15, 2011, the Hearing Panel approved the settlement agreement reached between the lawyer and the Society. Pursuant to the settlement agreement, the lawyer received a reprimand and was ordered to pay \$2,000 to the Lawyer's Fund for Client Compensation, along with the costs of the Society in the amount of \$10,000.

Nova Scotia Barristers' Society v. Colpitts, [2011 NSBS 2](#)

: : CURRENT ISSUES IN LEGAL ETHICS : :

This is the fourth in a series of articles that will focus on lawyers' ethical duties under the current *Legal Ethics Handbook* and the new *Code of Professional Conduct* that is expected to come into force in January 2012.

New Code of Professional Conduct – be aware of these changes to the ethical Rules

The new *Code of Professional Conduct* will not change the manner in which you practise in a dramatic way: if you are an ethical practitioner on December 31, 2011, you will still be an ethical practitioner on January 1, 2012. That being said, there are some changes from our current *Legal Ethics Handbook* of which you should be aware:

For example, there are new Rules that:

- Require you to notify and obtain the consent of the Crown or regulatory body to negotiations that would result in a person receiving valuable consideration in exchange for influencing the Crown or regulatory body's handling of a matter. [2.02(6)]
- Require you – when acting for an organization that you know has, through its officers, acted or intends to act dishonestly, fraudulently, criminally or illegally – to advise the person from whom you take instructions that the conduct is improper and must be stopped. Where that person refuses to cause the conduct to be stopped, you must provide that same advice progressively up the ladder to the next highest person or group. [2.02(8)]
- Prescribe your professional responsibility when representing a client whose ability to make decision is impaired because of minority or mental disability. Where a client's disability arises after the solicitor-client relationship is established, you have an ethical obligation, for example, to ensure that the client's interests are not abandoned. [2.02(9)]
- Permit you to disclose confidential information, but not more information than is required, when you believe on reasonable grounds that there is an imminent risk of death or serious bodily harm, and disclosure is necessary to prevent the death or harm (note that serious bodily harm may include psychological harm). [2.03(3)]
- Prohibit you from preparing wills in which you receive testamentary gifts from clients (other than family members). [2.04(38)]
- Provide guidance to lawyers who may come into possession of property from a client or other person related to a crime. [2.05(6)]
- Permit referral fees if the referral is made because of the expertise and ability of the other lawyer to handle the matter, and the referral was not made because of a conflict of interest, provided that:
 - the fee is reasonable and does not increase the total amount of the fee charged to the client; and
 - the client is informed and consents. [2.06(6)]

(Note that referral fees to non-lawyers or splitting fees with non-lawyers is still prohibited. [2.06(7)])
- Prohibit lawyers from borrowing money from clients except in limited circumstances. (While this has always been the case in Nova Scotia, the rules are currently found in the Regulations as opposed to the *Handbook*. The Regulations relating to borrowing and lending will be repealed on the implementation of the *Code*). [2.04(31)]
- Expand upon the circumstances in which you must report the conduct of another lawyer, for example where that lawyer has abandoned his or her law practice, or where that lawyer's conduct raises a substantial question as to the lawyer's honesty, trustworthiness or competency as a lawyer. [6.01(3)]
- Provide specific guidance when withdrawing from representing a client in a criminal matter. [2.07(4)]
- Prescribe your obligations relating to advertising and marketing. Such rules are currently found in Part 7 of the Regulations. In an effort to be nationally consistent (and to ensure internally consistent rules), most of the regulations related to advertising will be repealed on the coming into force of the *Code*. Please note that the prohibition on using the words "specialist", "specializing", "expert", "expertise" or synonyms thereof has been moved from the Regulations into the new *Code*. [3.01 and 3.02]
- Clarify the duties of a Prosecutor. The new rule has been pared down from what appears in the *Legal Ethics Handbook*; however, after obtaining feedback from both the federal and provincial Public Prosecution

Services, a footnote setting out the principles from the Supreme Court of Canada's decision in *Krieger* was added. [4.01(3)]

- Require that when you have reasonable grounds for believing that a dangerous situation is likely to develop at a court facility, you have a new duty to inform the persons having responsibility for security at the facility. [4.06(3)]

The foregoing is a list of some of the Rules that have changed in part from the ethical rules contained in the *Legal Ethics Handbook*. Please make sure that you familiarize yourself with the new Code, something all practising lawyers will have to do in preparation for the mandatory assessment that will be rolled out later this fall. Please do not hesitate to contact the Professional Responsibility department with any Code-related questions.

:: CURRENT ISSUES IN GENDER EQUITY ::

The Gender Equity Committee (GEC) launched a postcard campaign titled "It will be our little secret," designed to raise awareness about gender harassment and discrimination in the legal profession. Over the past two years, we have received almost 50 postcards detailing the personal experiences of lawyers in this province. For more information on this postcard campaign, please see the [detailed article](#) in the February 2011 edition of the Society Record. Now, in an effort to spark discussion and examination of these important issues, the GEC will provide bimonthly articles in InForum on a range of topics, inspired directly by the experiences highlighted in the postcards.

"Come on, honey, just laugh it off"

by Candee McCarthy, Co-Chair, Gender Equity Committee

A junior associate is attending a golf tournament with a senior partner from her law firm. The senior partner takes the opportunity to ask her about her genitalia and complains about the firm policy prohibiting sex with associates. Given the power dynamics that exist between senior partners and associates, this young woman reacted as many of us would in her shoes – she "just laughed it off."

A woman lawyer sits at her desk, about to start her day. She turns on the computer and there is a pornographic image on the screen that was intended to be a joke by male colleagues. She "felt humiliated."

Women are often faced with tough decisions on how to handle inappropriate behaviour, when addressing that behaviour could have negative consequences for their careers and reputations. As a result, women are often told to "laugh it off."

There is nothing necessarily wrong with laughing it off; sometimes it is the easiest, quickest way to move on and find closure on an issue. I have done this on a number of occasions myself. When we "laugh it off," we attempt to make something significant insignificant. This makes it easier for ourselves to accept, but it may also let off the perpetrators of the inappropriate or hurtful actions from acknowledging their behaviour and, in some instances, it may give them confidence to continue behaving in this way.

Women lawyers often work in male-centered environments and, of course, they want to succeed, move ahead and be accepted by all of their colleagues. If you are a lone woman at the meeting and a colleague makes a sexist comment directed at you, the easiest response is to react with similar sarcasm and/or "laugh it off." There is great pressure for women to fit in with their male colleagues and be able to easily mix with "the boys." Fear of being alienated – both socially and professionally – is a strong motivator for laughing, even when you are offended and don't find something funny. Fear of being labelled a troublemaker or difficult to work with also plays a role.

It's important for all of us, as a legal community, to ensure we never encourage our colleagues to "laugh it off." Instead, we should step up to defend and support others in our community if they are being harassed, humiliated or mocked. Let's change our environments to be accepting and supportive of each other. And even more importantly, the next time we feel the need to say something that could be hurtful or offensive to someone because we believe it is "just a joke," let's keep it to ourselves.

Sometimes, laughter really is the best medicine. It's important to have a balance and not take life too seriously, but not when someone is offended, hurt or intimidated. As long as we keep telling women to "laugh it off," offensive behaviour will continue to be tolerated. When we know it's wrong, sometimes we have to find the strength to simply say, "That's not funny, and this is why." You may be surprised that you are not the only one who feels that way!

If you are interested in receiving more information about the postcard campaign or having postcards sent to you or your workplace, please contact the Equity Officer, Emma Halpern, at ehalpern@nsbs.org.

:: LIANS TIPS ::

Registration open: LIANS Solo and Small Firm Conference November 21, 2011 – 9:00 am to 4:15 pm | Westin Nova Scotian, Halifax

Please be advised that the LIANS Risk and Practice Management Conference for Solo and Small Firms is scheduled to take place on November 21, 2011, at the Westin Nova Scotian in Halifax. The conference will offer sessions on Fact Patterns of Risk Management, Succession Planning, Red Flags of Fraud, the Incoming *Code of Professional Conduct*, as well as a vendor expo.

Confirmed speakers for the conference include Jocelyn Frazer, Equity Ombudsperson and Acting Practice Advisor at the Law Society of Alberta; Barney Christianson QC, Practice Management Advisor for the Law Society of Manitoba; Darlene Jamieson QC; Victoria Rees and Elaine Cumming of the Professional Responsibility department for the Nova Scotia Barristers' Society; and David Penney of Homewood Human Solutions™, who will offer a health and wellness session.

Online registration is now available on the LIANS homepage at www.lians.ca.

Early-bird rate: \$200 + tax; after Oct. 28: \$250 + tax

Discounts for two or more registrants from the same firm!

Sessions will appeal to lawyers, office managers, paralegals and legal assistants. Lawyers and staff from all sized firms are welcome.

RISK AND PRACTICE MANAGEMENT TIP: Online estate fraud

The Risk and Practice Management program regularly warns lawyers of scams circulating amongst the profession. The *Law Society Gazette* reports that fraudsters are becoming more elaborate in their schemes and have begun targeting assets such as online bank accounts of recently deceased persons.

People often try to assist the executors of their estates by giving details of their assets in their wills. This includes not only the nature of the assets but where they are located, how they can be accessed, their passwords, and pin numbers. However, once a will is probated, it becomes public record, giving fraudsters access to information that ought to be kept confidential.

The solution is simple: advise your clients to place a list of passwords, pin numbers and other digital access codes in a sealed envelope, which the firm can then keep with the will. This low-tech solution will ensure that your client's confidential information remains protected.

*If you have any questions on these, or any other risk- or practice-related matters, do not hesitate to contact Stacey Gerrard, LIANS Counsel with the **Risk and Practice Management Program** at sgerrard@lians.ca or call 423-1300 ext. 345.*

FRAUD ALERT: New prize scam from “Blackberry Promotions/British National Lottery”

A prize scam has been circulating this week for “Blackberry Internet Promotional Draws”, purportedly from the British National Lottery (BNL). Members have received a congratulatory email and from BNL “Promotion Co-coordinator, Gaylor Britt C”. The ‘winner’ is asked of course to provide the claims office with their personal information. An interesting element, undoubtedly featured in an attempt to add some legitimacy to the prize claim, warns ‘winners’ that “any breach of confidentiality on the part of the Winners will result to disqualification, You are to immediately contact your claims officer with this email (vdunlop@yahoo.cn)”. Read an excerpt from the email below:

BNL Email.Notification.

Dear winner.

We are pleased to inform you of the result of the blackberry Internet Promotional Draws. All email addresses entered for this promotional draws were randomly inputted from an internet resource database using the Synchronized Random Selection System (SRSS).

Your email address was selected in the Category A with Special Digit Code: BNL988777/UK and Special Ticket Digit Code: LNB447969/2011-12, and this qualifies you to be the recipient of the grand prize award sum of Two million, five hundred thousand united States dollars.

The payout of this cash prize to you will be subject to the final validations and satisfactory report that you are the authentic owner of the winning email address. In line with the governing rules of claim, you are required to establish contact with your designated claims agent via email or telephone with the particulars below:

*Enquiry officer: Mr Victor Dunlop
Phone: +447 424 642 438
Email: vdunlop@yahoo.cn*

You are advice to immediately establish contact with the Enquiry Officer via the e-mail address above with the information's necessary: Name: Address: Phone: Cell Phone: Email: Alternative Email: Occupation: and Special Digit Code:

Failure to complete the claims of your cash prize after 14 days of this notice will result in the revision of award. Hence, you should commence your claims process immediately, by contacting the claims agent (Mr Victor Dunlop) who would be guiding you through the Claims process.

Remember, legitimate prize draws, lotteries or sweepstakes **do not**:

- notify winners by email;
- award prizes without first purchasing a lottery ticket;
- award prizes to randomly selected email addresses;
- use free email accounts (Yahoo, Hotmail, etc.) to contact you;
- tell you to keep your winnings secret; or
- ask winners to pay a fee in order to collect their prize.

To report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at cnield@ians.ca, or 902 423 1300, x346.

NSLAP WELLNESS TIP: How to help children deal with the death of a loved one

The following is an article excerpt from Homewood Human Solutions™, your health and wellness provider.

One of the hardest tasks an adult can face is helping a child deal with the death of a family member or friend. The task can be made all the more difficult by the fact that you too are grieving. Though you cannot change the facts of death, you can provide valuable support to a child by helping him or her cope with the loss of a loved one. The following guidelines are designed to help you and the child better deal with this difficult time.

Deal with the facts realistically

It is important that you do not downplay the fact of the death or, on the other hand, overly dramatize the situation. Deal with the issues surrounding the event truthfully. Be as factual as possible. Children have vivid imaginations and their imaginings are likely to be more frightening to them than the facts. The words you use may be dictated by the age of the child. The honesty, love and compassion you convey will be an important source of comfort and security to the child.

Reassure the child

Some children may feel they are in some way responsible for the death of the loved one. Or, if the death is the result of some special illness or disease, they may feel their life is threatened. Children need reassurance. For example, make

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at info@nsbs.org.

sure they understand that the doctors worked hard to save the life of the loved one, and that they themselves are safe and secure.

Acknowledge the child's reactions

Support the child's emotional reactions. Tell them it's okay to feel sad, and that you feel sad, too.

Encourage them to verbalize their grief

Ask them why they feel sad and what they will remember about the loved one. You can contribute to this process by telling the child what your feelings are. If you feel comfortable, you may reveal what you do when you feel sad and what makes you feel better when you are sad.

Explain the process

Let your child know that grief is normal when we lose someone who was important to us. Even though it will be hard for them to believe, reassure them that their grief and sadness will pass with time.

Involve the child

Most people – adults and children – feel a sense of helplessness in the face of the death of a loved one. It helps if we can feel involved. You may want to give the child choices about what they could do to say goodbye. For example, the child could make a drawing, lay a flower at the grave or write something for the deceased.

Letting the child attend the funeral or memorial service may also be good, provided the child is old enough to understand what is occurring. The communal nature and the ritual of the service may help the child feel his or her grief is a shared grief and that they are not alone.

Provide stability and security

Especially during the period immediately following the death, it is important to maintain a sense of stability and security for the child. Keep to your normal schedule as much as possible in respect to such things as meal times, school and play activities. It is also important to let the child know what is going on, for example, in terms of plans for the funeral or the arrival of family from out of town.

Professional help

If you are having a hard time dealing with your child's and/or your own grief, or you if observe unusual changes in your child's behaviour, consider looking for professional help.

Watch for warning signs

For example, if she no longer wants to play with friends or take part in other favourite activities she used to like. Other symptoms could be eating or sleep problems, persistent nightmares or physical complaints such as stomach pains or headaches that have an obvious physical cause.

Books can help

Some parents find books useful in helping their child through the grieving process. Bookstores and public libraries have age-appropriate books for your child, such as fictional stories of children experiencing the death of a loved one. There are also books that provide information and recommend strategies helpful to parents.

*For more information, resources and counselling with grieving children, visit the NSLAP website at www.nslap.ca. Please note that **LAP** is your "company" name when you register. When you call the LAP number at **1-866-299-1299**, your call will be answered any time, day or night, 365 days per year.*