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## :: NOTICES ::

### SOCIETY NEWS

#### **Council meeting November 25 – agenda available online**

The Nova Scotia Barristers' Society will hold a Council meeting this Friday, November 25. The Agenda is available for viewing on the Work of Council webpage: <http://www.nsbs.org/workCouncil.php>.

Some of the highlights include monitoring reports from Admissions and LIANS; consideration of Terms of Reference for the new Law Office Management Standards Committee; and the proposed Professional Responsibility Policy regarding *Unauthorized Practice – Injunctions and Prosecutions*. Second Vice-President René Gallant will lead Council in a workshop aimed at setting priorities for the Society's administration of justice work. Council will also discuss the process for a byelection in Halifax District, to fill the vacancy left when the Hon. Justice Michael J. Wood joined the Nova Scotia Supreme Court.

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#### **Notice from the Court of Appeal Liaison Committee: new protocol**

The Society's Court of Appeal Liaison Committee, in consultation with the Nova Scotia Court of Appeal, has developed and adopted a protocol for Appeal proceedings involving allegations of ineffective trial Counsel.

See the new protocol on the Notices to the Bar page on the Courts of Nova Scotia website:

<http://www.courts.ns.ca/General/bar.htm>

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#### **Changes in Category – November 7 to 21, 2011**

This regular feature of *InForum* was formerly published quarterly. It is now available in every edition of *InForum*, in order to provide more timely updates on changes of category.

#### ***The following members have changed to the Practising Lawyer category:***

Sarah Cassandra Hebb

Mirsada Stasevic

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#### **Reminder: Nomination process underway for Second Vice-President 2012-2013**

The Governance & Nominating Committee has begun the nomination process for a candidate for Second Vice-President to assume office in the 2012-2013 year.

The Governance and Nominating Committee will begin looking at possible candidates when it next meets on December 8. Any suggested names should be forwarded to the Committee Chair, Marjorie A. Hickey QC, at [marjorie.hickey@mcinnescooper.com](mailto:marjorie.hickey@mcinnescooper.com). The process will continue through December and into January.

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#### **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 articulated 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**.

Members should have received an email from [assessment@nsbs.org](mailto:assessment@nsbs.org) with detailed instructions on how to access and complete the mandatory online assessment. If you have not yet received it, please check your 'junk mail' folder in case this important email was diverted.

For more information on the new *Code*, see the feature article in the October 2011 edition of the [Society Record](#) magazine, and read **Current Issues in Legal Ethics**, an ongoing series of *InForum* articles by Elaine Cumming, Professional Responsibility Counsel.

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](#) is also now available.

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## **Movember update: Putting a new face on justice in Nova Scotia**

Throughout November, lawyers and judges across the province are sporting a hirsute upper lip for a good cause and renaming the month "Movember". According to the mid-month fundraising totals released by Movember.com, Nova Scotia's legal community has so far raised more than \$42,000, with nine days left to go.

In the spirit of the annual Glube Cup Charity Hockey Tournament for Feed Nova Scotia, teams of lawyers, Crown attorneys and judges are picking sides again, with encouragement from the Nova Scotia Barristers' Society and the Canadian Bar Association - Nova Scotia Branch. This time, it's for a friendly follicle faceoff – they are growing moustaches in support of another worthy cause: prostate cancer research.

Interested donors or sponsors can make contributions to participating individuals or teams, with tax receipts issued by Prostate Cancer Canada. The global Movember movement began in Australia and now also has formal campaigns across Canada, the US, the UK, Ireland, Finland, the Netherlands, Spain, South Africa and New Zealand. In 2010, nearly 119,000 Canadian "Mo Bros" and "Mo Sistas" got on board, raising \$22.3 million CAD. For more details, see [www.movember.com](http://www.movember.com).

For more details on the legal profession's efforts, please contact Mr. MacRury at (902) 563 3530 or [macrurda@gov.ns.ca](mailto:macrurda@gov.ns.ca), and watch InForum for further updates.

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## **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 – November 18, 2011**

This edition includes court dockets for November and December, a reminder about hours of operation during the holiday season, and a notice from the Court of Appeal regarding requests to file a factum longer than 40 pages.

To view the Prothonotary's Hints & Tips, visit the "Notices to the Bar" page on the Courts of Nova Scotia website:  
<http://courts.ns.ca/General/bar.htm>

### **NEW interactive Civil Procedure Rules and Forms now available online**

All Forms related to the *Civil Procedure Rules* are now available in an "interactive" format – meaning that they can be filled out and saved or printed on your computer directly from the Courts of Nova Scotia website. However, these Forms must still be printed and then filed with the Courts as "hard copies" (on paper).

The Forms are provided for the convenience of prospective litigants. In the event of a discrepancy, the Forms in the consolidated version of the *CIVIL PROCEDURE RULES* will be considered the OFFICIAL version.

For more information, go to the Courts of Nova Scotia website at [www.courts.ns.ca](http://www.courts.ns.ca) and follow the links in the first item under the "NEWS" heading.

### **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](#).

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## FROM THE PROVINCE

### **Provincial notices**

Please note, *InForum* now provides provincial notices of interest to the legal profession by linking directly to the original announcements on the Province's website. To access the full text of these items, follow the links on the What's New page at the start of *InForum*. Exceptions are memos from the Province directly to the Society and members, which will continue to appear in full under this heading.

### **Exceptions to Full Labour Mobility – Nova Scotia's exception for lawyers**

Successive federal, provincial and territorial governments have affirmed their commitment to full labour mobility across Canada. In a limited number of cases, exceptions to this principle are required. In cases where significant differences in certification requirements exist between jurisdictions, a provincial or territorial government may approve an exception to full labour mobility, provided the exception is justified by one of several legitimate objectives.

Nova Scotia's exception for lawyers from Quebec was approved on Nov. 10, 2011, by Executive Council. It was filed under the "consumer protection" objective, given the significant differences in the common law system (Nova Scotia) and civil law system (Quebec).

Under the terms of the exception, the Nova Scotia Barristers' Society requires an individual assessment of the educational credentials and experience of a lawyer certified in Quebec who seeks certification in Nova Scotia, to determine whether the lawyer has the necessary common law knowledge or expertise to practise private law in Nova Scotia and, if considered necessary, to impose additional training, examinations and/or experience as a condition of certification.

Other professions in Nova Scotia with exceptions approved so far include advanced care and primary care paramedics, dental hygienists, licensed practical nurses, psychologists and social workers.

See the AIT (Agreement on Internal Trade) website for complete details:

[http://www.ait-aci.ca/index\\_en/labour.htm](http://www.ait-aci.ca/index_en/labour.htm).

## **Notice from the Nova Scotia Securities Commission – request for consultation**

Staff of the Canadian Securities Administrators (CSA), which includes the Nova Scotia Securities Commission, are conducting a review of the minimum amount prospectus exemption and the accredited investor prospectus exemption contained in National Instrument 45-106 Prospectus and Registration Exemptions.

At the conclusion of the review, CSA staff may recommend either retaining the exemptions in their current form or may propose changes.

As part of the review, we are consulting with stakeholders, including investors, issuers, dealers and legal and other advisors. The consultation note (the Note) at the following link <<http://www.gov.ns.ca/nssc/CSANotices/CSA CP 45-401 10112011.pdf>> provides more information on the scope of the review, including some background on the history of these exemptions and specific consultation questions for consideration.

We invite you to review the Note and provide us with your written comments. Please send your comments electronically in Word format to the addresses in the CSA Notice attached to the Note. The consultation period is open until February 29, 2012.

## **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](http://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. Letters of interest should be submitted by November 30, 2011. For details, please visit the [Careers Opportunities](#) page.

## **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 **Pictou County Land Registration Offices**.

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

## **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 coastal strategy and feedback form are available at [www.gov.ns.ca/coast](http://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.

The public can provide input on the act **until Dec. 16** by emailing [EGSPAreview@gov.ns.ca](mailto: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/](http://www.gov.ns.ca/nse/EGSPAReview/).

## OTHER NOTICES

### L'Assemblée générale annuelle de l'AJEFNE: un immense succès!

Lors de l'Assemblée générale annuelle de l'Association des juristes d'expression française de la Nouvelle-Écosse, qui se tenait à Dartmouth le 7 octobre dernier, les membres de l'Association ont pu mesurer les résultats obtenus au cours des douze derniers mois.

L'Assemblée générale annuelle a également été l'occasion pour l'AJEFNE de remettre, pour une deuxième année consécutive, le Prix du juriste à une personne ayant contribué à promouvoir l'accessibilité des services juridiques en français à la population acadienne, francophone et francophile de la Nouvelle-Écosse. Cette année, l'AJEFNE a tenu à remettre le prix à Mme Marie-Claude Rioux pour son implication inébranlable et l'ensemble de son travail tant au sein de l'Association qu'au sein de la communauté francophone et acadienne. Mme Rioux, qui a été à la direction générale de l'Association pendant sept années, s'est dite très honorée et touchée par ce geste. C'est d'ailleurs avec beaucoup d'émotions qu'elle s'est adressée aux participants de l'Assemblée et membres de l'Association.

Lors de cette journée, les représentants de la communauté et des associations membres et partenaires de l'AJEFNE tels que la FANE, le CCGH, la FFANE, le RANE et le Réseau Santé, ont adoptée la déclaration suivante:

**« Que l'AJEFNE établisse une priorité quant à la nomination des juges bilingues en Nouvelle-Écosse ».**

Ils ont également eu la chance de participer à deux ateliers dont celui sur les mauvais traitements envers les aînés présenté par maître Joël Guénette et celui sur le rôle et le mandat des Affaires acadiennes présentée par monsieur Gaston Saulnier.

Cette année, les membres de l'AJEFNE ont procédé à l'élection de nouveaux membres au Conseil d'administration. Ainsi, la nouvelle présidente est maître Lynette M. Muise qui succède ainsi à maître Andrée Godbout qui a assuré la présidence avec beaucoup de rigueur et dévouement lors de son mandat. Maître Lynette M. Muise est membre de l'AJEFNE depuis le début de ses études en droit, en 2007, à Dalhousie Schulich School of Law. Elle est l'une des premières récipiendaires de la bourse d'études Schulich, en 2010. Maître Muise a prêté son assermentation au barreau de la Nouvelle-Écosse le 4 février 2011 et pratique en droit familial, civil, criminel et immobilier avec le cabinet Pink Star Barro à Yarmouth. De plus, elle est trésorière de l'Association du barreau Western Counties et secrétaire de l'Association du barreau du comté de Yarmouth. Elle habite maintenant dans la région de Clare.

Pour ce qui est de la vice-présidence, elle est maintenant assurée par maître Suzanne Robichaud qui succède à maître Louis d'Entremont. L'AJEFNE profite de cette occasion pour remercier chaleureusement maître Andrée Godbout et maître Louis d'Entremont pour leur contribution et leur implication au sein de l'Association. Elle désire également souhaiter la bienvenue à maître Danielle Bastarache, qui a été nommée au poste de secrétaire, à maître Richard Deveau, représentant Terre-Neuve-Labrador, de même qu'à maître Angèle Bilodeau et monsieur Gavin Leitch, étudiant en droit à l'Université de Moncton.

Le conseil d'administration de l'AJEFNE pour l'année 2011-2012 est composé des membres suivants:

- Maître Lynette Muise, présidente
- Maître Suzanne Robichaud, vice-président
- Maître Réjean Aucoin, trésorier
- Maître Danielle Bastarache, secrétaire
- Maître Andrée Godbout, présidente-sortant
- Maître Louis d'Entremont, administrateur
- Maître Angèle Bilodeau, administratrice
- Maître Richard Deveau, représentant Terre-Neuve-Labrador
- Monsieur Gavin Leitch, membre étudiant

L'Association des juristes d'expression française de la Nouvelle-Écosse (AJEFNE) est un organisme sans but lucratif ayant pour mandat de promouvoir l'accessibilité des services juridiques en français à la population acadienne, francophone et francophile de la Nouvelle-Écosse. [www.ajefne.ns.ca](http://www.ajefne.ns.ca)

## Announcing Cape Breton's newest law firm

In January 2012, The Breton Law Group will open its new law office in downtown Sydney. Until our renovations are complete, we have three locations to serve you. We appreciate your patience during this transitional period.

[www.bretonlawgroup.com](http://www.bretonlawgroup.com)

Joseph R. Wall  
Carolyn A. MacAulay

130 Charlotte Street  
Sydney, NS  
Tel: 539-1649 – Fax: 539-2249

Gail Rudderham Chernin, Q.C.  
Dwight J.W. Rudderham

500 George Place  
Sydney, NS B1P 1K6  
Tel: 567-0250 – Fax: 567-0252

James R. Gogan  
Robin C. Gogan  
Tony W. Mozvik

380 Kings Road, Moxham Court,  
Suite 2B, Sydney, NS  
Tel: 563-1000 – Fax: 563-1113

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## AWARDS & APPOINTMENTS

### Crown Attorney appointed to Special Prosecutions

Peter Dostal has been appointed a Crown Attorney in the special prosecutions section of the Public Prosecution Service. He will concentrate on prosecuting cybercrime offences.

The appointment was announced November 14, by Martin Herschorn, Director of Public Prosecutions.

"I am very pleased to have Mr. Dostal join our team," said Mr. Herschorn. "His education and experience is ideal for prosecuting Internet-related offences."

A native of Halifax, Mr. Dostal graduated in 2003 from Dalhousie University with an Honours Bachelor of Computer Science. His honours thesis focused on network security in ad hoc networks. In 2007, Mr. Dostal graduated from Dalhousie Law School. He articulated with Nova Scotia Legal Aid before being appointed a staff lawyer with Legal Aid in 2008 where he conducted a criminal law practice.

While at Dalhousie, Mr. Dostal was a summer researcher for the Department of Computer Sciences and a research assistant for a law school professor. In 2006 he was a summer intern at the Canadian Internet Policy and Public Interest Clinic in Ottawa.

Mr. Dostal was co-editor-in-chief of *Dalhousie Journal of Legal Studies*, a student representative on Dalhousie Law School Studies Committee and a member of Dalhousie Student Union Judicial Board.

### New members appointed to Advisory Council on the Status of Women

Six new members are joining the Advisory Council on the Status of Women. Beatrice LeBlanc of Sydney will be the new chair of the Council. Ms. Leblanc, retired, was a long-time executive director of the Cape Breton Transition House. The appointments were announced Nov. 9.

"With her experience as a strong advocate for women and her knowledge of domestic violence, I am confident that Beatrice LeBlanc will continue the important work of the advisory council," said Marilyn More, Minister responsible for the Advisory Council of the Status of Women. "I welcome and thank the members of the council who have volunteered to make life better for women in Nova Scotia."

For more than 30 years, the advisory council has been bringing the concerns of women to government and been responsible for advancing equality, fairness and dignity for all women in Nova Scotia.

"I believe that a strong and healthy woman is one of the most important ingredients for a strong and healthy family and community," said Ms. LeBlanc. "I look forward to working with the council members and staff so that women's issues continue to be brought forward."

Other new members of the council are Wanda Bernard of Halifax, Felicia Eghan of Halifax, Ivy Shaw of Stillwater Lake, Rhonda Britton of Halifax, and Doreen Parsons of Hubbards. Returning member Jean d'Entrement is from West Pubnico.

The advisory council also works with federal and municipal governments, community and business organizations, and universities to increase political participation of women, build women's economic equality, reduce violence against women, and improve the health and well-being of women and their families.

## **Call for nominations: Weldon Award for Unselfish Public Service 2012, Schulich School of Law, Dalhousie University**

This annual award, sponsored by the Dalhousie Law School Alumni Association, is to honour a graduate of the Law School for unselfish public service to the community. Established in 1883, this award is a tribute to the ideals of the Law School's first Dean, Richard Chapman Weldon, and a reminder of the Weldon tradition, which had its origins during his 31-year tenure as Dean from 1883-1914.

**Eligibility:** A graduate of the law school with a record of unselfish public service.

**Nominations:** With your nomination, please include a minimum of two letters of support along with the nominee's curriculum vitae.

**Deadline:** Nominations must be received **by December 19, 2011**

For questions or to submit a nomination please contact:

Karen Kavanaugh, Director of Alumni & Development

Schulich School of Law, Dalhousie University

Weldon Law Building, 6061 University Avenue

Halifax, NS B3H 4H9

Tel: 902-494-3744 | Fax: 902-494-1316

[karen.kavanaugh@dal.ca](mailto:karen.kavanaugh@dal.ca)

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## **VOLUNTEER & PRO BONO OPPORTUNITIES**

### **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](mailto:daniel.pink@gmail.com). For more information please visit [www.nsalis.com](http://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](mailto: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/](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.

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## MISSING WILLS

### Seeking will for the late Diane Desbois

Lawyers with any information on the location or existence of an original Last Will and Testament of Ms. Diane Desbois are asked to please contact:

Angie Bilodeau  
Patterson Law  
5th Floor, 1718 Argyle Street  
Halifax, B3J 3N6  
(902) 405-8113  
[abilodeau@pattersonlaw.ca](mailto:abilodeau@pattersonlaw.ca)

At the time of her death, September 12, 2011, Ms. Desbois lived in Halifax.

### Seeking missing will for Debert man

If you have any information about the existence of a will for the late Thomas Mewey of Debert, Nova Scotia, please contact his son Kevin Mewey at 406.6944. Thomas Mewey was born on Nov. 14, 1944, and was 67 years old at the time of his death on October 30, 2011.

### 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.

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**CAREER OPPORTUNITIES** [www.nsbs.org/careers.php](http://www.nsbs.org/careers.php)

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## :: CONFERENCES & SEMINARS ::

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### NSBS ADMISSIONS & PROFESSIONAL DEVELOPMENT

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

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#### 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

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### OUTSIDE CONFERENCES & SEMINARS

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

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#### Upcoming events from CBA-NS

##### Support for the Supporters: Family Law for Legal Assistants Conference

Friday, December 9

Halifax Marriott Harbourfront– [Register online](#)

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#### 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

##### 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](mailto:mchargta@gov.ns.ca)

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#### The Schulich School of Law Mini-Law School

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

*InForum* is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

**Wednesdays 7:00-8:30pm**  
Weldon Law Building, Room 105

**NEXT LECTURE:**  
**Buried Treasure: The Use and Abuse of Tax Havens**  
**November 23, 2011**  
**Geoffrey Loomer**

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

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**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](mailto:register@lexpert.ca)

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**Scotch Tasting for Movember**  
**November 23, 6:30 pm | Wickwire Holm**

On Wednesday November 23, Wickwire Holm is hosting a Scotch Tasting for local lawyers and judges in the North Magazine on Citadel Hill in support of Movember, as part of the "Putting a New Face on Justice" campaign. The event consists of a Scotch tasting lead by Scotch expert, Dave Danskin, appetizers and an opportunity to network among friends and colleagues. The evening will also include a raffle for our "Big Mo on the Town" prize.

All proceeds raised will be donated to Movember Canada and directed to programs run by Prostate Cancer Canada.

Prostate Cancer Canada uses funds raised from Movember for the development of programs related to awareness, public education, advocacy and support of those affected, as well as research into the prevention, detection, treatment and cure of prostate cancer. During his lifetime, 1 in 7 men will develop prostate cancer, the most common cancer to affect Canadian men. This year, more than 25,000 Canadian men will be diagnosed with prostate cancer and more than 4,000 will die from it.

The event begins at 6:30 pm and costs \$60. We are able to accept cheques (made payable to Wickwire Holm) or cash. If you would like to reserve your spot, please email Daniel Pink at [dpink@wickwireholm.com](mailto:dpink@wickwireholm.com). Space is limited and spots will fill up fast.

*InForum* is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

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## Dalhousie Health Law and Policy Seminar Series

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

NEXT SEMINAR:

**Friday, November 25**

***Regulating Health Professionals' Hours of Work: Legal and Ethical Challenges***

Fiona MacDonald, School of Law, Queensland University of Technology

Light lunch served at noon in the Faculty Lounge (Rm 312)

No registration required! No fee. For more information, call 902.494.6881 or see the [seminar series](#) flyer online.

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## Fair Registration Practices Office Workshop

**November 30, 2011**

**Lord Nelson Hotel & Suites, Halifax**

If you have been wondering what's happening with the *Fair Registration Practices Act*, attend this workshop for answers. At the end of this day-long workshop, which includes information sessions and a panel discussion, regulatory bodies should have a clear understanding of their obligations under the Act and know the next steps in the process. This is the first in a series by the Fair Registration Practices Office that will offer learning, networking and interactive opportunities for attendees.

Register online: <http://tinyurl.com/3cx9svs>

For more information or to reach the workshop secretariat:

Phone: 902 422 1886 or 1 877 731 1333

Email: [FRPA@agendamanagers.com](mailto:FRPA@agendamanagers.com)

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## Discover the Ability in Disability - 4th Annual Symposium

**November 30 & December 1**

**Halifax Marriott Harbourfront Hotel**

The Nova Scotia Human Rights Commission, in partnership with the Disabled Persons Commission and the Collaborative Partnership Network, presents the 4th Annual Symposium on Inclusive Education & Employment. Our symposium speaks of the challenges and opportunities persons with disabilities encounter on the road towards education, work and community.

Guest speakers include **Margaret Trudeau**, mental health advocate, and **Mark Nagler**, President of Nagler Disability Consulting Services.

See [www.IDPD.ca](http://www.IDPD.ca) for details and registration.

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***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](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!

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## **Intensive Trial Advocacy Programme**

### **June 3–9, 2012 | Faculté de droit of the Université de Moncton**

The Intensive Trial Advocacy Programme is organized and presented by The Faculté de droit of the Université de Moncton, and is designed to train lawyers in basic trial techniques equally applicable to civil and criminal cases. It is ideally suited to lawyers, practising in both the criminal and civil courts with two to twelve years of experience, who have had some familiarity with litigation but limited trial experience.

To view the schedule, for more information and to register: <http://www.umoncton.ca/umcm-droit/node/78>

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## **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](http://www.apvla.ca).

## :: CLASSIFIEDS ::

### **Lease sharing and networking opportunity with Chartered Accounting firm in Upper Tantallon**

A growing Chartered Accounting firm located in a new commercial building in Upper Tantallon (just outside Halifax) is looking to develop a referral relationship with a small legal practice (established or start-up) that would include corporate and tax advantaged structures among other services.

Available space currently include two unused offices that could be provided at a low or no rent rate lease depending on the ability of the legal practice to refer business to and handle referrals from the accounting practice. The firm, [Bluenose Accounting](#), is open to any discussions for arrangements that would be mutually beneficial. In addition to referrals, possibilities include co-marketing of services, provision of workshops and involvement in networking opportunities to promote services to local business owners.

There is also roughly 800 square feet available for separate lease in the building, which is located at the entrance to the Peggy's Cove Road close to the busy crossroads area of Upper Tantallon. Upper Tantallon is one of HRM's most rapidly growing areas and is poised for continued growth. For more information, please contact Anthony at **902 820 8000** or by email at [Anthony@bluenoseaccounting.com](mailto:Anthony@bluenoseaccounting.com).

### **Assistance with Florida law and U.S. immigration**

I am an active member of both the Nova Scotia and Florida Bars and would be pleased to assist any of your clients who spend time in the U.S. and who may have questions concerning Florida law or Florida / U.S. tax and immigration matters.

William A. Sutherland QC, Barrister, Solicitor & Notary Public  
Suite 27, 6960 Mumford Road, Halifax, Nova Scotia B3L 4P1  
Tel. 902 445 2500 ext. 7, Fax. 902 445 5187  
[wassutherland@hfxmail.com](mailto:wassutherland@hfxmail.com) (Member Nova Scotia and Florida Bars)

### **Books and Reports available for free**

Available for the taking:

- Canada Federal Court Reports – 1971-2003//
- Canada Law Reports (Exchequer Court) – 1952-1970//
- Dominion Law Reports – v.1-70, 1912-1922; 1923-1955
- 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)

Please contact Lindy Stephens at [lindy.stephens@mcinnescooper.com](mailto: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](mailto:sdenney@nsbs.org).

## :: NEW FROM LIBRARY & INFORMATION SERVICES ::

### LawSource Training in County Libraries

The Nova Scotia Barristers' Society Library & Information Services provides *LawSource*, a comprehensive online legal research product, in county barristers' libraries throughout the province.

Free training in this product will be available on **November 29, 2011** in the following county libraries:

- Antigonish County Barristers' Library, 10:00 am to 12:00 pm
- Pictou County Barristers' Library, 2:00 pm to 4:00 pm

Please call Library & Information Services toll-free at **1-866-219-1202** to book a one-hour session at a time that is convenient for you. You can bring members from your firm; please let us know at the time of booking. Otherwise it is possible we will book two lawyers at a time.

Legal resources accessible through *LawSource* include

- *The Canadian Abridgement* and *Canadian Encyclopedic Digest*
- Canadian case law and citators
- Carswell's *Words and Phrases*
- federal and provincial statutes, regulations and citators, and Court rules
- selected law reviews and journals, and the *Index to Canadian Legal Literature*

Library & Information Services is pleased to offer training sessions on *LawSource* with Thomson Carswell's Executive Learning Consultant, Sam MacKenzie.

L&IS will offer training sessions in barristers' libraries in other areas of the province in 2012.

For on-going *LawSource* support – assisting with search strategy, advanced search query syntax, or troubleshooting – contact **Deborah Copeman**, Electronic Resources Librarian, or **Susan Jones**, Information Services Librarian, at 1-866-219-1202.

## :: NEW DECISIONS ::

*Library & Information Services - Keeping you informed*

**COMPANY LAW – Family business – application to preserve assets, pending divorce, appeal dismissed** *Korem v. Crown Jewel Resort Ranch Inc.*, C.A. No. 345280, MacDonald, M. C.J., November 10, 2011. [2011 NSCA 102](#); **S636/12**

**CONTRACTS – Breach of contract – technical services, refurbishment of vessel** *Chaulk Air Inc. v. Gencana Energy Solutions Inc. et al.*, Hfx. No. 343068, Wood, J., November 15, 2011; November 10, 2011 (orally). [2011 NSSC 422](#); **S638/11**

**CRIMINAL LAW – Appeals – failure of judge to give Vetrovec warning, appeal dismissed** *Toomey v. Nova Scotia (Attorney General)*, Pic. No. 329510, Murray, J., October 13, 2011; October 12, 2011 (orally). [2011 NSSC 374](#); **S638/7**

**CRIMINAL LAW – Evidence – admissibility of cell phone contents** *R. v. Hiscoe*, No. 2215503, Tufts, J.P.C., November 17, 2011. [2011 NSPC 84](#); **M25**

**CRIMINAL LAW – Evidence – admissibility of cell phone contents** *R. v. Dorey*, No. 617025, Tufts, J.P.C., November 17, 2011. [2011 NSPC 85](#); **M25**

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**CRIMINAL LAW – Multiple offences – summary offences, uttering death threats, breaching probation and assault** *R. v. W. (S.B.)*, No. 2367404; 2367405; 2367367; 2367368; 2367369; 2367370; 2367728; 2367729; 2367734, Atwood, J.P.C., November 10, 2011. [2011 NSPC 82](#); **M25**

**CRIMINAL LAW – Sentencing – attempted murder, joint recommendation** *R. v. Marriott*, C.R.H. No. 329528, Coady, J., May 16, 2011. [2011 NSSC 414](#); **S638/4**

**CRIMINAL LAW – Sentencing – conspiracy to commit murder** *R. v. Smith*, C.R.H. No. 329528, Coady, J., May 18, 2011. [2011 NSSC 413](#); **S638/3**

**CRIMINAL LAW – Sentencing – conspiracy to commit murder and attempted murder** *R. v. Murphy*, C.R.H. No. 329528, Coady, J., October 27, 2011. [2011 NSSC 410](#); **S638/1**

**CRIMINAL LAW – Sentencing – conspiracy to commit murder and attempted murder** *R. v. LeBlanc*, C.R.H. No. 329528, Coady, J., September 22, 2011. [2011 NSSC 412](#); **S638/2**

**CRIMINAL LAW – Sentencing – theft over \$5,000 and fraud** *R. v. Lee*, No. 2119017 – 2119019, Derrick, J.P.C., November 10, 2011. [2011 NSPC 81](#); **M25**

**CRIMINAL LAW – Stay of proceedings – unreasonable delay in bringing accused to trial** *R. v. Cater et al.*, No. 1997518 – 1997550; 2035773 – 2035784, Derrick, J.P.C., November 10, 2011. [2011 NSPC 80](#); **M25**

**CRIMINAL LAW – Young offender – taking a motor vehicle without consent** *R. v. D. (R.J.)*, No. 2311230; 2314259; 2314260; 2314261; 2314639; 2314641; 2322487; 2342220, Campbell, J.P.C., November 10, 2011. [2011 NSPC 78](#); **M25**

**EVIDENCE – Procedure – order of presenting in multi-party litigation** *National Bank Financial Ltd. v. Potter et al.*, Hfx. No. 206439; Hfx. No. 174293; Hfx. No. 208293; Hfx. No. 216059; Hfx. No. 227347; Hfx. No. 246337; Hfx. No. 278010, Warner, J., November 4, 2011. [2011 NSSC 407](#); **S637/31**

**FAMILY LAW – Child in need of protective services – application for permanent order dismissed** *Nova Scotia (Minister of Community Services) v. C. (B.) et al.*, S.F.S.N.C.F.S.A. No. 66694, MacLellan, J., February 2, 2011; January 28, 2011 (orally). [2011 NSSC 321](#); **S637/28**

**FAMILY LAW – Child in need of protective services – permanent care and control** *Nova Scotia (Minister of Community Services) v. C. (B.) et al.*, S.F.S.N.C.F.S.A. No. 66694, MacLellan, J., August 25, 2011. [2011 NSSC 325](#); **S638/5**

**FAMILY LAW – Costs – motion to close court files** *Foster-Jacques v. Jacques*, No. 1201-64463; S.H.F.D. No. 069582, MacDonald, B. J., November 1, 2011. [2011 NSSC 405](#); **S637/29**

**FAMILY LAW – Custody – mobility, change in circumstances** *Bellefontaine v. Slawter*, S.F.H.M.C.A. No. 049254, Williams, J., November 17, 2011. [2011 NSSC 427](#); **S638/15**

**FAMILY LAW – Procedure – costs** *MacLean v. Boylan*, S.F.H.M.C.A. No. 032826, Jollimore, J., November 8, 2011. [2011 NSSC 406](#); **S638/6**

**FAMILY LAW – Procedure – costs** *Harris v. Harris*, No. 1201-064495; S.F.H.D. No. 069818, MacDonald, B. J., November 10, 2011. [2011 NSSC 418](#); **S638/12**

**FAMILY LAW – Procedure – costs, application to enforce separation agreement** *Peach v. Melnick*, No. 1201-058389, O'Neil, A.C.J., October 20, 2011. [2011 NSSC 377](#); **S637/24**

**FAMILY LAW – Procedure – costs, application to terminate spousal support** *Shurson v. Burgess*, S.F.H.M.C.A. No.

040843, O'Neil, J., October 17, 2011. [2011 NSSC 344](#); **S637/23**

**GUARDIAN AND WARD – Adult in need of protection – review and renewal of order** *Nova Scotia (Minister of Health) v. R. (C.)*, S.F.H.A.P.A. No. 034880, Dellapinna, J., July 19, 2011; March 9, 2011. [2011 NSSC 299](#); **S637/27**

**LANDLORD AND TENANT – Commercial lease – accord and satisfaction of lease** *Action Management Inc. v. Archibald*, S.P.H. No. 291925, Murray, J., September 29, 2011. [2011 NSSC 358](#); **S637/30**

**MAINTENANCE – Child support – application to vary retroactively dismissed** *Fillmore v. Graves*, S.F.H.M.C.A. No. 031740, Jollimore, J., November 12, 2011; October 31, 2011 (orally). [2011 NSSC 417](#); **S638/10**

**MAINTENANCE – Child support – retroactive support** *MacDonald v. Pink*, S.F.N.S.F. No. 006545, Forgeron, J., November 15, 2011. [2011 NSSC 421](#); **S638/13**

**MUNICIPAL LAW – Town land – boundary dispute** *John Ross & Sons Ltd. v. Truro (Town of)*, S.T. No. 349261, Scanlan, J., November 7, 2011. [2011 NSSC 409](#); **S638/9**

**PRACTICE – Appeals – motion to fix dates** *Moore v. Darlington*, C.A. No. 350840, Saunders, J.A., November 9, 2011. [2011 NSCA 101](#); **S636/11**

**PRACTICE – Costs – security for costs** *Ocean v. Economical Mutual Insurance Co. et al.*, Hfx. No. 190673, Smith, A.C.J., November 10, 2011. [2011 NSSC 408](#); **S638/8**

**PRACTICE – Costs – solicitor client costs** *IForm Inc. v. Rossignol et al.*, Hfx. No. 333223, Hood, J., July 26, 2011; July 19, 2011 (orally). [2011 NSSC 273](#); **S637/26**

**PRACTICE – Costs – when application for injunction discontinued** *Communications, Energy and Paperworkers Union of Canada, Local 141 v. Bowater Mersey Paper Co. Ltd.*, Hfx. No. 347087, Duncan, J., November 16, 2011. [2011 NSSC 423](#); **S638/14**

**PROFESSIONAL OCCUPATIONS – Nursing – judicial review of professional discipline panel** *Robichaud v. College of Registered Nurses of Nova Scotia*, Yar. No. 343614, Muise, J., October 24, 2011. [2011 NSSC 379](#); **S637/25**

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## 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.

[Lax Kw'alaams Indian Band v. Canada \(Attorney General\)](#)

Neutral citation: [2011 SCC 56](#) (CanLII)

File No.: 33581.

2011: February 17; 2011: November 10.

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

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA

*Aboriginal law — Aboriginal rights — Fishing — Nature of pre-contact practice — Evolution of pre-contact practice — First Nations claiming rights to commercial harvesting and sale of all species of fish within their traditional waters — Whether pre-contact trade in specific fish product could evolve into modern commercial fishery — Constitution Act, 1982, c. 35(1).*

*Civil procedure — Pleadings — Aboriginal rights litigation — Whether Aboriginal rights claim should be characterized based on pleadings or a broader enquiry — Whether claim for declaration of “lesser” rights was properly presented in pleadings*

*Aboriginal law — Fiduciary duty — Whether historical record supported existence of fiduciary duty to grant claimants right to modern commercial fishery.*

This appeal involves the claim of the Lax Kw'alaams and other First Nations (“the Lax Kw'alaams”), whose ancestral lands stretch along the northwest coast of British Columbia between the estuaries of the Nass and lower Skeena Rivers, to the commercial harvesting and sale of “all species of fish” within their traditional waters. Such an Aboriginal fishery would be within the protection of s. 35(1) of the *Constitution Act, 1982*. The basis of the pre-contact society’s culture and sustenance was the fishery. It had a subsistence economy with some trade — primarily a gift exchange between kin at feasts and potlatches or the exchange of luxury goods. The harvesting and consumption of salmon, halibut, herring spawn, seaweed, shellfish, and eulachon were integral to its distinctive culture, but trade in fish or fish products other than the grease derived from the smelt-like species called the eulachon or candle fish (because when dried it could be burned like a candle) was held not to be integral to the distinctive culture of the pre-contact society. Eulachon grease was a preservative for perishable food stuffs such as berries, and much valued for that purpose. Such other trade in fish or fish products as took place was described by the trial judge as “low volume, opportunistic, irregular, ... and incidental to the fundamental pre-contact ... kinship relations”.

The Lax Kw'alaams claimed not only the right to the commercial harvesting and sale of all species of fish within their traditional waters but asserted that the Crown has a fiduciary duty in that respect flowing from promises made in the reserve allocation process in the 1870s and 1880s. Finally, towards the end of the trial, they claimed what they described as lesser Aboriginal rights, including a right to sufficient fish which, “when converted to money”, would enable them to “develop and maintain a prosperous economy”, and a right to a food, social and ceremonial fishery.

The trial judge was not persuaded that the pre-contact customs, practices and traditions supported the claimed Aboriginal rights to commercial activities and dismissed the claims. The Court of Appeal agreed and dismissed the appeal.

*Held:* The appeal should be dismissed.

November 8, 2011

[\*R. v. Banwait\*](#)

Neutral citation: [2011 SCC 55](#) (CanLII)

File No.: 34044.

2010: December 17; 2011: November 8.

Present: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

The appeal from the judgment of the Court of Appeal for Ontario, Numbers C46219 and C45813, 2010 ONCA 869, dated December 17, 2010, was heard this day and the following judgment was rendered orally:

The Chief Justice — We are all of the view that the appeal should be allowed for the reasons set out by MacPherson J.A. at paras. 178-89 of his judgment.

The appeal is allowed and the conviction for first-degree murder restored.

## :: NEW BILLS ::

*Library & Information Services – Keeping you informed*

### **Nova Scotia Bills**

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

The House resumed sitting on October 31, 2011.

**The following bills were INTRODUCED since the last *InForum*:**

### **Government Bills**

Bill No. 94

Atlantic Provinces Special Education Authority Act (amended)

An Act to Amend Chapter 194 of the Revised Statutes, 1989, the Atlantic Provinces Special Education Authority Act

Hon. Ramona Jennex, Minister of Education

First Reading: November 14, 2011

Bill No. 95

Education Act (amended)

An Act to Amend Chapter 1 of the Acts of 1995-96, the Education Act, Respecting School Boards

Hon. Ramona Jennex, Minister of Education

First Reading: November 14, 2011

Bill No. 96

Pension Benefits Act

An Act Respecting Pension Benefits

Hon. Marilyn More, Minister of Labour and Advanced Education

First Reading: November 15, 2011

Bill No. 98

Fish Harvester Organizations Support Act

An Act to Provide Support for Fish Harvester Organizations

Hon. Sterling Belliveau, Minister of Fisheries and Aquaculture

First Reading: November 15, 2011

Bill No. 100

Municipal Elections Act (amended) and Municipal Government Act (amended)

An Act to Amend Chapter 300 of the Revised Statutes, 1989, the Municipal Elections Act, and Chapter 18 of the Acts of 1998, the Municipal Government Act

Hon. John MacDonell, Minister of Service Nova Scotia and Municipal Relations

First Reading: November 16, 2011

Bill No. 102

Trade Union Act (amended)

An Act to Prevent Unnecessary Labour Disruptions and Protect the Economy by Amending Chapter 475 of the Revised Statutes, 1989, the Trade Union Act

Hon. Marilyn More, Minister of Labour and Advanced Education

First Reading: November 17, 2011

Bill No. 104

Gaming Control Act (amended)

An Act to Amend Chapter 4 of the Acts of 1994-95, the Gaming Control Act  
Hon. John MacDonell, Minister responsible for Part II of the Gaming Control Act  
First Reading: November 18, 2011

## Private Member Bills

Bill No. 77  
Environmental Ombudsman Act  
An Act to Establish the Office of the Environmental Ombudsman  
Andrew Younger, Dartmouth East  
First Reading: November 7, 2011

Bill No. 79  
Green Energy Promotion Act  
An Act Respecting the Review of the Green Energy Equipment Tax Credit in Manitoba for Implementation in Nova Scotia  
Andrew Younger, Dartmouth East  
First Reading: November 7, 2011

Bill No. 82  
Next Generation Act  
An Act to Amend Chapter 2 of the Acts of 2010, the Finance Act, Respecting Intergenerational Reporting  
Hon. Jamie Baillie, Cumberland South  
First Reading: November 8, 2011

Bill No. 83  
Health Protection Act (amended)  
An Act to Amend Chapter 4 of the Acts of 2004, the Health Protection Act, to Establish Health and Safety Standards for the Tattoo Industry  
Leo Glavine, Kings West  
First Reading: November 8, 2011

Bill No. 87  
Wildlife Act (amended)  
An Act to Amend Chapter 504 of the Revised Statutes, 1989, the Wildlife Act  
Andrew Younger, Dartmouth East  
First Reading: November 9, 2011

Bill No. 88  
Code of Ethics Act  
An Act to Establish a Code of Ethics for Members of the House of Assembly  
Hon. Stephen McNeil, Annapolis  
First Reading: November 10, 2011

Bill No. 89  
Sea, Army and Air Cadets Training Recognition Act  
An Act to Recognize the Training Received by Royal Canadian Sea, Army and Air Cadets in Nova Scotia  
Chuck Porter, Hants West  
First Reading: November 10, 2011

Bill No. 91  
Increasing Immigration to Nova Scotia Act  
An Act to Provide for the Establishment of an Entrepreneur Stream under the Nova Scotia Nominee Program  
Diana Whalen, Halifax Clayton Park

First Reading: November 14, 2011

Bill No. 92  
Power Rate Reduction Review Act  
An Act Respecting the Review and Reduction of Power Rates  
Hon. Jamie Baillie, Cumberland South  
First Reading: November 14, 2011

Bill No. 97  
Day Care Act (amended)  
An Act to Amend Chapter 120 of the Revised Statutes, 1989, the Day Care Act  
Hon. Karen Casey, Colchester North  
First Reading: November 15, 2011

Bill No. 103  
Early Development Instrument Assessment Program Act  
An Act to Require the Establishment of a Mandatory Early Development Instrument Assessment Program in Nova Scotia  
Hon. Karen Casey, Colchester North  
First Reading: November 17, 2011

Bill No. 105  
Trade Union Act (amended)  
An Act to Amend Chapter 475 of the Revised Statutes, 1989, the Trade Union Act  
Hon. Stephen McNeil, Annapolis  
First Reading: November 18, 2011

## **Private Bills**

Bill No. 99  
An Act Respecting the Archdiocese of Halifax-Yarmouth  
An Act Respecting the Archdiocese of Halifax-Yarmouth  
Leonard Preyra, Halifax Citadel-Sable Island  
First Reading: November 15, 2011

Bill No. 101  
An Act to Incorporate the Halifax Kennel Club (amended)  
An Act to Amend Chapter 77 of the Acts of 1944, An Act to Incorporate the Halifax Kennel Club  
Michèle Raymond, Halifax Atlantic  
First Reading: November 16, 2011

**The following bills received SECOND READING since the last *InForum*:**

## **Government Bills**

Bill No. 72  
Timely Medical Certificates Act  
An Act to Amend Chapter 494 of the Revised Statutes, 1989, the Vital Statistics Act  
Hon. John MacDonell, Minister of Service Nova Scotia and Municipal Relations  
First Reading: November 1, 2011  
Second Reading: November 4, 2011

Bill No. 73  
Safer School Zones Act

An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act  
Hon. Bill Estabrooks, Minister of Transportation and Infrastructure Renewal  
First Reading: November 2, 2011  
Second Reading: November 7, 2011

Bill No. 76  
Civil Forfeiture Act (amended)  
An Act to Amend Chapter 27 of the Acts of 2007, the Civil Forfeiture Act  
Hon. Ross Landry, Minister of Justice  
First Reading: November 7, 2011  
Second Reading: November 8, 2011

Bill No. 78  
Civil Constables Act (repealed)  
Hon. Ross Landry, Minister of Justice  
First Reading: November 7, 2011  
Second Reading: November 8, 2011

Bill No. 80  
Constables Act (repealed)  
An Act to Repeal Chapter 87 of the Revised Statutes, 1989, the Constables Act  
Hon. Ross Landry, Minister of Justice  
First Reading: November 7, 2011  
Second Reading: November 8, 2011

Bill No. 81  
Change of Name Act (amended)  
An Act to Amend Chapter 66 of the Revised Statutes, 1989, the Change of Name Act  
Hon. John MacDonell, Minister of Service Nova Scotia and Municipal Relations  
First Reading: November 7, 2011  
Second Reading: November 8, 2011

Bill No. 84  
Animal Protection Act (amended)  
An Act to Amend Chapter 33 of the Acts of 2008, the Animal Protection Act  
Hon. John MacDonell, Minister of Agriculture  
First Reading: November 8, 2011  
Second Reading: November 14, 2011

Bill No. 85  
Agriculture and Rural Credit Act (amended)  
An Act to Amend Chapter 7 of the Revised Statutes, 1989, the Agriculture and Rural Credit Act  
Hon. John MacDonell, Minister of Agriculture  
First Reading: November 8, 2011  
Second Reading: November 14, 2011

Bill No. 86  
Fair Automobile Insurance (2011) Act  
An Act to Amend Chapter 231 of the Revised Statutes, 1989, the Insurance Act  
Hon. Graham Steele, Minister responsible for the Insurance Act  
First Reading: November 9, 2011  
Second Reading: November 17, 2011

Bill No. 90  
Safe Collection of Scrap Metal Act  
An Act to Regulate Transactions by Scrap-Metal Dealers and Recyclers  
Hon. Ross Landry, Minister of Justice  
First Reading: November 10, 2011  
Second Reading: November 17, 2011

View the status and full text of bills at <http://nslegislature.ca/index.php/proceedings/status-of-bills/>

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## :: 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*:

***Nova Scotia Business Incorporated Act***, SNS 2011, c 23, s 3.

NS Gaz Pt 2, [11/18/11](#)

NS Reg 299/2011

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.

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## : : CURRENT ISSUES IN LEGAL ETHICS : :

This is the fifth 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 coming into force in January 2012.

### **Get to know the new Code's Quality of Service rule**

The Professional Responsibility department receives at least 150 written complaints per year and fields upwards of 480 complaints calls. While staff dismiss or resolve approximately 85 per cent of all complaints, there remain quite a number that move on to the Complaints Investigation Committee or the Hearing Committee. We see very few complaints about the "obvious" ethical breaches, such as breach of confidentiality or misappropriation.

What are people complaining about? Quality of service!

Many people who call the Society are overwhelmed by their legal situation. They have become enmeshed in a process that they find confusing, disempowering and overwhelming. They have discovered that the legal system is complex, slow and expensive. In many cases, the people we hear from are desperate. In some cases they have lost their children, their home and their dignity. They don't understand the need for the volumes of paperwork they believe lawyers insist on creating, the language that is used or the relevance of evidence. And then their lawyer, in whom they have placed their trust, stops returning their phone calls.

We know that lawyers often have clients with unreasonable expectations of both the legal system and their lawyers. It is ultimately the responsibility of lawyers to set the expectations from the outset of the retainer and to manage those expectations throughout the course of the legal matter. Failing to respond to the client who calls, emails or texts you incessantly is not going to solve the problem. What it is likely to do is result in a complaint to the Society.

The new *Code of Professional Conduct* includes the following rule:

#### **Quality of Service**

**2.02 (1)** A lawyer has a duty to provide courteous, thorough and prompt service to clients. The quality of service required of a lawyer is service that is competent, timely, conscientious, diligent, efficient and civil.

The Commentary to this rule provides a non-exhaustive list of examples of expected practices that includes such basics as:

- keeping a client reasonably informed;
- answering reasonable requests from a client for information;
- responding to a client's telephone calls;
- ensuring that work is done in a timely manner so that its value to the client is maintained;
- providing quality work and giving reasonable attention to the review of documentation to avoid delay and unnecessary costs to correct errors or omissions; and
- providing a client with complete and accurate relevant information about a matter.

Most clients simply want to be kept reasonably informed about the status of their legal matter. They need to know, at least in general terms, what the steps in the process will be, your opinion on the likely outcome, the time expected for each step and a reasonable estimate of the cost involved. Such information should be updated for the client on a regular basis. Be clear with your client about when such updates can be expected, when you are available and how soon they can expect you or someone in your office to return messages. By taking a few minutes on a regular basis to keep a client reasonably informed, it can avoid having to take hours later on explaining to the client and the Society why you didn't.

Staff in the Professional Responsibility department are always available to discuss any questions or concerns you may have about the rules and your ethical obligations thereunder. Please don't hesitate to contact us!

## : : 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.*

### **Closing the pay equity gender gap: a task made for lawyers**

**by Kathleen Lumsden, member, Gender Equity Committee**

This article is intended to raise awareness and open discussion on one of the issues brought to light by women contributing to the GEC postcard campaign.

Closing the pay equity gender gap between men and women in the legal profession is a task crafted for lawyers. After all, our legal underpinnings are based upon justice and equality. Despite the ideals of the law, women lawyers are no different than women in other professions consistently receiving less compensation for doing the same work as men. Surely, as lawyers we have developed the skills to deal with inequality in all its forms.

It is encouraging that the visibility of women within the legal profession is ever increasing. Do not forget these intelligent, creative, exceptional women practising law are also experiencing prejudice, glass ceilings and basic old-fashioned sexism. Call it what you will, gender inequality translates into economic inequity.

The question of why women are receiving less compensation has been widely canvassed. A multitude of variables impact the disparity in income for male and female lawyers. It could very well be that women are less productive because they choose to commit more time (a.k.a. billable hours) than their male counterparts to their families. It could also be that women are given less lucrative files, are not promoted on par with their male colleagues and are less inclined to be on firm compensation committees. This, of course, is not an exhaustive list. Whether it is based on work-life balance, social norms/values or systemic discrimination, we have a problem.

Lawyers are in the business of solving problems. Inside the lawyer tool kit we can find awareness and education. So long as the issue remains, people must continue to talk about it and make others aware of it. We must also become educated as to all the contributing factors. Understanding how our routine actions can be damaging allows us to create new processes for better outcomes. It is in the nature of lawyers to take action rather than be idle where there exists a wrong to be righted. Examine the ways in which compensation is awarded and actively look for discrimination.

Part of routine work for lawyers is using persuasive skills to garner a better position for our clients. This is another tool to bring about change to equalize financial compensation for the sexes. Economic equality is part of a bigger picture of standard equality between men and women. If we want to espouse our ideals of fairness and equality, we should be willing to look in our own backyard to make changes. Is there anyone better to close the pay equity gender gap than those who make their livelihood protecting rights and equality?

*In case you missed the previous article on October 24:*

["Come on, honey, just laugh it off,"](#) by Candee McCarthy, Co-Chair, Gender Equity Committee

## :: LIANS TIPS ::

### **New edition of *LIANSwers* – Issue 10, November 2011**

Visit the [LIANSwers](#) newsletter page on the LIANS website. In the new edition, learn to search for emails on your BlackBerry, find a Form 21 reminder and general rules about joint tenancies and bankruptcy, see how joy = vitality and health, learn more about certificates of legal effect, and examine mobile sites vs. apps for your firm.

### **RISK AND PRACTICE MANAGEMENT TIP: Put it in writing!**

One of the issues that results in a claim against a lawyer is failure to properly document instructions. Clients may later say they asked the lawyer to do X and it wasn't done; or the lawyer may have done Y and the client claims he didn't authorize that course of action.

If there is no documentation of the lawyer / client conversations, the claim then turns on credibility. The experience has been that courts are more likely to believe the client's recollections, as the case is top of mind for the client, but only one of several for the lawyer.

Use a retainer letter to document the terms of engagement – and use a disengagement letter if the relationship turns and you properly withdraw. Confirm your advice in writing. Document your conversations by using notes to file. Make sure your client truly understands what you're saying.

*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](mailto:sgerrard@lians.ca) or call 423-1300 ext. 345.*

### **FRAUD ALERT: New name in collaborative law agreement fraud**

Several Nova Scotia members have reported contact emails from "Crystal Masaru", concerning her husband "Bloomberg Masaru" over the last few weeks.

This collaborative law agreement scam attempt follows the same 'process' we're all familiar with by now: a series of emails to help a client reclaim their unpaid alimony, etc., accompanied by seemingly legitimate-looking identity or supporting documents. Very soon after, a fraudulent cheque is received and bank deposit instructions are sent to the lawyer.

Refamiliarize yourself with **Client ID Regulation 4.5.11**. These require that in a non-face-to-face transaction involving a client who is not present in Canada, identity verification must be carried out by an agent on behalf of the lawyer. Often in these scams, potential clients will not be willing to have you retain the verification agent or comply overall with the Client ID Regulations. It is best to advise the client that the transaction will not be completed until they comply with the regulation. Find regulation 4.5.11, sample verification agreements and more under the NSBS [Client ID Regulations](#).

Keep in mind these potential red flags when you are contacted:

- Client is offshore, unknown to the firm and often in a rush to complete the transaction.
- Client readily agrees to pay a seemingly high rate of fees from the funds that you are to secure for them.
- The debtor will often send their payment cheque promptly with little to no persuasion. This is suspicious considering the client's dire need to retain you initially.

Use Google to verify phone numbers, addresses and email contacts. If you do decide to proceed with the transaction, when the cheque is received be sure to go to the bank website to verify the branch transit number, address and phone number on the cheque. Hold on to the funds until the bank confirms that the funds are legitimate and that it's safe to withdraw from the deposit.

Be cautious with all cheques received, especially if they exceed the agreed-upon amount. Where possible, use the [Large Value Transfer System \(LVTS\)](#), an electronic funds transfer system that allows large payments to be exchanged securely and immediately.

To report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at [cnield@ians.ca](mailto:cnield@ians.ca) or **902 423 1300, x346**.

## **NSLAP WELLNESS TIP: Getting the most from medication**

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

Many of today's medications are so effective and have so few side effects that most people can take them without any interference of their daily activities or their ability to work. The key is that the medication is necessary, it is prescribed properly and the prescribing professional monitors it.

To ensure you get the maximum benefit from your medication, ask your doctor and/or pharmacist the following questions:

- How often do I have to take my medication and when do I need to take it?
- What do I do if I forget to take a dose?
- Are there any special dietary restrictions I need to know about?
- What are the most common side effects that I may experience – will I be tired or hungry?
- Can I drink alcohol while taking this medication?
- How will I know if the medication is working?
- How long do I have to take this medication?
- Are there any other medications that I cannot use while taking this one?
- What is the cost?
- Is there a cheaper alternative?

Note: If safety is a concern (e.g., operating heavy machinery), mention this to the prescribing doctor or pharmacist and get their advice. Some workplaces require that you report medication use to someone if safety is of concern.

*For more information and support with medications, along with resources and counselling to improve your health and wellness, visit the NSLAP website at [www.nslap.ca](http://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.*

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