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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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SOCIETY NEWS

Council Highlights from November 25, 2011

At the meeting on November 25, Second Vice-President René Gallant led Council in a workshop aimed at setting priorities for the Society's administration of justice work. Other highlights included a Monitoring Report from Admissions, a report from LIANS; Terms of Reference for the new Law Office Management Standards Committee; and approval of the Professional Responsibility Policy regarding *Unauthorized Practice – Injunctions and Prosecutions*. Council also approved 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.

For further details about matters discussed at Council's meeting on Friday, November 25, please visit the Council Highlights posted on the Work of Council page of the Society's website: <http://www.nsbs.org/workCouncil.php>.

The next regular meeting of Council is scheduled for **Friday, January 20, 2012** at 12:00 noon in the Society's offices.

Request for input on amendments to Real Estate and Family Law Standards

The Professional Standards Real Estate and Family Law Committees are seeking input from the membership on proposed amendments to Real Estate Standard 3.11 and proposed new Family Law Standards with respect to Adoption and to Assisted Human Reproduction.

You can review these proposed amendments and their rationale in "Proposed Amendments to Real Estate and Family Law Standards" on www.lians.ca under News and Alerts.

Please submit comments, and suggestions pertaining to these changes, to info@lians.ca by **January 6, 2012**.

Changes in Category – November 21 to December 5, 2011

This feature is now available in every edition of *InForum*, for timely updates on changes of category.

The Society welcomes the following members, called to the Nova Scotia Bar since November 21:

Mitchell Ryan Eliasson
Colette Michelle Goodyear
Mercy Chalwe Mutale Motey
Nicholas Michael Nahas
Jillian Beth Strugnell

The following member has changed to the Practising Lawyer category:

Andrée Kristine Godbout

The following member has changed to Non-Practising status:

Michel Patrick O'Hara

The Society welcomes a new articled clerk:

Graeme Edward Bailey

Movember: Nova Scotia lawyers and judges raise more than \$90,000 for prostate cancer research

Nova Scotia's legal community raised more than \$90,000 for prostate cancer research, while growing moustaches throughout the month of 'Movember'.

Thirty-three of the 68 male members of the Nova Scotia Judiciary participated as a team, raising almost \$18,500 from within their own team, their colleagues on the Bench, and from friends and family. Fundraising efforts by lawyers netted more than \$71,500 toward the overall total.

In his remarks at the Movember wrap-up, held November 30 at the Nova Scotia Court of Appeal, the Hon. Justice Jamie Saunders noted that many male judges serving on the Bench are in the prime age range when men are more likely to develop prostate cancer. He urged the group of men assembled to consider early detection and treatment.

"We hope that our involvement in this annual Movember event will encourage other men our age, in all walks of life, to take prostate cancer more seriously and get that medical checkup they have been putting off for too long," he said.

Across Canada, 246,071 participants raised close to \$37 million this year. Nova Scotia had a total of 7,470 participants, who raised an estimated \$755,000 altogether, including the legal community's \$90,000 contribution.

Visit these links for more coverage, photos and video of the 'Putting a new face on justice' efforts:

[Nova Scotia judges, lawyers raise over \\$90K for Movember](#)

[canadianlawyermag.com](#) | December 1, 2011

[Movember comes to a close](#) (video)

[cbc.ca](#) | December 1, 2011

Article on Frances Fish, Nova Scotia's first woman lawyer, published in Journal of New Brunswick Studies

The second issue of the *Journal of New Brunswick Studies/Revue d'études sur le Nouveau-Brunswick*, is now available online at this link: <http://w3.stu.ca/stu/sites/jnbs/index.html>

This edition includes the article, "'Everybody Called Her Frank': The Odyssey of an Early Woman Lawyer in New Brunswick". It was written by Barry Cahill, a professional information access and privacy administrator in Halifax, who is in the process of writing the official history of the Nova Scotia Barristers' Society.

The *Journal of New Brunswick Studies/Revue d'études sur le Nouveau-Brunswick* is a multi-disciplinary journal featuring peer-reviewed articles, in English and French, which are the product of original research. The journal welcomes articles that explore New Brunswick from any number of perspectives, whether historical, cultural, social, or policy-related. Its editorial team is comprised of scholars from a wide range of disciplines in the social sciences and humanities at St. Thomas University and the University of New Brunswick.

Society Offices – holiday hours

The Nova Scotia Barristers' Society would like to wish everyone a healthy and happy holiday season. The Society Offices will be closed all day on:

- Monday, December 26, 2011
- Tuesday, December 27, 2011
- Monday, January 2, 2012

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>

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. The process will continue through December and into January.

Reminder: 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**.

Members should have received an email from 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.

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 - December 1, 2011

This edition includes court dockets for December and some reminders from the 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://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 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](#).

FROM THE PROVINCE

Provincial notices

Note: Find direct links to provincial announcements on the What's New page at the start of *InForum*.

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](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.

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 **Cape Breton, Cumberland and Lunenburg County Land Registration Offices**.

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

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

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, 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/EGSPARreview/.

OTHER NOTICES

Notice from the Judicial Compensation and Benefits Commission

The Judicial Compensation and Benefits Commission was established in 1999 to inquire every four years into the adequacy of the salaries and other amounts payable to federally-appointed judges under the *Judges' Act* and into the adequacy of judges' benefits generally. The timetable included in the Act contemplates that the current Commission is to report to the Minister of Justice by June 1st, 2012.

I would be grateful if you could distribute the attached bilingual [Public Notice](#) to the Members of your Law Society as you see fit. Your assistance in this matter is greatly appreciated.

La Commission d'examen de la rémunération des juges a été mise sur pied en 1999 afin de revoir aux quatre ans les salaires et autres montants payables aux juges de nomination fédérale en vertu de la Loi sur les juges. L'horaire incluse dans la Loi contemple que la Commission actuelle présente son rapport au Ministre de la Justice par le 1er juin 2012.

Je vous serais reconnaissante de distribuer [l'avis public](#) bilingue ci-joint aux membres de votre Barreau comme bon vous le jugez. Votre collaboration est grandement appréciée.

Suzanne Labbé
Executive Director /Directrice générale
Judicial Compensation and Benefits Commission/
Commission d'examen de la rémunération des juges
Tel: (613) 995 5300 | Fax: (613) 995 5312

AWARDS & APPOINTMENTS

Excellence in Equity and Diversity Award: Call for Nominations from the CBA-NS

The Equity Committee of the Canadian Bar Association–Nova Scotia Branch established the Excellence in Equity and Diversity Award to recognize a legal workplace striving to advance equity and diversity in the legal profession and/or the general community. The importance of equity and diversity in the legal community has been much discussed in recent years. The Equity Committee wants to highlight legal workplaces that put thoughts into action by developing initiatives that champion equity and diversity.

For information about eligibility, selection criteria, nomination process and nomination form go to:

http://www.cba.org/ns/PDF/Equity_Diversity_Nomination_Form.pdf

The inaugural Excellence in Equity and Diversity Award will be presented at the President's Reception, **January 26, 2012**, 5:00 p.m. - 8:00 p.m., Marriot Harbourfront Hotel, Acadia Rooms A/B.

BOYNECLARKE LLP welcomes Amanda M. Carew

(December 5, 2011 – Halifax, Nova Scotia) BOYNECLARKE LLP, one of Atlantic Canada's largest law firms, is pleased to announce that Amanda M. Carew has joined us in the practice of law with a focus on Residential Real Estate Law, as well as Estate Planning.

Amanda, a Newfoundland native, is a frequent presenter at first-time home buying seminars. With respect to Wills, Estates, & Trusts, she has given numerous lectures for federal and provincial government employees and military members on estate planning.

Amanda has appeared before the Nova Scotia Police Review Board, the Small Claims Court and the Supreme Court of Nova Scotia, including the Family Division. We invite you to visit our website for more information on Amanda as well as our Residential Real Estate and Estate Planning Teams. www.boyneclarke.ca

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

VOLUNTEER & PRO BONO OPPORTUNITIES

Artists' Legal Information Services (ALIS)

Artists' Legal Information Society (ALIS) is a non-profit legal support volunteer organization based in Halifax.

Our mission is to make a stronger, more vibrant arts community in Nova Scotia by helping to resolve legal issues for artists living here. 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 info@nsalis.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](http://lians.ca/rpm/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

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

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.

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

OUTSIDE CONFERENCES & SEMINARS

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

Open House – Immigrant Settlement and Integration Services (ISIS)

Wednesday, December 7
3:00 pm to 5:30 pm

6960 Mumford Road, suite 2120
Mumford Professional Centre, Second Floor

Looking forward to sharing some holiday cheer.

RSVP to info@isisns.ca

Upcoming events from CBA-NS

Support for the Supporters: Family Law for Legal Assistants Conference

Friday, December 9

Halifax Marriott Harbourfront– [Register online](#)

Annual Professional Development Conference

January 27, 2011, Halifax NS

Our Annual Professional Development Conference offers the very highest standard in professional development at a preferred price for our members and our 2012 Conference is no exception, continuing the tradition of providing practical and informative sessions. This year's event will also feature presentation of our *2011 Distinguished Service, Community Service* and *Zoe Odei Young Lawyers Awards*, and on-site displays from our valued sponsors. The members of the Organizing Committee have worked hard to provide you with an excellent program and we extend many thanks to them.

This year, Nova Scotia Premier Darrell Dexter will join us as our special lunch speaker! We look forward to you joining us and your colleagues on January 27th to help us celebrate the very best in professional development programming.

[Register online](#)

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, January 27

Rethinking Health Care Federalism: Could the European Model Work in Canada?

Katherine Fierlbeck, Department of Political Science, Dalhousie University

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.

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>

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.

:: 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.

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
wasutherland@hfxmail.com (Member Nova Scotia and Florida Bars)

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 ::

CanLII browser plug-ins speed legal search

CanLII has produced two browser plugins allowing searchers to use CanLII without first visiting the CanLII website.

- Search CanLII from the browser search bar with the Search Engine Plugin
- Perform a search on CanLII by highlighting terms on any web page with the Search Accelerator Plugin

If you have already installed a browser search bar, such as Google or Bing, then installing the CanLII Search Engine plugin allows you to type your search words in the existing browser search bar and select CanLII as your search engine.

The Search Accelerator Plugin allows you to highlight terms on a web page, right click to select the CanLII Search Accelerator, and conduct a phrase search across all CanLII databases. A brief video demonstrating the use of this tool is available on the [CanLII blog](#).

Visit the [CanLII tools page](#) for installation instructions.

:: NEW DECISIONS ::

Library & Information Services - Keeping you informed

ADMINISTRATIVE LAW – Judicial review – Assistance Appeal Board Nova Scotia (Department of Community Services) v. McIntyre, Syd. No. 348131, Bourgeois, J., October 31, 2011. [2011 NSSC 401](#); **S638/22**

BARRISTERS AND SOLICITORS – Procedure – disclosure of expert's correspondence Nova Scotia Barristers' Society v. Jacquard, November 22, 2011. [2011 NSBS 3](#); **HP2/7**

CRIMINAL LAW – Appeals – ineffective representation of counsel R. v. Gogan, C.A.C. No. 346923, Saunders, J.A., November 25, 2011. [2011 NSCA 105](#); **S636/15**

CRIMINAL LAW – Assault of minor – conditional discharge R. v. Jones, No. 2291404; 2294277; 2294279; 2294282, Derrick, J.P.C., November 29, 2011. [2011 NSPC 92](#); **M25**

CRIMINAL LAW – Extortion and forcible confinement – appeal of conviction and sentence R. v. Shea et al., C.A.C. No. 324385; 324542; 328759, Farrar, J.A., December 2, 2011. [2011 NSCA 107](#); **S636/17**

CRIMINAL LAW – Motor vehicle offences – driving past stopped school bus R. v. MacKinnon, S. No. 4445096, Atwood, J.P.C., November 18, 2011. [2011 NSPC 87](#); **M25**

CRIMINAL LAW – Procedure – Crown disclosure R. v. Cater et al., No. 1997518 – 1997550; 2035773 – 2035784, Derrick, J.P.C., November 17, 2011. [2011 NSPC 86](#); **M25**

CRIMINAL LAW – Procedure – Garofoli application R. v. Cater, No. 19975118 – 1997550; 2035773 – 2035784, Derrick, J.P.C., November 22, 2011. [2011 NSPC 89](#); **M25**

CRIMINAL LAW – Release pending appeal – application dismissed, public interest R. v. Dugas, C.A.C. No. 362840, Oland, J.A., December 2, 2011. [2011 NSCA 109](#); **S636/19**

CRIMINAL LAW – Sentencing – robbery, availability of conditional sentence with personal injury offence R. v.

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

Griffin, C.A.C. No. 334772, Bryson, J.A., November 22, 2011. [2011 NSCA 103](#); **S636/13**

CRIMINAL LAW – Stay of proceedings – application for abuse of process and arbitrary detention dismissed *R. v. Cater*, No. 1997518 – 1997550; 2035773 – 2035784, Derrick, J.P.C., November 23, 2011. [2011 NSPC 90](#); **M25**

DAMAGES – Duty of care – of casino for gambling addiction, appeal dismissed *Burrell v. Metropolitan Entertainment Group et al.*, C.A. No. 339865, Fichaud, J.A., December 2, 2011. [2011 NSCA 108](#); **S636/18**

DAMAGES – Limitation period – Montreal Convention *Lemieux v. Halifax International Airport et al.*, Hfx. No. 347469, Hood, J., November 22, 2011; September 14, 2011 (orally). [2011 NSSC 396](#); **S638/21**

EMPLOYMENT LAW – Wrongful dismissal – constructive dismissal *Gillis v. Sobeys Group Inc.*, Tru. No. 311446, Coady, J., November 30, 2011. [2011 NSSC 443](#); **S638/31**

FAMILY LAW – Access and spousal support – variation, application to vary corollary relief judgment dismissed, no change in circumstances *Kenny v. Kenny*, No. 1201-063135, Beaton, J., November 18, 2011. [2011 NSSC 428](#); **S638/25**

FAMILY LAW – Child in need of protective services – appeal of permanent order dismissed *I. (L.) et al. v. Mi'kmaw Family and Children's Services of Nova Scotia et al.*, C.A. No. 351902, Oland, J.A., November 23, 2011. [2011 NSCA 104](#); **S636/14**

FAMILY LAW – Child in need of protective services – application by granparent to terminate permanent order granted *M. (C.) v. Nova Scotia (Minister of Community Services)*, S.F.S.N.C.F.S.A. No. 63742, Wilson, J.P.C., November 18, 2011. [2011 NSSC 431](#); **S638/16**

FAMILY LAW – Costs – lack of disclosure, failure to respond to an offer to settle and overall conduct *Darlington v. Moore*, S.F.H.M.C.A. No. 68167, Lynch, J., November 17, 2011. [2011 NSSC 425](#); **S638/20**

FAMILY LAW – Custody and access – mobility and retroactive maintenance *Smith v. Wilkens*, S.F.H.M.C.A. No. 057870, Jollimore, J., November 23, 2011. [2011 NSSC 432](#); **S638/23**

FAMILY LAW – Matrimonial property – matrimonial assets, division of debts and pension *Tomlik v. Tomlik*, No. 1201-064103, O'Neil, A.C.J., November 9, 2011. [2011 NSSC 415](#); **S638/18**

FAMILY LAW – Spousal and child support – imputed income, business assets *Jon v. Jon*, No. 1201-064066, O'Neil, A.C.J., November 10, 2011. [2011 NSSC 419](#); **S638/19**

MAINTENANCE – Child support – variation, child of the marriage *Klavano v. Howell*, No. 1201-59903, Lynch, J., November 22, 2011. [2011 NSSC 435](#); **S638/24**

MAINTENANCE – Interim spousal and child support – retroactive support deferred *Brake v. Brake*, No. 1201-065174, Legere-Sers, J., November 25, 2011. [2011 NSSC 440](#); **S638/30**

MAINTENANCE – Spousal and support – matrimonial debt *Fraser v. Fraser*, No. 1206-005828, O'Neil, A.C.J., November 9, 2011. [2011 NSSC 411](#); **S638/17**

MORTGAGES – Money Lenders Act – interpretation *Ferguson v. Amiro*, Hfx. No. 342741, Muise, J., November 17, 2011. [2011 NSSC 416](#); **S638/28**

PRACTICE – Appeals – request to waive requirement for a transcript *Ocean v. Economical Mutual Insurance Co. et al.*, C.A. No. 351488, Oland, J.A., November 25, 2011. [2011 NSCA 106](#); **S636/16**

PRACTICE – Costs – party and party costs *MacDonald v. Holland's Carriers Ltd.*, Hfx. No. 263296, Pickup, J., November 25, 2011. [2011 NSSC 436](#); **S638/26**

PRACTICE – Costs – set according to previous Civil Procedure Rules *Cherubini Metal Works Ltd. v. Nova Scotia (Attorney General)*, Hfx. No. 184701, Duncan, J., November 21, 2011. [2011 NSSC 429](#); **S638/29**

REAL PROPERTY – Quieting of title – request for certificate of title to water lot adjoining the property in original application, costs *Creighton v. Nova Scotia (Attorney General)*, Bwt. No. 220834, Pickup, J., November 25, 2011. [2011 NSSC 437](#); **S638/27**

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.

December 2, 2011

[Nor-Man Regional Health Authority Inc. v. Manitoba Association of Health Care Professionals](#)

Neutral citation: [2011 SCC 59](#) (CanLII)

File No.: 33795.

2011: October 20; 2011: December 2

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

ON APPEAL FROM THE COURT OF APPEAL FOR MANITOBA

Labour Relations — Grievances — Arbitral award — Standard of review — Arbitrator imposing estoppel on union's claim for redress under collective agreement — Whether arbitral award applying common law or equitable remedy is reviewable on standard of reasonableness or correctness.

P contended that she was entitled, upon 20 years of employment, to a bonus week of vacation pursuant to the terms of the collective agreement between Nor-Man and P's Union. Her request was denied by Nor-Man. The arbitrator decided that the employer's practice of excluding casual service in calculating vacation benefits breached the terms of the collective agreement. However, the Union was barred by its long-standing acquiescence from grieving the employer's application of the disputed provisions of the collective agreement. The arbitrator held that the Union was estopped from asserting its strict rights under the disputed provisions of the collective agreement until the expiry of the agreement. The Union's application for judicial review was dismissed on the basis that the arbitrator's award was reasonable. The Court of Appeal held that correctness was the governing standard of review and it set aside the estoppel imposed by the arbitrator.

Held: The appeal should be allowed.

November 30, 2011

[R. v. Bouchard-Lebrun](#)

Neutral citation: [2011 SCC 58](#) (CanLII)

File No.: 33687.

2011: May 16; 2011: November 30.

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

ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC

Criminal law — Defences — Mental disorder — Accused assaulting two individuals while in state of toxic psychosis resulting from voluntary consumption of drugs — Whether toxic psychosis whose symptoms are caused by state of self-induced intoxication can be “mental disorder” — Whether s. 33.1 Cr. C. limits scope of defence of not criminally responsible on account of mental disorder — Criminal Code, R.S.C. 1985, c. C-46, ss. 16, 33.1.

B brutally assaulted two individuals while he was in a psychotic condition caused by drugs he had taken a few hours earlier. As a result of these incidents, B was charged with aggravated assault. The trial judge convicted B on the basis that all the elements of s. 33.1 Cr. C., which provides that self-induced intoxication cannot be a defence to an offence against the bodily integrity of another person, had been proven beyond a reasonable doubt. B then tried unsuccessfully on appeal to obtain a verdict of not criminally responsible on account of mental disorder under s. 16 Cr. C. The Court of Appeal held that s. 33.1 Cr. C. applied in this case.

Held: The appeal should be dismissed.

November 17, 2011

[Public Service Alliance of Canada v. Canada Post Corporation](#)

Neutral citation: [2011 SCC 57](#) (CanLII)

File No.: 33668

2010: February 22; 2011: November 17.

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

ON APPEAL FROM THE FEDERAL COURT OF APPEAL

JUDGMENT

The appeals from the judgments of the Federal Court of Appeal, Numbers A-129-08, A-130-08 and A-139-08, 2010 FCA 56, dated February 22, 2010, were heard this day and the following judgment was rendered orally:

The Chief Justice — I turn first to the appeals on the merits of the case (33668 and 33670). We all agree with the dissenting reasons of Evans J.A., which comprehensively address the issues on these appeals. We would allow these appeals, with costs to Public Service Alliance of Canada in this Court and below.

This leaves Public Service Alliance of Canada's appeal from the Canadian Human Rights Tribunal's reduction of damages (33669). We are all of the view that this appeal should be dismissed, again for the dissenting reasons of Evans J.A., with costs to Canada Post Corporation in this Court and below.

:: 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

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

Bill No. 126
Police Act (amended)
An Act to Amend Chapter 31 of the Acts of 2004, the Police Act
Hon. Ross Landry, Minister of Justice
First Reading: December 2, 2011

Private Member Bills

Bill No. 107
Multi-Year Funding Act
An Act to Develop a Multi-Year Funding Framework
Kelly Regan, Bedford-Birch Cove
First Reading: November 21, 2011

Bill No. 113
Income Tax Act (amended)
An Act to Amend Chapter 217 of the Revised Statutes, 1989, the Income Tax Act
Harold (Junior) Theriault, Digby-Annapolis
First Reading: November 24, 2011

Bill No. 117
Sales Tax Act (amended)
An Act to Amend Chapter 31 of the Acts of 1996, the Sales Tax Act
Harold (Junior) Theriault, Digby-Annapolis
First Reading: November 28, 2011

Bill No. 119
Offshore Safety Standards Act
An Act to Require the Government of Nova Scotia to Enter into Negotiations with the Government of Canada to Create a Federal Regulating Body on Offshore Petroleum Safety Standards
Andrew Younger, Dartmouth East
First Reading: November 29, 2011

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

Government Bills

Bill No. 93
Education Act (amended)
An Act to Amend Chapter 1 of the Acts of 1995-96, the Education Act, Respecting Teachers
Hon. Ramona Jennex, Minister of Education
First Reading: November 14, 2011
Second Reading: November 17, 2011

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
Second Reading: November 25, 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
Second Reading: November 25, 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
Second Reading: November 25, 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
Second Reading: November 25, 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
Second Reading: November 25, 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
Second Reading: November 25, 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
Second Reading: November 25, 2011

Bill No. 106
Libraries Act (amended)
An Act to Amend Chapter 254 of the Revised Statutes, 1989, the Libraries Act
Hon. David Wilson, Minister of Communities, Culture and Heritage
First Reading: November 21, 2011
Second Reading: November 25, 2011

Bill No. 108
Perpetuities Act
An Act to Abolish the Rules of Law against Perpetuities and to Amend Chapter 385 of the Revised Statutes, 1989, the Real Property Act, and Chapter 486 of the Revised Statutes, 1989, the Variation of Trusts Act

Hon. Ross Landry, Minister of Justice
First Reading: November 21, 2011
Second Reading: November 25, 2011

Bill No. 109
Safe Body Art Act
An Act to Regulate Body Art Facilities
Hon. Maureen MacDonald, Minister of Health and Wellness
First Reading: November 23, 2011
Second Reading: November 28, 2011

Bill No. 110
Residential Tenancies Act (amended)
An Act to Amend Chapter 401 of the Revised Statutes, 1989, the Residential Tenancies Act
Hon. John MacDonell, Minister of Service Nova Scotia and Municipal Relations
First Reading: November 23, 2011
Second Reading: November 25, 2011

Bill No. 111
Equity Tax Credit Act (amended)
An Act to Amend Chapter 3 of the Acts of 1993, the Equity Tax Credit Act
Hon. Graham Steele, Minister of Finance
First Reading: November 24, 2011
Second Reading: November 25, 2011

Bill No. 112
Community Spirit Act
An Act to Promote Community Spirit
Hon. David Wilson, Minister of Communities, Culture and Heritage
First Reading: November 24, 2011
Second Reading: November 25, 2011

Bill No. 114
Consumer Protection Act (amended)
An Act to Amend Chapter 92 of the Revised Statutes, 1989, the Consumer Protection Act
Hon. John MacDonell, Minister of Service Nova Scotia and Municipal Relations
First Reading: November 25, 2011
Second Reading: November 28, 2011

Bill No. 115
Labour Standards Code (amended)
An Act to Amend Chapter 246 of the Revised Statutes, 1989, the Labour Standards Code, Respecting Citizenship Ceremony Leave
Hon. Marilyn More, Minister of Labour and Advanced Education
First Reading: November 28, 2011
Second Reading: November 29, 2011

Bill No. 116
Elections Act (amended)
An Act to Amend Chapter 5 of the Acts of 2011, the Elections Act
Hon. Ross Landry, Minister of Justice and Attorney General
First Reading: November 28, 2011
Second Reading: November 29, 2011

Bill No. 118

Motor Vehicle Act (amended)

An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act

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

First Reading: November 29, 2011

Second Reading: December 1, 2011

Bill No. 120

Liquor Control Act (amended)

An Act to Amend Chapter 260 of the Revised Statutes, 1989, the Liquor Control Act

Hon. Graham Steele, Minister responsible for the Liquor Control Act

First Reading: November 29, 2011

Second Reading: December 1, 2011

Bill No. 121

Education Act (amended)

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

Hon. Ramona Jennex, Minister of Education

First Reading: November 30, 2011

Second Reading: December 1, 2011

Bill No. 122

Environment Act (amended)

An Act to Amend Chapter 1 of the Acts of 1994-95, the Environment Act

Hon. Sterling Belliveau, Minister of Environment

First Reading: November 30, 2011

Second Reading: December 1, 2011

Bill No. 123

Corrections Act (amended)

An Act to Amend Chapter 103 of the Revised Statutes, 1989, the Corrections Act

Hon. Ross Landry, Minister of Justice

First Reading: December 1, 2011

Second Reading: December 2, 2011

Bill No. 124

Arts Nova Scotia Act

An Act to Establish Arts Nova Scotia - Arts Nouvelle-Écosse

Hon. David Wilson, Minister of Communities, Culture and Heritage

First Reading: December 1, 2011

Second Reading: December 2, 2011

Bill No. 125

Creative Nova Scotia Leadership Council Act

An Act to Establish the Creative Nova Scotia Leadership Council - Conseil de leadership pour la création en Nouvelle-Écosse

Hon. David Wilson, Minister of Communities, Culture and Heritage

First Reading: December 1, 2011

Second Reading: December 2, 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

Second Reading: November 28, 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

Second Reading: November 28, 2011

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

Government Bills

Bill No. 65

Nova Scotia Jobs Fund Act*

An Act Relating to the Nova Scotia Jobs Fund*

Hon. Percy Paris, Economic and Rural Development and Tourism

First Reading: November 1, 2011

Second Reading: November 3, 2011

Third Reading: November 28, 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

Third Reading: November 28, 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

Third Reading: November 28, 2011

Bill No. 78

Civil Constables Act (repealed)

An Act to Repeal Chapter 3 of the Acts of 1974, the Civil Constables Act

Hon. Ross Landry, Minister of Justice

First Reading: November 7, 2011

Second Reading: November 8, 2011

Third Reading: November 28, 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
Third Reading: November 28, 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
Third Reading: November 28, 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
Third Reading: November 28, 2011

View the status and full text of bills at
<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*:

Assessment Act, SNS 2008, c 48.
NS Gaz Pt 2, [12/02/11](#)
NS Reg 302/2011

Financial Measures (2011) Act, SNS 2011, c 8, s 11 to 16.
NS Gaz Pt 2, [12/02/11](#)
NS Reg 303/2011

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 : :

Formal Hearings – Preliminary Application

Raymond B. Jacquard – Disclosure Ordered – November 22, 2011

The lawyer applied to the Hearing Panel for an Order requiring the Society to disclose the letter that accompanied the Society's expert witness report. He argued entitlement to disclosure under the principles outlined in *R v Stinchombe*, [1991] 3 SCR 326, as a result of a duty of fairness and in order to make full answer and defence. The Society resisted disclosure on the basis that the contents of the correspondence were protected by litigation privilege, *Stinchombe* disclosure does not apply to professional regulatory proceedings in Nova Scotia and, even if it does, the required disclosure had already been provided.

On November 22, 2011, the Panel ordered the disclosure of the letter, finding that the disclosure requirements in a professional regulatory manner are very similar to those set out in *Stinchombe* and the Society must disclose all information that is not clearly irrelevant to the matter. The argument that the letter was protected by work-product privilege was rejected on the basis that the author was to be called as an expert witness and, as such, the member should be given the opportunity to review any and all correspondence with respect to the expert and his testimony.

The Panel noted the finding of the court in *Flynn v MacFarlane*, 2002 NSSC 272 that information relied upon by an expert in the preparation of a report, including correspondence between the expert and the party's lawyer, is not protected by solicitor/client privilege and must be disclosed. The Panel also relied upon an excerpt from the text *The Regulation of Professions in Canada*, asserting that the policy reasons set out in *Stinchombe* for full disclosure of all inculpatory and exculpatory material should equally apply to professional disciplinary hearings. The correspondence had been reviewed by the Panel and its release would not, in any way, jeopardize the litigation privilege claimed by the Society.

Nova Scotia Barristers' Society v Jacquard, [2011 NSBS 3](#).

: : CURRENT ISSUES IN LEGAL ETHICS : :

This is the sixth 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.

Marketing legal services: There's no accounting for taste (anymore)

At one time, the legal profession generally considered advertising to be in poor taste. Times, and the marketplace, have changed and the advertising of legal services in Nova Scotia continues to grow. With some frequency, we see lawyers' advertisements appearing in newspapers, as internet banners, on television, billboards and on sites such as Kijiji. Thankfully, lawyers in this province have not, to the best of my knowledge, resorted to the "Jim 'the Hammer' Shapiro" style of marketing.

The rules regarding advertising are currently found in Regulation 7.6:

7.6 Advertising Permitted

For the purposes of this regulation, "marketing of legal services" includes any means by which a practising lawyer or law firm offers professional services or advertises legal fees to prospective clients including, but not limited to, any print and electronic publications, billboards, websites, and letterhead.

7.6.1 Subject to the Act, these Regulations and Legal Ethics Handbook, a practising lawyer or law firm may advertise.

Type of Advertising Permitted

7.6.2 The marketing of legal services by a practicing lawyer or law firm shall be:

- (a) true;
- (b) accurate;
- (c) verifiable;
- (d) in the best interest of the public and consistent with a high standard of professionalism, and
- (e) shall not be misleading.

Restriction

7.6.3 The marketing of legal services by a practicing lawyer or law firm shall not use the words "specialist", "specializing", "expert", "expertise" or synonyms thereof.

Nova Scotia is the lone Canadian jurisdiction to regulate advertising through its legislation rather than through its rules of ethics. After much consideration, it was determined that in an effort to maintain national consistency, the rules regarding advertising and marketing of legal services will be contained only in the new *Code of Professional Conduct*. The regulations in 7.6 will be repealed on the coming into force of the new *Code*. The new rules that you should be aware of are as follows:

Making Legal Services Available

3.01 (1) A lawyer must make legal services available to the public efficiently and conveniently and, subject to rule 3.01 (2), may offer legal services to a prospective client by any means.

Restrictions

3.01 (2) In offering legal services, a lawyer must not use means that:

- (a) are false or misleading;
- (b) amount to coercion, duress, or harassment;
- (c) take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet recovered; or
- (d) otherwise bring the profession or the administration of justice into disrepute.

Marketing of Professional Services

3.02 (1) A lawyer may market professional services, provided that the marketing is:

- (a) demonstrably true, accurate and verifiable;
- (b) neither misleading, confusing or deceptive, nor likely to mislead, confuse or deceive;
- (c) in the best interests of the public and consistent with a high standard of professionalism.

Advertising of Fees

3.02 (2) A lawyer may advertise fees charged for their services provided that:

- (a) the advertising is reasonably precise as to the services offered for each fee quoted;
- (b) the advertising states whether other amounts, such as disbursements and taxes, will be charged in addition to the fee; and
- (c) the lawyer strictly adheres to the advertised fee in every applicable case.

3.03 ADVERTISING NATURE OF PRACTICE

3.03 (1) The marketing of legal services by a practising lawyer or law firm shall not use the words “specialist”, “specializing”, “expert”, “expertise” or synonyms thereof.

So the highly subjective ‘good taste’ is no longer a criterion for marketing legal services, and has been replaced with clearer criteria upon which most can agree – true, accurate and verifiable.

The Commentaries and footnotes to these rules provide a great deal of useful information for the interpretation of the rules and guidance for applying them to your practice. When in doubt, give us a call.

SPECIAL SECTION ON DECEMBER 6: 22 YEARS SINCE THE MASSACRE AT ÉCOLE POLYTECHNIQUE

Reflecting on December 6: A message from the Gender Equity Committee

December 6 is the National Day of Remembrance and Action on Violence Against Women. This year marks 22 years since the École Polytechnique Massacre. This tragic event must not be forgotten.

On December 6, 1989, fourteen women were murdered by a man who proclaimed that he was "fighting feminism." We remember this day to honour those 14 women who were forced to sacrifice their lives, and to remember that much still needs to be done to achieve gender equality.

Women everywhere continue to live in fear: fear of assault, fear of violence, fear of being victimized. Headlines in Nova Scotia alone during the last few weeks, detailing daily accounts of murder and violence against women, have brought home the reality that women are still at risk of being victimized by hate and this instills a fear that is palpable. Although this fear should not be denied or ignored, we must continue to stand together against gender-based violence and in memory of the sacrifices made by women everywhere, including those who were murdered at the École Polytechnique Massacre.

On behalf of the Gender Equity Committee, we encourage you to recognize the significance of the sacrifices of the 14 women at the École Polytechnique, whose names are listed below. These women, and all women who have sacrificed in the name of equality, must be remembered and honoured.

For the legal profession, December 6 has particular relevance. These 14 women were murdered, in part, because they were women working to make a place for themselves in a male-dominated profession. As lawyers, we are all privileged to work in a profession founded upon equality and justice. That privilege obligates all of us to ensure that both our profession and the justice system are open and accessible to all people, regardless of gender, race, sexual orientation or physical ability. We must continue to work towards eradication of the fear, and replace it with empowerment and equality.

Please take a moment on December 6 to reflect on the women of influence in your lives and in this profession, the sacrifices they have made, and the impact they have had on your lives and your practice.

If you have any thoughts or comments about the continuing impact of December 6, 1989, or how this day of remembrance resonates with the issues of violence against women today, we would really appreciate the opportunity to hear your thoughts and to publish them in the next issue of *InForum*. Please write to us at equity@nsbs.org.

On behalf of the Gender Equity Committee,
Heidi Schedler and Candee McCarthy
Co-Chairs

Victims of the massacre at École Polytechnique:

Geneviève Bergeron (born 1968), civil engineering student
Hélène Colgan (born 1966), mechanical engineering student
Nathalie Croteau (born 1966), mechanical engineering student
Barbara Daigneault (born 1967), mechanical engineering student
Anne-Marie Edward (born 1968), chemical engineering student
Maud Haviernick (born 1960), materials engineering student
Maryse Laganière (born 1964), budget clerk in the École Polytechnique's finance department

Maryse Leclair (born 1966), materials engineering student
Anne-Marie Lemay (born 1967), mechanical engineering student
Sonia Pelletier (born 1961), mechanical engineering student
Michèle Richard (born 1968), materials engineering student
Annie St-Arneault (born 1966), mechanical engineering student
Annie Turcotte (born 1969), materials engineering student
Barbara Klucznik-Widajewicz (born 1958), nursing student

For further information:

[National Day of Remembrance and Action on Violence Against Women](#) | Status of Women Canada

The Gender Equity Committee is working to achieve gender equality in our profession. One of the most prominent issues for many firms and organizations in Nova Scotia is the retention of women in the practice of law. In the past year, we have hosted a number of events and programs aimed at both bringing women lawyers together and raising awareness amongst all lawyers of the gender issues in our profession.

National Day of Remembrance and Action on Violence against Women – December 6

by Elaine Cumming

It has been 22 years since Marc Lepine unleashed his hatred against women at l'École Polytechnique de Montréal. I think there are many of us who remember watching the horror of that day unfold on the evening news and, for some of us, a seed of fear was planted. Although I have always considered myself to be a feminist, the misogynistic violence of that day changed me and my perspective on violence against women.

So often this violence is confined to the private sphere – the home, the family. This was different. These were women who had the intelligence, determination and courage to enter a field of study once reserved for men. These were young women who may not have even been aware of the trail that they were blazing. They certainly would never have anticipated the wrath they had attracted.

I remember the day it happened and the impact it had on me, but its long-term effects were not really clear to me until I started law school. The importance of being a woman in a professional program once the exclusive domain for men of privilege was not lost on me. I was proud to learn that more than half the graduating class would be women. However, that seed of fear that had been planted years earlier had grown.

When December 6 rolled around, the Dalhousie Association of Women in the Law, of which I was a member, planned a vigil and other events. We had the support of many students, although most from a rather disinterested perspective. We had a few students who were overtly hostile about our efforts to remember this important event. The fact that many of the students who were openly derisive were women was tremendously disappointing.

Young women need to recognize that many of the things we make our own decisions about – education, employment, marriage and parenthood – are available to us only because of the women who came before us. We also need to recognize that there are some members of Canadian society who would like to take those choices away from us. As lawyers, we have the knowledge and the power to make every effort to ensure that the rights of women are protected, and we should not be afraid in doing so.

We mark December 6 each year in recognition and support of the women killed in Montréal and for all women who continue to be affected by violence. This should not be viewed as a cause reserved for a special interest group; rather, violence against women impacts all of us. Our mothers, sisters, daughters, aunts ...

Don't be silent. Talk about it. Remember.

EVENTS TO MARK DECEMBER 6

December 6th Commemoration and Collaboration

December 6 | 10:00 - 11:00 am

Red Chamber, Province House, 1726 Hollis St., Halifax

Premier Darrell Dexter and Marilyn More, Minister responsible for the Advisory Council on the Status of Women, will participate in a ceremony to recognize the National Day of Remembrance and Action on Violence Against Women. There will be an opening prayer by Mi'kmaw elder Wilma Simon and presentations from the Kitpu Drummers, and a closing prayer by Rev. Rhonda Britton.

RSVP to Amanda Colley at 424-8664 and colleya@gov.ns.ca

December 6th Commemoration Reception

December 6 | 11:30 am - 2:00 pm

Art Gallery of Nova Scotia

RSVP to Amanda Colley at 424-8664 and colleya@gov.ns.ca

not so silent vigil

December 6 | 5:45 - 7:30 pm

Halifax North Memorial Public Library and The Company House, Gottingen Street

This gender-inclusive event is organized by the Halifax Women's Community with the financial and organizational support of Women's Community Space, Transition House Association of Nova Scotia, YWCA Halifax, Nova Scotia Advisory Council on the Status of Women, Venus Envy, Dalhousie Women's Centre, SMU Women's Centre, the Nova Scotia Public Interest Research Group and others.

Gather at 5:45 pm in front of the Halifax North Memorial Public Library, 2285 Gottingen Street. The event will move to the warmth of the Company House at 2202 Gottingen Street for speeches, music, spoken word and food. In the case of rain or snow, go directly to the Company House. Children welcome.

:: LIANS TIPS ::

RISK AND PRACTICE MANAGEMENT TIP: Ineffective client screening

"I knew I shouldn't have taken on that client" are words we sometimes hear after a claim has been filed against a lawyer. The "problem clients" are ones that can often be screened out with effective standardized intake procedures. Asking the following questions is a good start:

1. Do you have the time to handle the case?
2. If it's a contingency-based file, do you have adequate funds to carry the file for a time? Can the client pay for disbursements?
3. Otherwise, can the client afford your services?
4. Is the client a family member or friend? What impact will the work have on your relationship? Do they have unreasonable expectations of you?
5. Has the client brought you the matter at the eleventh hour?
6. Has the client had several different lawyers?
7. Does the client appear irrational or confrontational?

Answering these questions can confirm what your gut instinct is already telling you – this is an undesirable client. Learn to say "no thank you" to these clients. You can find more information on effective intake procedures on the LIANS website at: http://www.lians.ca/rpm/risk_management/intake_procedures/

*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 name in collaborative law agreement fraud

We have a different type of email to warn about this issue, a phishing scam that poses as a trend of the season: holiday-themed eCards. The subject line is something like "A friend has sent you a Christmas eCard", and the email is worded like this:

*A friend just sent you an ecard from [123Greetings.com](http://www.123greetings.com)
You can view it by clicking here: <<http://www.123greetings.com/send/view/11625111501131254636>>*

Using our new tracking feature, you can now view all the ecards received by you in the last 30 days.

*Click on the link below or copy & paste the link into your browser's address bar.
<<http://www.123greetings.com/connect/track/msg-15>>*

Or if you prefer, you can go to <<http://www.123greetings.com/>> and type your ecard number (11625111501131254636) in the "Search Box" at the top right of the page.

Your ecard is going to be with us for the next 30 days.

We respect your privacy. You will not be receiving any promotional emails from us because of this ecard. To view our privacy policy, click on the link below: <http://info.123greetings.com/company/privacy_policy.html>

This email was sent by 123Greetings.com, Inc., 1674 Broadway, New York, NY 10019.

In this instance, each of the links to the "eCard" will actually bring you to the website of a business technologies/media marketing company attempting to gain some business – if you hover your cursor over them, you can see that the

'123Greetings' links do not match. In many other instances, this type of email has circulated with viruses embedded in the links that upload to the victim's computer, destroying their system.

As with all unsolicited emails, be vigilant about confirming the sender's details before you engage with the contents of the email.

If you have any doubts on the legitimacy of emails you receive, or 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: Getting the most from medication

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

Homewood Human Solutions™ e-Learning provides self-paced, private, and personalized learning experiences designed to improve personal health and well-being and/or workplace effectiveness. Course access is limited to 90 days.

Remember: all resources and services on the Homewood Human Solutions™ site are available for members, their staff, their family members and eligible dependents:

- Taking Control of Stress
- Respect in the Workplace
- Stop Smoking: Get Your Life Back!
- Preparing for Your Retirement
- Resilience: Facing Life's Challenges with Courage and Conviction
- Taking Control of Your Money
- Embracing Workplace Change
- Responsible Optimism
- Resolving Conflict in Intimate Relationships
- Taking Control of Anger
- Taking Control of Your Career
- Taking Control of Your Mood
- Foundations of Effective Parenting
- Taking Control of Job Loss and Transition
- Taking Control of Alcohol Use

*For more information and support with e-Learning courses, along with resources and counselling to improve your health and wellness, 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.*