

INFORUM

The Nova Scotia Barristers' Society semi-monthly e-newsletter

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NSBS Continuing Professional Development

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From the Courts

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- **HOUSE OF ASSEMBLY:** [Retiring MLAs Legislation introduced](#) (Dec. 13)
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- **LABOUR/ADVANCED EDUCATION:** [Apprenticeship system review seeks public input](#) (Dec. 8)
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Awards & Appointments

- [Canadian Bar Association-Nova Scotia: Call for nominations](#)
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Volunteers & Pro Bono Opportunities

Events of Interest

- Upcoming events from CBA-NS:
 - [Annual Professional Development Conference](#) – January 27, 2012
- Dalhousie Health Law and Policy Seminar Series:
 - [Rethinking Health Care Federalism: Could the European Model Work in Canada?](#) January 27
- [Intensive Trial Advocacy Programme](#) - June 3-9, 2012

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:: NOTICES ::

SOCIETY NEWS

Halifax District Byelection for Council – nominations close January 5, 2012

Council has determined that a byelection will be held to fill the vacancy on Council following the elevation of the Hon. Justice Michael Wood to the Supreme Court. Linked to this notice is a nomination form to be submitted by candidates. **Nominations will close on January 5, 2012.**

[Nomination Form](#)

The byelection will be held from 8:00 am on January 16, 2012 to 4:30 pm on January 18, 2012.

Specific information regarding publication of the candidate bios will be provided to those individuals who are nominated or to others, who may direct their request to Marla Cranston, Communications Officer of the Nova Scotia Barristers' Society.

The successful candidate will be officially welcomed by Council at its next meeting on January 20, 2012.

New and improved Society website coming soon

The Nova Scotia Barristers' Society is preparing to unveil its new and improved website. The contemporary design includes a new homepage with images, reworked navigation that will make it easier to find information, and many pages of updated and new content.

Look for the redesigned website soon. The Society welcomes your feedback – if you have a moment over the holiday season or early in the New Year, please have a look and submit comments to communications@nsbs.org. Additional changes and improvements will be highlighted in future issues of *InForum*. If you require assistance locating information on the new site in the meantime, please call the Society at 422.1491.

Reminder: 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**.

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
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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. 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 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 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 page of the Society's website: <http://www.nsbs.org/regulation>.

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 19, 2011

This edition includes holiday hours, court dockets for December and January and several notices from the Supreme Court.

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>

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Portrait of retired Judge Anne E. Crawford unveiled in Bridgewater

The Hon. Anne E. Crawford, a retired Provincial Court judge, has been honoured with a portrait in the Bridgewater Justice Centre on High Street. On Friday, December 2, a small group of her former colleagues on the Bench and members of the courthouse staff gathered in the Provincial Court courtroom to mark her retirement and unveil her portrait.

Called to the Bar in 1980, Judge Crawford was appointed to the Bench in 1991 and sat as a Provincial Court Judge in Bridgewater for the next two decades until she fully retired in December of 2010. Read more on the [Courts of Nova Scotia](#) website, under the News heading.

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 more provincial announcements on the What's New page at the start of *InForum*.

Notice from the Nova Scotia Department of Justice: Updates to Federal Child Support Tables

Justice Canada has amended the Federal Child Support Guidelines to update the Federal Child Support Tables.

The *Child Maintenance Guidelines* regulations of the Nova Scotia *Maintenance and Custody Act* provide that the Federal Child Support Tables, as may be amended, are adopted for the purpose of the Nova Scotia Child Maintenance Guidelines. The changes come into force on Dec. 31, 2011.

An online look-up for the tables can be found at the [Justice Canada website](#).

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>

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

OTHER NOTICES

Law Reform Commission asks for comment on judgment enforcement

The Law Reform Commission of Nova Scotia has issued a Discussion Paper on the enforcement of civil judgments. The paper proposes the adoption of comprehensive judgment enforcement legislation, based on the Uniform Law Conference of Canada's *Uniform Civil Enforcement of Money Judgments Act*, with certain amendments. The proposals would modernize, clarify and improve the judgment enforcement system, within the parameters of familiar and established principles.

The *Uniform Act* includes extensive provisions for:

- pre-judgment preservation orders;
- binding of the judgment debtor's present and future property;
- seizure and disposition of a number of specific types of property;
- exemptions for certain of the debtor's property and income;
- examination of the debtor through various means;
- resolving priorities and the distribution of recovered amounts.

An annotated copy of the *Uniform Act* is included as an Appendix to the Discussion Paper.

Beyond the *Uniform Act*, the Discussion Paper also considers the possibility of adopting automatic remedies – e.g., suspension of provincial licences, etc. – but does not propose their adoption. The paper proposes the development of educational materials and support, particularly for self-represented judgment creditors. Finally, the paper examines the possibility of privatizing the Sheriff's responsibilities for judgment enforcement, in whole or in part.

The Commission's proposed reforms aim to create a more effective and accessible enforcement regime, maintaining focus on fairness and proportionality, within realistic resource limits.

The Commission seeks public comment from interested persons and organizations, on or before **January 31, 2012**. The discussion paper is available through the Commission's website at www.lawreform.ns.ca. Print copies are available on request by email to info@lawreform.ns.ca, or phone (902) 423-2633.

Canadian Bankers Association – Contact List for Matters Involving Mortgage Discharges

The following is the most recent contact list for matters involving mortgage discharges, as compiled by the Canadian Bankers Association (CBA).

[CBA Contact List for Matters Involving Mortgage Discharges - February 2011](#)

[ABC-Liste de personnes-ressources pour les dossiers de quittance hypothécaire - février 2011](#)

CanLII hyperlinking tool

CanLII.org has launched a new hyperlinking tool, available on the tools page: <http://www.canlii.ca/en/tools/>

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This tool automatically adds hyperlinks in your document to legislative and case law citations corresponding to materials posted on the CanLII website. This functionality is powered by Lexum's LexHub, the same technology that is used to add hyperlinks within CanLII's decisions. For more details, see CanLII's [December 16 announcement](#) or this [writeup](#) in Slaw.ca.

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 1, 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

Canadian Bar Association – Nova Scotia: Call for nominations

The Canadian Bar Association–Nova Scotia is seeking nominations for the following awards, all of which will be presented at the Annual Professional Development Conference luncheon or at the President's Reception:

- Excellence in Equity and Diversity Award (*New!*)
- Distinguished Service Award
- Community Service Award
- Zöe Odei Young Lawyers' Award

Excellence in Equity and Diversity – *The Equity Committee of the Canadian Bar Association - Nova Scotia Branch established this 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.

Distinguished Service Award – *Established in 1996, the CBA-Nova Scotia Distinguished Service Award is to honour, recognize and celebrate distinguished or exceptional service a member has made to the goals of the Canadian Bar Association following a review of the individual's contribution to the Nova Scotia Branch.*

Community Service Award – *Established in 2001, the CBA-Nova Scotia Community Service Award is to honour, recognize and celebrate the valuable contribution a member has made to various community and/or charitable causes at the local, provincial or federal level. This is a community service award - service to the profession is not part of the criteria.*

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Zoe Odei Young Lawyers' Award – The Zöe Odei Young Lawyers Award was established by the CBA in 2003 in memory of the late Zöe Odei of Halifax, an active CBA member who exemplified the distinguished and exceptional service contemplated by this Award. This Award is to honour and recognize a young lawyer's distinguished or exceptional service to the Canadian Bar Association and the community or charitable causes.

For eligibility, criteria and presentation information, see http://www.cba.org/NS/About_Us/Awards.aspx

Note: Deadlines for all nominations have been extended to January 13, 2012

For additional information or to submit a nomination, please contact:

Canadian Bar Association - Nova Scotia

5991 Spring Garden Road, Suite 1050

Halifax, Nova Scotia, Canada B3H 1Y6

Tel: (902) 422-1905 | Fax: (902) 423-0475 | Email: cbainfo@cbans.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/>

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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

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:: 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.

Upcoming events from CBA-NS

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 Odeh 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

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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.

:: LIBRARY & INFORMATION SERVICES ::

Nova Scotia Civil Procedure Rules – further amendments

Amendments have been made to the *Civil Procedure Rules*. Amendments were made December 9, 2011 to

- Part 2, Rule 4.20(3)(c)
- Part 6, Rule 22.11(5)
- Part 8, Rule 33.02(1)
- Part 10, Rule 45.03(1)
- Part 17, Rule 89.04(2), 89.05(1), 89.06, and 89.07(3)
- Part 20, Rule 94.02(1)

The following rules were added:

- Part 5, Rule 14.12(5)
- Part 6, Rule 22.11(6)
- Part 17, Rules 89.04(2), (3), and (4)
- Part 20, Rule 94.11

The following rules were deleted:

- Part 17, Rule 89.04(1)
- Part 17, Rule 89.07(2)

The text of the online [*Nova Scotia Annotated Civil Procedure Rules*](#), including the PDF versions of the Rules, in whole and part, have been updated to include these amendments.

Follow the link to view the text of the amendments as published in the [*Royal Gazette Part I Volume 220, No. 5*](#) (December 14, 2011) (unofficial copy).

Reminder: After-hours access to the Barristers' Library in Halifax

The Barristers' Library in Halifax is accessible to members 24-hours-a-day, seven days a week, and is staffed Monday to Friday, 8:30 am to 4:30 pm. On December 28, 29 and 30, the library will be staffed from 11:00 am to 3:00 pm.

Members may gain access on weekends or after regular business hours by ringing the buzzer at the main entrance north doors. The commissionaire may be doing rounds in the building, and may take a few minutes to return to the main entrance. If there is no response, members with a cellular phone may dial the commissionaire's number posted on the door.

Members must show their barristers' card, or library card in the case of articled clerks, to the commissionaire and sign the logbook before proceeding to the seventh floor.

:: NEW DECISIONS ::

ADMINISTRATIVE LAW – Boards and tribunals – judicial review, *Income Assistance Act*, overpayment *Nova Scotia (Department of Community Services) v. Cleary*, Hfx. No. 352457, Rosinski, J., December 6, 2011. [2011 NSSC 451](#); **S639/6**

ADMINISTRATIVE LAW – Freedom of information – motion to eliminate need to provide notice to third party *Kirby v. Nova Scotia (Department of Transportation and Infrastructure Renewal)*, Hfx. No. 352681, Moir, J., December 9, 2011. [2011 NSSC 458](#); **S639/13**

ADMINISTRATIVE LAW – Judicial review – Human Rights Commission *ExxonMobil Canada Ltd. v. Carpenter et al.*, Hfx. No. 341459, Moir, J., December 1, 2011. [2011 NSSC 445](#); **S639/3**

CIVIL RIGHTS – Right to be tried within a reasonable time – appeal of stay of proceedings *R. v. MacIntosh*, C.A.C. No. 338535; C.A.C. No. 333361, Beveridge, J.A., December 8, 2011. [2011 NSCA 111](#); **S636/23**

CONTRACTS – Interpretation – escalator clause *Dexter Construction Co. Ltd. v. Nova Scotia (Attorney General)*, Hfx. No. 285919, Coughlan, J., November 30, 2011. [2011 NSSC 441](#); **S639/1**

CRIMINAL LAW – Appeals – admissibility of statements recorded in 911 call *R. v. Boone*, Syd. No. 348848, Duncan, J., December 14, 2011. [2011 NSSC 465](#); **S639/19**

CRIMINAL LAW – Appeals – sexual interference and invitation to sexual touching, misapprehension of evidence, application of law, sentence *R. v. H. (T.E.)*, C.A.C. No. 341395, Hamilton, J.A., December 15, 2011. [2011 NSCA 117](#); **S636/27**

CRIMINAL LAW – Assault – reliability of prior inconsistent statement *R. v. Bishop*, No. 2222955; 2231875; 2275765; 2275766; 2275767; 2275768; 2275769; 2275770; 2275771; 2275772; 2275773; 2275774; 2275775; 2275776; 2275777; 2275778; 2275779; 2367827, Whalen, J.P.C., September 29, 2011. [2011 NSPC 95](#); **M25**

CRIMINAL LAW – Impaired driving – appeal *R. v. Francis*, C.A.C. No. 338339, Fichaud, J.A., December 9, 2011. [2011 NSCA 113](#); **S636/25**

CRIMINAL LAW – Procedure – motion to sever denied *R. v. Chan*, CR. No. 334922, Wright, J., December 7, 2011; September 28, 2011 (orally). [2011 NSSC 455](#); **S639/10**

CRIMINAL LAW – Sentence – appeal of sentence for robbery, totality principle *R. v. O'Brien (No.2)*, C.A.C. No. 310964, Fichaud, J.A., December 6, 2011. [2011 NSCA 112](#); **S636/20**

CRIMINAL LAW – Sentencing – attempted murder *R. v. Beals*, No. 2129346, Derrick, J.P.C., December 1, 2011. [2011 NSPC 93](#); **M25**

CRIMINAL LAW – Sentencing – impaired driving *R. v. MacInnis*, No. 2332498, Atwood, J.P.C., November 29, 2011. [2011 NSPC 94](#); **M25**

CRIMINAL LAW – Sentencing – sexual assault *R. v. Hutchinson*, C.R.H. No. 328502, Coughlan, J., December 14, 2011; December 2, 2011 (orally). [2011 NSSC 462](#); **S639/17**

CRIMINAL LAW – Sexual assault – credibility, lack of evidence *R. v. Dill*, No. 2115406; 2115407; 2115408; 2114962; 2114963; 2114964; 2114965; 2114966; 2168870; 2115405; 2177661; 2177662, Atwood, J.P.C., December 12, 2011. [2011 NSPC 96](#); **M25**

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CRIMINAL LAW – Young offenders – appeal dismissed *R. v. A. (T.R.)*, C.A.C. No. 350489, MacDonald, M. C.J., December 6, 2011. [2011 NSCA 115](#); **S636/24**

EMPLOYMENT LAW – Hiring – duty of procedural fairness *Burke v. Cape Breton (Regional Municipality) et al.*, Syd. No. 346500, Murray, J., December 12, 2011. [2011 NSSC 457](#); **S639/21**

FAMILY LAW – Child in need of protective services – permanent care and custody ordered *Milkmaid Family and Children's Services v. P. (V.) and P. (R.)*, No. 072775, Haley, J., December 5, 2011. [2011 NSSC 449](#); **S639/4**

FAMILY LAW – Custody and access – application to vary primary care *Pudsey v. Pudsey*, No. 1204-004616; SKD. No. 054107, Moir, J., December 1, 2011; November 22, 2011 (orally). [2011 NSSC 444](#); **S639/2**

FAMILY LAW – Custody and access – interim application *Yonis v. Garado*, S.F.H.M.C.A. No. 072415, Beaton, J., December 8, 2011; August 3, 2011 (orally). [2011 NSSC 454](#); **S639/20**

FAMILY LAW – Procedure – motion for cross examination of out of court *Armoyan v. Armoyan*, H.F.D. No. 1201-065036; S.F.H.C.I.V. No. 070342; S.F.H.M.C.A. No. 068981, Campbell, J., December 2, 2011. [2011 NSSC 448](#); **S639/12**

FAMILY LAW – Procedure – registrar's application to dismiss *Islam v. Sevcur*, C.A. No. 336980; 338493; 338817, Saunders, J.A., December 7, 2011. [2011 NSCA 114](#); **S636/21**

FAMILY LAW – Res Judicata – leave to appeal allowed, appeal dismissed *Armoyan v. Armoyan*, C.A. No. 351722, Bryson, J.A., December 6, 2011. [2011 NSCA 110](#); **S636/22**

LABOUR LAW – Jurisdiction – arbitrator *Nova Scotia Teachers' Union v. Nova Scotia (Minister of Education)*, Hfx. No. 336640, Hood, J., December 6, 2011; October 28, 2011 (orally). [2011 NSSC 426](#); **S639/8**

MORTGAGES – Foreclosure – interest of spouse of mortgagor *Toronto-Dominion Bank v. Dufault*, Hfx. No. 345709, Duncan, J., December 6, 2011. [2011 NSSC 453](#); **S639/18**

PRACTICE – Application – motion to reopen decision to refuse consolidation *Jeffrie v. Hendriksen et al.*, Hfx. No. 346079; Hfx. No. 354159, Rosinski, J., December 12, 2011. [2011 NSSC 460](#); **S639/15**

PRACTICE – Case management – direction from the court *Halifax (Regional Municipality Pension Committee) v. State Street Global Advisors Ltd. et al.*, Hfx. No. 309063, Duncan, J., December 1, 2011. [2011 NSSC 447](#); **S639/9**

PRACTICE – Costs – on discontinued judicial *Weir v. National Bank of Canada et al.*, Hfx. No. 329610, Wright, J., December 7, 2011. [2011 NSSC 430](#); **S639/11**

PRACTICE – Disclosure – expert's time log entries and other file materials *Skinner et al. v. Dalrymple et al.*, S.P. No. 188801, LeBlanc, J., December 12, 2011. [2011 NSSC 461](#); **S639/16**

PRACTICE – Habeas corpus – characterization of application as civil or criminal *Wilson v. Correctional Service Canada*, C.A. No., Saunders, J.A., December 9, 2011. [2011 NSCA 116](#); **S636/26**

PRACTICE – Production of documents – schedule to produce *Halifax (Regional Municipality Pension Committee) v. State Street Global Advisors Ltd. et al.*, Hfx. No. 309063, Duncan, J., September 30, 2011. [2011 NSSC 355](#); **S639/7**

REAL PROPERTY – Right of way – express grant or prescriptive rights not proven *Shea v. Bowser*, Hfx. No. 348548, Rosinski, J., December 5, 2011. [2011 NSSC 450](#); **S639/5**

WILLS AND ESTATES – Claim against estate – insolvent estate *Boutilier Estate v. Capital One Bank et al.*, Hfx. No. 344682, Coughlan, J., December 6, 2011. [2011 NSSC 439](#); **S639/14**

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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.

December 16, 2011

Copthorne Holdings Ltd. v. Canada

Neutral citation: [2011 SCC 63](#) (CanLII)

File No.: 33283.

2011: January 21; 2011: December 16.

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

On appeal from the Federal Court of Appeal

Taxation — Income tax — Tax avoidance — Interpretation and application of general anti-avoidance rule — Series of transactions involving paid-up capital of a corporation — Treatment of paid-up capital upon amalgamation — Withholding tax on deemed dividend — Whether these transactions resulted in a tax benefit — Was the transaction giving rise to tax benefit an avoidance transaction — Interpretation of “contemplation” in the test for a statutory series — Whether transaction or series of transactions results in abuse and misuse of Income Tax Act — Whether general anti-avoidance rule applicable to deny tax benefit — Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), ss. 84(3), 87(3), 89(1), 245(1) to (5), 248(10).

By a series of transactions, two Canadian corporations within the same corporate group (referred to in reasons as Copthorne I and VHC Holdings Ltd.) that had been parent and subsidiary became “sister” corporations — that is, corporations owned directly by the same non-resident shareholder, Big City B.V. The sister corporations were then amalgamated — a “horizontal” amalgamation — and the paid-up capital (“PUC”) of their respective shares was aggregated to form the PUC of the shares of the amalgamated corporation. Had they remained as parent and subsidiary, the PUC of the shares of the subsidiary would have been cancelled on amalgamation. The amalgamated corporation then redeemed a large portion of its shares and paid out the aggregate PUC attributable to the redeemed shares to its non-resident shareholder. That payment was not treated as taxable income to the shareholder but instead as a return of capital.

No provision of the *Income Tax Act* (“Act”) expressly required the return of PUC in this case to be treated as a taxable payment. Nonetheless, the Minister of National Revenue considered the transactions by which the parent and subsidiary became sister corporations to have circumvented certain provisions of the Act in an abusive manner and thus to have contravened s. 245 of the Act, the general anti-avoidance rule, or the “GAAR”. Applying the GAAR, the Minister concluded that the PUC of the shares of the former subsidiary should have been cancelled upon amalgamation with its former parent corporation, as required by s. 87(3). If the PUC of the shares of the amalgamated corporation was reduced, the amount paid to the shareholder in excess of the reduced PUC would have constituted a deemed dividend subject to tax. The Minister reassessed the amalgamated corporation for unpaid withholding tax on the deemed dividend portion of the amount paid to the non-resident shareholder upon redemption. The Tax Court of Canada and Federal Court of Appeal upheld the reassessments.

Held: The appeal should be dismissed.

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December 15, 2011

[Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador \(Treasury Board\)](#)

Neutral citation: [2011 SCC 62](#) (CanLII)

File No.: 33659.

2011: October 14; 2011: December 15.

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

On appeal from the Court of Appeal for Newfoundland and Labrador

Administrative law — Role and adequacy of reasons — Procedural fairness — Whether reasons satisfy Dunsmuir requirements for “justification, transparency and intelligibility”.

The union disputed an arbitrator's award which involved the calculation of vacation benefits. The issue the arbitrator had to decide was whether time as a casual employee could be credited towards annual leave entitlement if that employee became permanent. In his decision, the arbitrator concluded that it was not to be included in calculating the length of vacation entitlements. On judicial review, the arbitrator's reasons were found to be insufficient and therefore unreasonable and the decision was set aside. The majority of the Court of Appeal agreed with the arbitrator.

Held: The appeal should be dismissed.

December 14, 2011

[Alberta \(Information and Privacy Commissioner\) v. Alberta Teachers' Association](#)

Neutral citation: [2011 SCC 61](#) (CanLII)

File No.: 33620.

2011: February 16; 2011: December 14.

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

On appeal from the Court of Appeal for Alberta

Administrative Law — Judicial Review — Implied Decision — Decision of adjudicator quashed on judicial review on basis of the Information and Privacy Commissioner's failure to comply with statutory time limits — Issue of time limits not raised with the Commissioner or adjudicator — Adjudicator consequently not specifically addressing issue and not issuing reasons in this regard — Whether a matter that was not raised at tribunal may be judicially reviewed — Whether reasons given by tribunal in other decisions may assist in determination of reasonableness of implied decision — Personal Information Protection Act, S.A. 2003, c. P-6.5, s. 50(5).

Administrative Law — Standard of Review — Whether a tribunal's decision relating to the interpretation of its home statute or statutes closely connected to its functions is reviewable on standard of correctness or reasonableness — Whether category of true questions of jurisdiction or vires should be maintained when tribunal is interpreting its home statute or statutes closely connected to its functions.

The Information and Privacy Commissioner received complaints that the ATA disclosed private information in contravention of the *Alberta Personal Information Protection Act*. At the time, s. 50(5) of *PIPA* provided that an inquiry must be completed within 90 days of the complaint being received unless the Commissioner notified the parties that he was extending the time period and he provided an anticipated date for completing the inquiry. The Commissioner took 22 months from the initial complaint before extending the estimated date on which the inquiry would be concluded. Seven months later, an adjudicator delegated by the Commissioner issued an order, finding that the ATA had contravened the Act. The ATA applied for judicial review of the adjudicator's order. In argument, it claimed for the first time that the Commissioner had lost jurisdiction due to his failure to extend the period for completion of the inquiry within 90 days of the

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complaint being received. The chambers judge quashed the adjudicator's decision on that basis. A majority of the Court of Appeal upheld the chambers judge's decision.

Held: The appeal should be allowed.

December 8, 2011

Quebec (Attorney General) v. Canada (Human Resources and Social Development)

Neutral citation: 2011 SCC 60 (CanLII)

File No.: 33511.

2011: February 15; 2011: December 8.

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

On appeal from the Court of Appeal for Quebec

Constitutional law — Federal paramountcy — Employment insurance — Recovery mechanism — Provincial statute providing that income replacement benefits received by injured worker exempt from seizure — Federal statute authorizing Employment Insurance Commission to issue requirement to pay in order to recover overpayments — Whether provincial provision constitutionally inoperative in relation to garnishment provided for in federal statute — Employment Insurance Act, S.C. 1996, c. 23, s. 126(4) — Act respecting industrial accidents and occupational diseases, R.S.Q., c. A-3.001, s. 144.

Crown law — Prerogatives — Immunity — Whether Employment Insurance Commission, as agent of Crown, protected by common law immunity, with result that s. 144 of Act respecting industrial accidents and occupational diseases inapplicable to federal Crown — Whether it is appropriate to consider doctrine of paramountcy before determining whether Crown immunity applies — Interpretation Act, R.S.C. 1985, c. I-21, s. 17.

Following an industrial accident, B received income replacement benefits from the Quebec Commission de la santé et de la sécurité du travail ("CSST"). From November 2006 to August 2007, the CSST complied with a requirement to pay that the Canada Employment Insurance Commission ("Commission") had issued under s. 126(4) of the *Employment Insurance Act* ("EIA") in order to recover employment insurance benefits B had received from the Commission but to which he was not entitled. B challenged the lawfulness of the remittance of the income replacement benefits on the ground that they were unseizable by virtue of s. 144 of the *Act respecting industrial accidents and occupational diseases* ("AIAOD"). The Superior Court found that the CSST had acted improperly, and ordered it to reimburse B. The Court of Appeal allowed the appeal and, finding that there was a conflict between the provincial and federal statutory provisions, declared s. 144 AIAOD to be inoperative in relation to requirements to pay issued under s. 126(4) EIA.

Held: The appeal should be dismissed.

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:: NOVA SCOTIA BILLS ::

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

The House resumed sitting on October 31, 2011 and adjourned on Thursday, December 15, 2011.

The following bills were PASSED during the fall sitting of 2011: <http://nslegislature.ca/legc/index.htm>

- | | |
|---|---|
| Chapter No. 31 – Arts Nova Scotia Act | Chapter No. 55 – Consumer Protection Act (amended) |
| Chapter No. 32 – Bowater Mersey Pulp and Paper Investment (2011) Act | Chapter No. 56 – Corrections Act (amended) |
| Chapter No. 33 – Community Spirit Act | Chapter No. 57 – Education Act (amended) |
| Chapter No. 34 – Creative Nova Scotia Leadership Council Act | Chapter No. 58 – Education Act (amended) |
| Chapter No. 35 – Fair Automobile Insurance (2011) Act | Chapter No. 59 – Education Act (amended) |
| Chapter No. 36 – Fish Harvester Organizations Support Act | Chapter No. 60 – Elections Act (amended) |
| Chapter No. 37 – Identification of Criminals Act | Chapter No. 61 – Environment Act (amended) |
| Chapter No. 38 – Medical Act | Chapter No. 62 – Equity Tax Credit Act (amended) |
| Chapter No. 39 – Members' Pension Review Implementation (2011) Act | Chapter No. 63 – Gaming Control Act (amended) |
| Chapter No. 40 – Nova Scotia Jobs Fund Act | Chapter No. 64 – Labour Standards Code (amended) |
| Chapter No. 41 – Pension Benefits Act | Chapter No. 65 – Libraries Act (amended) |
| Chapter No. 42 – Perpetuities Act | Chapter No. 66 – Liquor Control Act (amended) |
| Chapter No. 43 – Public Sector Lobbyists Act | Chapter No. 67 – Motor Vehicle Act (amended) |
| Chapter No. 44 – Safe Body Art Act | Chapter No. 68 – Municipal Elections Act (amended) and Municipal Government Act (amended) |
| Chapter No. 45 – Safe Collection of Scrap Metal Act | Chapter No. 69 – Police Act (amended) |
| Chapter No. 46 – Safer School Zones Act | Chapter No. 70 – Residential Tenancies Act (amended) |
| Chapter No. 47 – Snow Sport Helmet Act | Chapter No. 71 – Trade Union Act (amended) |
| Chapter No. 48 – Timely Medical Certificates Act | Chapter No. 72 – Acadia Recreation Club Act |
| Chapter No. 49 – Agriculture and Rural Credit Act (amended) | Chapter No. 73 – Archdiocese of Halifax-Yarmouth, An Act Respecting the |
| Chapter No. 50 – Animal Protection Act (amended) | Chapter No. 74 – Halifax Kennel Club, An Act to Incorporate the (amended) |
| Chapter No. 51 – Atlantic Provinces Special Education Authority Act (amended) | Chapter No. 75 – St. Michael's Polish Association and Benefit Society, An Act to Incorporate (amended) |
| Chapter No. 52 – Civil Constables Act (repealed) | Chapter No. 76 – Yarmouth North United Baptist Church of Yarmouth, Nova Scotia, An Act to Incorporate (amended) |
| Chapter No. 53 – Civil Forfeiture Act (amended) | |
| Chapter No. 54 – Constables Act (repealed) | |

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:: PROCLAMATIONS UPDATE ::

No proclamations were published in the *Royal Gazette, Part II* since the last issue of *InForum*.

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.

:: CURRENT ISSUES IN LEGAL ETHICS ::

This is the seventh 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.

A new Code for the New Year

As 2011 comes to a close, we look forward with anticipation to all that 2012 may bring. We hope that all our members will be reviewing with excitement the new *Code of Professional Conduct* that comes into effect on January 1, 2012!

We have come a very long way with our rules of ethics over the past year. The new *Code* is being adopted across the country and is already in force in Manitoba and Alberta. The consensus that law societies from across Canada have been able to reach on what a national code of ethics should look like is an important accomplishment. It should be reassuring for the public to know that ethical standards for lawyers are becoming more consistent across the country. This is also of great benefit to those members who practice interjurisdictionally.

A great deal of time was devoted to the new provisions regarding conflicts of interest and the future harm/public safety exception to confidentiality, in an effort to ensure clients would be protected while responding to the interests of lawyers and firms. A revised version of the conflicts rule is expected to be released by the Federation early in the New Year.

Please remember that if you are practising ethically today, you will be practising ethically on January 1, 2012. While your obligations are not dramatically changing, you are all still encouraged to read not only the new *Code*, but the Executive Summary, prior issues of *InForum* and the October 2011 *Society Record* article regarding the new *Code*. Such a review will serve you well when you complete the mandatory online assessment, which must be completed by April 30, 2012.

Finally, the friendly staff in the Society's Professional Responsibility department are always available to discuss your ethical quandaries and concerns. We would be pleased to assist you in navigating your way through the new *Code* at any time. Happy holidays!

:: 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*. In an effort to spark discussion and examination of these important issues, the GEC is providing *InForum* articles on a range of topics, inspired directly by the experiences highlighted in the postcards.

“Mom, LLB”

By Amy Sakalauskas, Member, Gender Equity Committee

As lawyers, we were afforded an opportunity for education in a field that promotes lifelong learning, gives varied opportunities to pursue our interests and passions, and can allow us to earn a good living. We are privileged. Our work can be rewarding, challenging and busy. Add children to the picture and it can be chaos. Lovely chaos, but chaos nonetheless.

We know that, as a group, women still carry more of the workload with children. This is not isolated to women with a law degree, although the postcards sent to the Gender Equity Committee provide perspective to such ongoing issues. We heard from women who felt penalized for taking parental leave, who were criticized for devoting time to family, and who faced misplaced assumptions about what it means to be a parent practising law. They felt ostracized and isolated. The reputation of the parenting-law combo has been billed along the lines of rivalries like Ali/Frazier or Graf/Seles. It doesn't need be that way. As problem solvers, we can work this out. We all lose when women leave our profession. There are many reasons for it, but the challenges of navigating family responsibilities while practising law is a common culprit. Nobody, woman or man, should have to make an either-or choice. It's time to take a wider view of how we can deliver service to our clients without compromising life outside the office – whether that life includes parenting or not. If my one year old can learn that the square peg won't fit through the round hole, so can we.

Flexible work hours, job sharing, more varied compensation structures, support pre and post leave, and maximizing remote law office technologies are but a few starting points for discussion. Couple these options with reasonable expectations, of ourselves and from others, and we could really get this conversation rolling! Beyond offering parental leave, we need to make sure women and men who use these plans know they are supported in doing so, and will be supported when they return to the office.

A quick “Google search” will astound you with the number of “mommy lawyer blogs” out there. Seriously. Haven't you watched “The Good Wife”? People are talking, letting the profession know that yesterday's priorities have to make room for new perspectives and ideas. Countless women were forced to make impossible choices before these conversations got started. Numbers (and GEC postcards) tell us that their successors are still grappling with the same decisions. We should contribute more alternatives, armed with a more balanced view of what “success” can be. And remember, leaving work at 5 pm to pick up children doesn't mean less ability, less commitment or poor prioritizing. But, it can mean a lot less sleep at night – sometimes in an effort to chase a billable hour after lights out or sometimes because, unlike lawyering, parenting really is a 24-hour job.

In case you missed the previous articles:

- [“Come on, honey, just laugh it off,”](#) by Candee McCarthy, Co-Chair, Gender Equity Committee, October 24, 2011
- [“Closing the pay equity gender gap: a task made for lawyers,”](#) by Kathleen Lumsden, member, Gender Equity Committee, November 21, 2011

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

:: LIANS TIPS ::

RISK AND PRACTICE MANAGEMENT TIP: Holiday shutdown checklist

Preparing to shut down your office during the holidays can be easy and stress free if you remember to follow this simple checklist:

1. Notify employees, clients and couriers: Employees can be reminded by inserting a notice with their pay stub; notify your clients and couriers on your website and via your automated attendant message on your phone system.
2. Notify your security personnel or service: Make sure your emergency contact list is current with key staff contact information.
3. Notify your answering service: If you use an answering service, make sure you notify them of the dates your office is shut down.
4. Change voicemail greetings and enable your automatic out-of-office email reply.
5. Reduce the thermostat: Save energy and money by lowering or reprogramming your office thermostat during the shutdown.
6. Server backup: Make sure your backup cycle runs properly before AND after the shutdown. Schedule the backup before the office reopens to avoid any possible disasters and loss of critical information.
7. Turn off office equipment such as desk lights, computers, scanners, printers, overhead lights and shredders. Do NOT turn off fax machines, your phone system or computer servers.

If done properly, everyone will be well aware of the scheduled shutdown and you can avoid angry clients and disgruntled employees. Additionally, you may also save a little money.

Happy holidays from the staff at LIANS!

*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: Property rights scam from Dan Nagasaki

A highly persuasive cheque scam involving a property rights violation has been circulating in Ontario and the United States by emails from "Dan Nagasaki of CCP Group International". Unlike most other scam attempts, this one is eloquently worded and outlines a complex set of circumstances. Read an excerpt below:

I am contacting you in regards to a breach of license agreement, unfair competition, and trademark infringement with a client in your locale. Our client was granted an exclusive license to use and modify our Japanese language software products to create and manufacture English language versions of the Products and derivative products in the English language, and the exclusive rights to distribute the English language versions of the Products throughout the Canada ...

On behalf of my company, I will like to enforce our intellectual property rights with respect to the unauthorized production of the versions of our products in Spanish language and the unauthorized distribution of the products within and to other regions outside Canada . If these falls under the scope of your practice and my request could be reasonably accommodated, please contact me as soon as possible so that I can provide you with further details. Otherwise, if you are not in a position to assist on these issues, your advice on the appropriate measures to take could be of assistance.

I will appreciate your prompt response. Thank you.

Warmest regards,

Dan Nagasaki

President/CEO

<www.ccpgroup-int.co>

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CCP Group International
Tokyoto Toshimaku Kita
Otsuka 3-12-22, Japan.

Following further investigation, “Dan Nagasaki” appears to be president not only of [CCP Group International](#), but also of [Dream International & Co.](#) and [H.I. International](#) – these fake websites are mirrors of one another and were created to give an air of legitimacy to these scam attempts. Be vigilant with every request for services that you receive. Fraudulent requests for services can be made by email, paper mail and courier as well as by individuals who arrive in person to retain you and to use your trust account to receive and disburse funds. Be cautious with all cheques received, especially if they exceed the agreed upon amount.

Visit our [Fraud section](#) to read more on reported scams and how to avoid them.

Remember that **you must always confirm** a prospective client’s identification in accordance with the [Client ID Regulations](#) of the Nova Scotia Barristers’ Society.

If you decide to proceed with a transaction, be sure to go to the bank website to verify branch transit number, address and phone number on the cheque. Wait until the bank confirms that the funds are legitimate and are safe to withdraw from the deposit. Where possible, use the [Large Value Transfer System \(LVTS\)](#), an electronic funds transfer system that allows large payments to be exchanged securely and immediately.

For tips to avoid being victimized, read an [updated list](#) of “Red Flags”, and visit the [Fraud](#) section on [lians.ca](#). To report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at cnield@lians.ca or 902 423 1300, x346.

NSLAP WELLNESS TIP: Improving family (and other) relationships

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

Communication skills that will last a lifetime

With so many pressures facing children and parents today, maintaining quality family relationships is more important than ever. Yet for many different reasons, we’re not always as effective at communicating as we need to be, and as a result we create unintended problems.

If you would like to improve communication with your children (and others in your life), here are some common sense suggestions that can make a real difference in your relationships:

Be respectful. Communication involves talking and listening. When your children are talking, do your best to give them your undivided attention. “Active” listening is critical (more on this topic later in the newsletter).

Tune in to feelings. When children talk to their parents about something that is concerning, it can be difficult for them to express their feelings. It’s critical to tune in to their feelings and put that feeling word into a sentence. In this way you show you understand and you also validate their feelings.

Create time to talk. Sometimes communication doesn’t happen unless we make time for it. Ensure your family enjoys a meal together as often as possible and make it a point to involve the whole family in the conversation.

Make eye contact. Looking at someone eye-to-eye when having a conversation sends the message that you are listening and that what they have to say is important. When talking and listening to young children, lower yourself (physically) to their level.

Think before speaking. When children ask for your opinion or help with a particular concern they have, take a few minutes to think about it, and ask them to think about it as well. When you come together again, you can both share your thoughts. If you need to have a tough conversation with your child, think through what you are going to say and questions that might arise.

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Be aware of non-verbal communication. This includes facial expressions, body language, tone of voice or periods of silence. Children can sense if your verbal and non-verbal communication do not match.

Let them finish speaking. Do you finish your child's sentences or inappropriately change a subject to say something that's on your mind? This can leave your child thinking that talking to you is a waste of time.

Be approachable. If children think they'll be judged or get a lecture every time they talk about an idea or personal experience, they will shut down. Take their concerns seriously – empathize and listen. If you do this with the small stuff, they are more likely to discuss important matters with you.

The bottom line

The late humorist Erma Bombeck once said, "It seems rather incongruous that in a society of super sophisticated communication, we often suffer from a shortage of listeners."

Communication involves both talking and listening. The ability to really listen to what is being said is something we are not always taught to do, yet when we employ active listening skills, our communication effectiveness and our relationships improve dramatically.

Sometimes when children have problems, their parents' efforts at "listening" can result in lecturing and offering advice. Unsolicited advice provides little opportunity for children to share their feelings and can result in children becoming reliant on others' influence. In turn, children may develop inadequate decision-making skills as they mature. Parents who don't listen to their children's ideas or show respect for what they are saying may end up with teenagers who live in a world of their own and refuse to listen to their parents.

Improve your children's listening habits:

- When reading to young children, encourage them to ask questions and comment on the story.
- As children get older, establish "listening opportunities" when you block out distractions and make it a point to listen to one another.
- Teach children to show they are listening. If they are preoccupied with playing, let them know it is helpful to show by their expressions that they are listening.
- Be a good role model by paying attention while your children speak to you.
- Give children positive feedback if they demonstrate good listening skills.

Here's how to be a better listener yourself:

- Ensure a respectful attitude, concentrate on what is being said, and maintain eye contact.
- Be silent, pay attention and don't think about how you will respond.
- Avoid too many probing questions like "why?" This can shift the focus from listening and trying to understand feelings to analyzing.
- Be sensitive about when to talk and when to keep quiet.

*For more information and support with communication, 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.*

:: 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.

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.

Joyeux Noël et Bonne Année 2012: L'Association des juristes d'expression française de la Nouvelle-Écosse

