

# INFORUM

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

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### COLUMNS

- [Current Issues in Gender Equity: “Killer Instinct” v. Compassion](#), by Catherine A. Cogswell, Member, Gender Equity Committee (Fourth in a new GEC series highlighting issues raised in the postcard campaign, "It will be our little secret ...")

### Library & Information Services

- Bookmark this: [Nova Scotia Annotated Civil Procedure Rules on the new Society website](#)
- [JSTOR offers free reading access to selected journals](#)
- [New decisions](#)
- [Proclamations update](#)

### From LIANS

- [LIANSWERS newsletter: January 2012](#) edition now online
- [Avoiding fee disputes](#) – a new Risk and Practice Management Tip from the Risk and Practice Management Program, LIANS
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- [How to deal with bedwetting](#) – a new Wellness Tip from NSLAP

### From the Province

- [LABOUR AND ADVANCED EDUCATION: Province seeks input on Foreign Worker Regulations](#)
- [JUSTICE: More details in death at Southwest Nova Scotia Correctional Facility](#)
- [AUDITOR GENERAL: Winter 2012 Report released](#)
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### Other news & notices

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### Awards & Appointments

- [HUMAN RIGHTS COMMISSION: David Shannon appointed new Director and CEO](#)

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## Events of Interest

- [The Elements – three-part series examining the ethical uses of our resources: Food, Oil and Water](#), presented by the CCEPA and the Evolution Studies Group at Dalhousie University – January 25
- Upcoming events from CBA-NS:
  - [Annual Professional Development Conference](#) – January 27
- **Dalhousie Health Law and Policy Seminar Series:**
  - [Rethinking Health Care Federalism: Could the European Model Work in Canada?](#) – January 27
  - [Ending Life-Sustaining Treatment for Children: Decision-Making When Health Providers and Parents/Patients Disagree](#) – February 10
- [Avoiding Courts & Resolving Conflicts: Alternative Dispute Resolution](#) – February 1
- [4th Annual Construction Industry Briefing](#) – February 4
- [8th Annual Legal "Who" Masquerade Ball and Silent Auction](#) – February 4
- [Cultural Competence and Safety Workshop](#) – February 10
- [Let's Talk: The Law and Your Life \(Legal Information Fair\)](#) – February 18
- [21st Annual F.B. Wickwire Memorial Lecture in Professional Responsibility and Legal Ethics](#) – February 29
- [Save the date: 2012 Class Actions Conference](#) – March 2
- [Intensive Trial Advocacy Programme](#) – June 3-9, 2012
- [National Criminal Law Program registration open](#) presented by the FLSC – July 9-July 13

## Career Opportunities

- Visit our website for the latest [career postings](#)

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## :: NOTICES ::

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### SOCIETY NEWS

#### **Council Highlights from January 20, 2012**

At the meeting on January 20, Council welcomed the Hon. Ross Landry, Attorney General and Minister of Justice. Other highlights included a Monitoring Report from the Equity Office; approval of several new family law standards and amendments to Regulation 4.2.8 – Duty to Report Charges; and a request for consultation with the membership on proposed new Trust Account Regulations as well as the new conflicts of interest rule recently adopted by the Federation of Law Societies. Council also approved recommendations to redefine the role of the Library & Information Services department; and established the timeline for implementing the Society's new Continuing Professional Development requirement.

For further details about matters discussed at Council's meeting on Friday, January 20, please visit the Council Highlights and Documents posted on the Council Materials page of the Society's website: <http://nsbs.org/council-materials>

The next regular meeting of Council is scheduled for **Friday, February 24, 2012 at 12:00 noon** in the Society's offices.

#### **Memo from Darrel Pink, Executive Director: Society to reduce Library & Information Services department**

Since the fall of 2010, the Nova Scotia Barristers' Society has been engaged in a thorough organizational review process. The review, mandated by Council, is designed to ensure that everything the Society does is aligned with and supportive of its statutory purpose and core principles. Those principles can be summarized as regulating to ensure competent, ethical lawyers and upholding the public's interests in the administration of justice. Any activities that do not clearly support those principles should be seen as outside the scope of the Society and should not be part of its service offerings.

With that focus in mind, the Society has carefully reviewed its Library & Information Services department. Once a fundamental resource for many lawyers in the province, the services it provides are no longer used by the vast majority of lawyers in Nova Scotia – and its purpose and activity do not support the principles that define the Society. Lawyers from Glace Bay to Yarmouth now have many of the legal resources they need for day-to-day practice at their fingertips with the Internet; staff only rarely receive a request for assistance; and what lawyers continue to need is access to physical resources, not otherwise available, which will remain with this decision.

As such, the scope of the work done by the Library will reduce as of April 30, 2012. It will continue to support the Society's regulatory role and will maintain its collection in Halifax, as well as the satellite collections in Sydney and Kentville, so that lawyers will still be able to access the Barristers' Library collection and resources or any satellite library in the province. However, the electronic publishing that has been done will be phased out and the nature of research services available will be reduced.

As a result of this review, there will be a reconfiguration of the staffing.

The Library has a long, distinguished history in the Nova Scotia legal world. That will not change as the library evolves to a more focused operation appropriate to the Society and the profession in 2012. Unfortunately, its current role has been eclipsed by the immediacy, accessibility and affordability of legal information on the Internet and the changing ways that lawyers practise and access information they need for their practices.

Council's decision is a reflection of the changing world of legal research and the renewed, sharply focused mandate of the Society as a regulator dedicated to ensuring the very best, ethical behaviour in lawyers and in protecting the interests of the public in Nova Scotia.

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To read the full [Memorandum to Council](http://nsbs.org/reports-council), visit the Reports to Council page on the Society's website at <http://nsbs.org/reports-council>.

If you would like to contact me, feel free to call me at 422 1491 or email me at [dpink@nsbs.org](mailto:dpink@nsbs.org) or call President Dan Campbell at 491-4105 or email him at [dmcampbell@coxandpalmer.com](mailto:dmcampbell@coxandpalmer.com).

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## Halifax District Byelection results

Erin E. O'Brien Edmonds QC will serve as a member of Council for Halifax District. She was the successful candidate in the Halifax District byelection, held January 16 to 18 in accordance with Regulation 2.3.1.

Of 1,648 eligible voters, 517 (31.4%) cast electronic ballots. The results of the election are available on the website in the News section: <http://nsbs.org/news>.

Ms. O'Brien Edmonds was officially welcomed and appointed by Council at its meeting on Friday, January 20, 2012. [View her bio and election platform](#).

Council for 2011-2012 includes four members in Halifax District; one of these seats was vacant since the elevation of the Hon. Justice Michael Wood to the Nova Scotia Supreme Court in September. The three other current members of Council for Halifax District are Christa M. Brothers, Aleta C. Cromwell and William L. Mahody.

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## Code of Professional Conduct – Proposed Rule on Conflicts of Interest

The new *Code of Professional Conduct* came into force in Nova Scotia on January 1, 2012. As noted in the December 19, 2011 edition of the Current Issues in Legal Ethics column in *InForum* and in the October 2011 edition of the *Society Record*, Rule 2.04 regarding Conflicts of Interest remained under review by the Federation of Law Societies (FLS) at the end of 2011. At the Federation's Council meeting in December 2011, the amended conflicts provisions were approved and have now been circulated to all Canadian law societies to consider for adoption. (See the Federation's email message below.)

The Code of Conduct Working Group met on January 17, 2012 to review the Federation's Standing Committee on the Model Code of Professional Conduct's November 21, 2011 [Report on Conflicts of Interest](#). The Standing Committee states that the amended rule reflects:

the principle enunciated by the Supreme Court of Canada in its decisions in *Neil*, and *Strother v. 3464920 Canada Inc.* that a lawyer must not represent a client whose immediate legal interests are adverse to those of a current client, even if the matters are unrelated, unless the clients consent (known as the "bright-line rule").

The Society's Working Group agrees with the conclusion of the Standing Committee that:

In amending the definition of conflicts of interest, addressing current client conflicts in a general rule rather than in a separate provision, and expanding upon the consent provisions, the Standing Committee are confident that we have achieved our goal of drafting a rule on conflicts of interest that is clear and not unnecessarily restrictive, while being consistent with the duties that lawyers owe to their clients, including the duty of loyalty.

It is important to note that the principles from *Neil* and *Strother* were recently applied by the Saskatchewan Court of Appeal in *Wallace v. Canadian National Railways, et al.* The Standing Committee also considered that conflict rules based on the above principles have been in place in both Alberta and British Columbia for the last 10 years and similar provisions are included in the American Bar Association's Model Rules of Professional Conduct and have been adopted in most American jurisdictions.

The Working Group is inclined to recommend adoption of the amended rule as proposed to the Nova Scotia Barristers' Society's Council at its March meeting, believing that the rule is clear and consistent with current case law regarding the duty of loyalty and the fiduciary duties lawyers owe to their clients. However, the Working Group is acutely aware of the concerns

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that have been raised by the Canadian Bar Association in the past, and agree that seeking the input of all members of the Nova Scotia Bar will provide valuable insight into the membership's views on the application of these rules.

As a result, the Working Group is requesting that any comments be received in writing not later than **4:30 pm on Tuesday, February 14, 2012**. Those comments can be directed to the

Code of Professional Conduct Working Group  
c/o Elaine Cumming  
1101-1645 Granville Street  
Halifax, NS B3J 1X3  
[ecumming@nsbs.org](mailto:ecumming@nsbs.org)

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## **Federation email: Standing Committee Report on Conflicts of Interest / Rapport du Comité permanent sur les conflits d'intérêts**

The CBA Task Force has now had an opportunity review the proposed amendments to the Model Code regarding Conflicts of Interest, as well as the Report of the Standing Committee. We appreciate having had the opportunity to participate in this process.

As we have previously indicated, we support Model Rule 2.04(1) as proposed. This Model Rule properly regulates situations where there is a substantial risk of material impairment of the duties owed by lawyers to their clients. While we remain concerned about some aspects of the commentary to Model Rule 2.04(1), we recognize how difficult it is to draft commentary that simply and accurately describes complex fiduciary law which is itself evolving.

As we indicated in the Appendix to our September 21, 2011 Response, there are aspects of the other amendments which are of concern. While some of our suggested changes have been made, we think that there is further work which could be done.

But while the proposed amendments could no doubt be further improved, we also recognize that real progress has been made with very substantial effort over an extended period. We look forward to the Federation finalizing its Model Code in accordance with your Report so that the law societies may commence their consideration of, and consultation regarding, their conflicts rules. We look forward to being able to participate in the consultations undertaken by the individual law societies.

On behalf of the CBA Task Force, I wish to take this opportunity to thank the members of the several Federation committees who have worked diligently and in the public interest on this important project.

Scott Jolliffe  
Chair, CBA Task Force on Conflicts of Interest

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## **Notice to Profession: Time is running out – NSBS Mandatory Assessment for new Code of Professional Conduct**

If you haven't completed the mandatory online assessment regarding the new NSBS *Code of Professional Conduct*, this is a gentle reminder! For those of you who have completed it already, well done.

The new *Code of Professional Conduct* came into effect on January 1, 2012. While there are only a few substantive changes to the rules of conduct, the *Code* has a new format and it is important that all lawyers and articled clerks become familiar with it and the changes approved by Council.

The Society launched a mandatory online assessment on its website on November 7, 2011. All practising lawyers **and clerks must complete this assessment no later than April 30, 2012.**

An Executive Summary highlighting the changes to the rules of ethics in the new *Code* is also available at <http://nsbs.org/regulation>. Instructions for completing the assessment were emailed to members and clerks in early November.

To complete the assessment, **you must use the assessment link in the original message** sent to you. If you have lost this message, contact the Society to have it retransmitted.

*(Please note, the link to the Code in the original email is now outdated since the launch of the Society's new website; the Code is accessible anytime on the Regulation page at <http://nsbs.org/regulation>.)*

The assessment will guide you through the new *Code* and its changes, and takes about 30 minutes to complete. So don't delay. It is your professional duty to be fully familiar with the current rules of ethics, and the sooner you get on board the better.

Feel free to contact the Society for assistance or instructions.  
Dan Campbell, President

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## **Call for Nominations: 2012 Distinguished Service Award**

The Nova Scotia Barristers' Society invites nominations for its 2012 Distinguished Service Award. Established in 1999, the award recognizes a member who has made significant contributions to the community, the legal profession and the Society.

The recipient for 2011 was Robert (Robbie) G. MacKeigan QC. Other past recipients include R. Lorne MacDougall QC, Ronald Downie QC, Harry Wrathall QC, Roberta Clarke QC, Catherine Walker QC, Robert L. Barnes QC, Bruce MacIntosh QC, Daniel Campbell QC, the late Innis M. Christie QC, and Anne Malick QC.

Nominations may be submitted by members of the Society and the public **until April 16, 2012**. The nomination form is available online at <http://nsbs.org/distinguished-service-award>.

For more details, contact Marla Cranston, Communications Officer, at 422 1491 or [communications@nsbs.org](mailto:communications@nsbs.org).

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## **F.B. Wickwire Memorial Lecture – Access to Justice: Reality, Rhetoric and Recommitment**

The Schulich School of Law and the Nova Scotia Barristers' Society cordially invite you to attend the 21st annual F.B. Wickwire Memorial Lecture in Professional Responsibility and Legal Ethics

### PANEL DISCUSSION:

Access to Justice: Reality, Rhetoric and Recommitment

- The Hon. Mr. Justice Thomas Cromwell, Supreme Court of Canada
- Professor Trevor Farrow, Osgoode Hall Law School, York University
- Ms. Emma Halpern, Equity Officer, Nova Scotia Barristers' Society

### MODERATOR:

Mr. Dan Campbell QC, President, Nova Scotia Barristers' Society

**Wednesday, February 29, 2012 at 4:30pm**  
**Room 105, Weldon Law Building**

Frederick B. (Ted) Wickwire was educated in Halifax and received his Bachelor of Commerce degree in 1959 and his Bachelor of Laws degree in 1962 from Dalhousie University, and practised in the field of corporate and commercial law with a special interest in property rights. He was appointed Queen's Counsel in 1978. His service to Dalhousie University involved thirteen years as a member of the Board of Governors.

He was senior partner in the firm of MacInnes Wilson Flinn Wickwire. In 1977, he was appointed the first Chairman of the Nova Scotia Legal Aid Commission. Mr. Wickwire worked tirelessly to ensure that Nova Scotia barristers maintained a level of uncompromised professionalism. To this end he served as chairman of the Nova Scotia Barristers' Society's Legal Ethics Committee, and oversaw the creation of a new handbook on ethics and professional conduct for Nova Scotia lawyers. His service to the legal profession culminated in his election as President of the Barristers' Society in June 1990, a position he held at the time of his death on March 22, 1991.

For his work with both the Nova Scotia Barristers' Society and the development of Legal Aid in Nova Scotia, he won the Weldon Award for Unselfish Public Service from the Dalhousie Law School Alumni Association posthumously in October 1991.

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## **NSBS in the news: *Canadian Lawyer* profile on Emma Halpern, Equity Officer**

[Making change: Emma Halpern's focus is on helping improve life for as many people as she can](http://digital.canadianlawyermag.com)  
digital.canadianlawyermag.com | January 2012

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## **Changes in Category – January 9 to 23, 2012**

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

### **The following member has changed to the Practising Lawyer category:**

Mark Andrew Bailey

### **The following members have resigned:**

Meredith Fillmore

Isabelle Schrank

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

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

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

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## **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>.

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## **FROM THE COURTS**

### **Notices to the Bar**

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

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

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## **FROM THE PROVINCE**

### **Provincial notices**

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

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## **LABOUR AND ADVANCED EDUCATION: Province seeks input on Foreign Worker Regulations**

A discussion paper seeking input on regulations to protect foreign workers was released on Jan. 16. Members of the Nova Scotia Barristers' Society and the public have been invited to provide input.

Amendments to the Labour Standards Code were introduced in spring 2011 to protect foreign workers from activities such as recruiters charging fees and workers arriving to find conditions and compensation changed from what was originally agreed upon.

"The legislation we introduced will help better protect some of our most vulnerable workers," said Marilyn More, Minister of Labour and Advanced Education. "These regulations are the next step and we'd like to hear from all interested parties before they are put in place."

The [discussion paper](#) covers several topics, including:

- categories of workers to be included
- recruiter licensing

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- employer registration
- protection of foreign workers' wages and benefits
- record keeping

After compiling feedback from the discussion paper, the department will finalize the regulations. Once the regulations are in place, all of the amendments will be proclaimed and come into full effect.

A copy of the discussion paper is available at [www.gov.ns.ca/lae](http://www.gov.ns.ca/lae). For information call 1-888-315-0110. **The deadline for submissions and comments is Feb. 3.**

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## **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](#).

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

Staff of the Canadian Securities Administrators (CSA), which includes the Nova Scotia Securities Commission, are conducting a review of the minimum amount prospectus exemption and the accredited investor prospectus exemption contained in National Instrument 45-106 Prospectus and Registration Exemptions. At the conclusion of the review, CSA staff may recommend either retaining the exemptions in their current form or may propose changes.

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

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

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

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## **OTHER NOTICES**

### **Ontario Court of Appeal issues major new privacy decision, creating new legal tort called "intrusion upon seclusion"**

In a significant new privacy decision, the Ontario Court of Appeal has created a new legal tort called "intrusion upon seclusion." The decision, *Jones v. Tsige*, 2012 ONCA 32, released January 18, has generated a lot of media coverage and analysis in the days since. Here is a small sample:

- [Welcome to the new tort of 'intrusion upon seclusion'](#)  
Legal Feeds | January 20, 2012
- [CONFIDENTIALITY: Court rules people can sue if privacy violated](#)  
*Globe and Mail* | Jan. 19, 2012
- [Ontario Court of Appeal issues landmark ruling on privacy tort](#)  
Michaelgeist.ca | January 19, 2012

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- [Tort of Invasion of Privacy in Ontario](#)  
Slaw.ca | January 18, 2012

## **Communities at Risk: Security Infrastructure Program**

On December 15, 2011, the Honourable Vic Toews, Minister of Public Safety, announced at the next phase of the Communities at Risk: Security Infrastructure Program has been launched. This program is designed to help communities at risk of hate-motivated crime improve their security infrastructure, which will help make Canada safer for all Canadians. Funding is available to not-for-profit organizations with a history of hate-motivated incidents at the project site and/or in the general geographic area of the project site. The funds are to help with the costs of security infrastructure improvements for places of worship, provincially recognized educational institutions, and community centres in communities at risk of hate-motivated crime.

Applications must be received on or before Feb 9, 2012.

For additional information visit: <http://www.publicsafety.gc.ca/prg/cp/sip/index-eng.aspx>.

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## **Notice about Halifax Regional Municipality mapping website: ExploreHRM!**

Have you ever wondered what day your organics are collected? The correct civic address for a residence or building? Who is your municipal councillor? Where is the hockey rink for your child's upcoming game? Where is the walking trail nearest your home? Which bylaw area encompasses your property? The answers to these questions, and many more, can now be found by visiting HRM's mapping website, ExploreHRM. The public now has access to over 40 layers of corporate data, available 24/7 from the comfort of their computer.

ExploreHRM is intended to provide the citizens of HRM with an accessible, up-to-date resource of municipal information. The GISS section met with representatives from Council, Planning & Development, Civic Addressing, Visitor Services, Call Centre and Community Visioning to ensure the mapping site content and tools are customer focused.

- Start exploring at [www.halifax.ca/giss/index.html](http://www.halifax.ca/giss/index.html)
- For technical support inquiries, please contact the ICT Service Desk at 490-4444
- For more information about ICT, visit us online: <http://insidehrm/BusinessUnits/ict/>

## **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.

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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](http://www.lawreform.ns.ca). Print copies are available on request by email to [info@lawreform.ns.ca](mailto:info@lawreform.ns.ca), or phone (902) 423-2633.

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## AWARDS & APPOINTMENTS

### Call for nominations: Lorne Clarke Q.C. Access to Justice Award

Presented by the Legal Information Society of Nova Scotia, this Award is named in honour of Lorne O. Clarke QC, former Chief Justice of the Nova Scotia Court of Appeal, past member of the LISNS Board of Directors and a long time supporter of access to justice and public legal education.

The Access to Justice Award was created to recognize exceptional contributions in promoting access to justice and legal information in Nova Scotia by an individual or organization in the following areas:

- Promoting of human rights and equality
- Championing a particular legal issue or the elimination of a particular injustice or discrimination
- Promoting access to courts or legal services
- Being instrumental in law reform or changes to the law
- Developing innovation in legal education
- Providing exemplary professional service to Nova Scotians within the legal or justice field.

The 2012 Award will be judged on the contribution and efforts of the nominees for the calendar year of 2011. Completed nomination forms must be received by LISNS **no later than March 16, 2012**.

Find the nomination form and complete details at this link: <http://legalinfo.org/highlights/lisns-spotlight.html>

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## 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](mailto:info@nsalis.com). For more information please visit [www.nsalis.com](http://www.nsalis.com).

### reachAbility Volunteer Opportunities

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

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

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

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

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

## **LIANS and NSBS Mentorship Program**

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

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## **MISSING WILLS**

### **Seeking will for the late Diane Desbois**

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

Angie Bilodeau

Patterson Law, 5th Floor, 1718 Argyle Street, Halifax, B3J 3N6

(902) 405-8113 | [abilodeau@pattersonlaw.ca](mailto:abilodeau@pattersonlaw.ca)

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

### **Seeking missing will for Debert man**

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

### **Missing will for Robert Clifford Joseph Murdock**

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

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

### **Seeking missing will for current resident of Clayton Park**

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

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

To post career opportunities relating to the legal profession, use the Society's new [online form](#).

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# INFORUM

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

## :: CONFERENCES & SEMINARS ::

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### **NSBS ADMISSIONS & PROFESSIONAL DEVELOPMENT**

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

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#### **Land Registration Act Training**

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

Dates for next LRA course:

- April 18 to 25, 2012

[Register online](#)

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### **OUTSIDE CONFERENCES & SEMINARS**

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

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#### **The Elements – three-part series examining the ethical uses of our resources: Food, Oil and Water**

Presented by the Canadian Centre for Ethics in Public Affairs (CCEPA) and the Evolution Studies Group at Dalhousie University.

**Wednesday, January 25, 2012 - 7:00pm**

**The ScotiaBank Theatre Auditorium, McCain Building, Dalhousie University**

PART 1: Food

Ethical Issues in Agriculture:

Organic, Locavore and Genetic Modification

**Keynote:**

- Dr. R. Paul Thompson, Professor and Director of Graduate Studies, Institute for the History and Philosophy of Science and Technology, Dept. of Ecology and Evolutionary Biology, University of Toronto

**Respondents:**

- Dr. Rylan Higgins, Department of Anthropology, Saint Mary's University
- Dr. Bohdan L. Luhovyy, Applied Human Nutrition Department, Mount Saint Vincent University

Free Admission. This event will be live streamed and can be viewed here: [www.ccepa.ca](http://www.ccepa.ca)

Reception to follow.

**This event is supported by:**

- Atlantic School of Theology
  - Department of Philosophy, Saint Mary's University
  - International Development Studies, Dalhousie University
  - Mount Saint Vincent University
  - Situating Science Knowledge Cluster
- 

### **Upcoming events from CBA-NS**

**Annual Professional Development Conference**

**January 27, 2011, Halifax NS**

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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](#)

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## **Dalhousie Health Law and Policy Seminar Series**

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

NEXT SEMINAR:

**Friday, January 27**

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

Katherine Fierlbeck, Department of Political Science, Dalhousie University

COMING UP:

**Friday February 10**

**Ending Life-Sustaining Treatment for Children: Decision-Making When Health Providers and Parents/Patients Disagree**

Joan Gilmour, Osgoode Hall Law School, York 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.

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## **Avoiding Courts & Resolving Conflicts: Alternative Dispute Resolution**

*Mini Law School presented by the Schulich School of Law*

**Wednesday, February 1, 2012 - 7:00-8:30 pm**

Speaker: Professor David Blaikie

Room 105, Weldon Law Building, 6061 University Ave., Halifax, NS B3H 4H9

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## **4th Annual Construction Industry Briefing**

**February 6, 2012**

Link to the agenda and registration form on the Construction Association of Nova Scotia website:

<http://www.cans.ns.ca/events/render/?EventID=2068>

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## **8th Annual Legal "Who" Masquerade Ball and Silent Auction**

**Saturday, February 4th, 8pm**

**The Halifax Club, 1682 Hollis Street**

Tickets: \$40.00 general at the door or \$35.00 in advance, \$20.00 students/articling clerks

Call Reena at 423-8105 to make a credit card payment or email [reena.davis@dal.ca](mailto:reena.davis@dal.ca) to reserve your tickets now and make arrangements for payment.

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## **Cultural Competence and Safety Workshop**

*Presented by the Dalhousie Aboriginal Law Students Association with generous support from the Nova Scotia Barristers' Society and the Schulich School of Law.*

**Friday, February 10, 2012 - 12:30-5:00 pm**

**Weldon Law Building, Dalhousie University**

Workshop facilitator: **Nathan Sack, Mi'kmaq Cultural Consultant**

Topics will include:

- Basic communication and cultural practices
- Effective Relationship Building
- Promoting Positive engagement
- Providing culturally safe & competent

Cost: \$50 (No charge for students)

For more information on the workshop and registration details, please contact Georgia at [dalsacontact@gmail.com](mailto:dalsacontact@gmail.com).

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## **Let's Talk: The Law and Your Life (Legal Information Fair)**

**Saturday, February 18, 2012 (All day)**

**World Trade & Convention Centre, 1800 Argyle St, Halifax, NS**

The Legal Information Society of Nova Scotia (LISNS) invites you to take part in its annual legal information fair, ***Let's Talk: The Laws and Your Life***.

Following last year's highly successful Divorce Fair, the Legal Information Fair offers all Nova Scotians access to information and answers to questions on a wide range of topics including:

- Separation & Divorce
- Employment & Business
- Wills & Estates
- Housing, Landlords and Tenants
- Criminal Law
- Immigration
- Debtor / Creditor
- Aging & Seniors

Lawyers, businesses and local organisations will be on hand to present information sessions and to talk one on one with attendees. This is an excellent opportunity to meet prospective new clients and to build networks with professionals in other fields, related to your area of expertise.

For more information on booking a booth for your organisation please contact: Gwen Atkinson, Manager, Community Outreach [development@legalinfo.org](mailto:development@legalinfo.org) or call 454-2198. For general information on the event and for a discount on admission to the event, visit our website: [www.legalinfo.org](http://www.legalinfo.org).

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## **21st Annual F.B. Wickwire Memorial Lecture in Professional Responsibility and Legal Ethics** *presented by the Schulich School of Law and the Nova Scotia Barristers' Society*

**Wednesday, February 29, 2012 at 4:30pm**

**Room 105, Weldon Law Building**

Panel Discussion – ***Access to Justice: Reality, Rhetoric and Recommitment***

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- The Hon. Mr. Justice Thomas Cromwell, Supreme Court of Canada
- Professor Trevor Farrow, Osgoode Hall Law School, York University
- Ms. Emma Halpern, Equity Officer, Nova Scotia Barristers' Society

**Moderator:** Mr. Dan Campbell QC, President, Nova Scotia Barristers' Society

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## **SAVE THE DATE: 2012 Class Actions Conference**

**Friday, March 2nd, 2012**

**Schulich School of Law**

Topics will include:

- National & Regional Class Action Round-Up
- Case Evaluation and Acceptance
- The Elephant in the Room: A Real and Substantial Connection
- Certifying the Class
- Crown Liability
- Environmental Class Actions
- A View from the Bench: Judicial Panel: Case Management and Certification Motions

The conference will feature a faculty of presenters from the bench and bar from across Canada. Presenter and topic detail to follow.

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## **Upcoming Events from the Atlantic Provinces Trial Lawyers Association**

### **APTLA ONLINE LEGAL EDUCATION**

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

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

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

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## **Intensive Trial Advocacy Programme**

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

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

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

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## **National Criminal Law Program registration open**

*Presented by the Federation of Law Societies of Canada, the NCLP is Canada's premier CLE and networking conference for the criminal bar.*

**Monday, July 9 to Friday, July 13, 2012  
Victoria, British Columbia**

Join over 650 Crowns, defence counsel and judges for Evidence, Ethics, and the Administration of Justice, taking place from July 9 – 13, 2012 in spectacular Victoria, British Columbia.

This year's highlights include:

- The Most Important Evidence Case of the McLachlin Court: The Faculty Speaks
- The Registrants Vote
- Point/Counterpoint: The Use of Prior Criminal Records: Are People With Criminal Records Less Likely to be Truthful Witnesses
- Ask Me anything About Ethics: A Roundtable Discussion of Difficult Ethical Problems, small group workshops, and choice of break-out groups
- Monday and Tuesday receptions and organized activities on Thursday provide opportunities to socialize, forge new friendships and reconnect with colleagues from across the country.

[Brochures and further information](#)

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## :: LIBRARY & INFORMATION SERVICES ::

**Bookmark this: Nova Scotia Annotated Civil Procedure Rules on the new Society website**

The [Nova Scotia Annotated Civil Procedure Rules](#) page on the new Society website provides links to key online resources in one place:

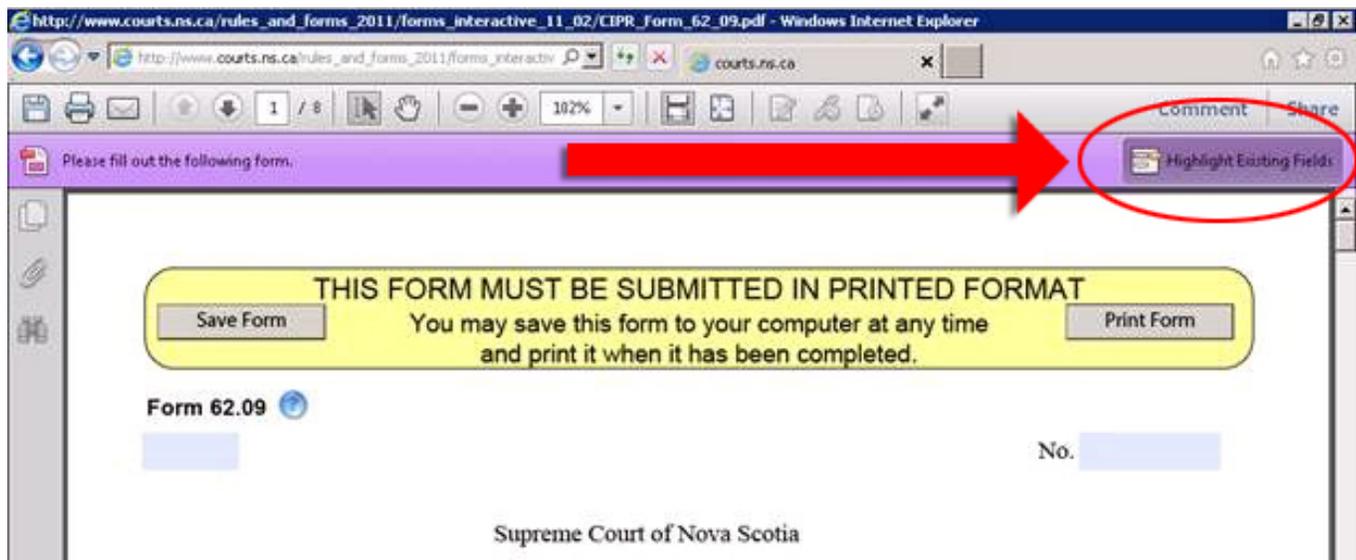
- The Society's *Nova Scotia Annotated Civil Procedure Rules* website, with searchable access to the rules, annotations, educational notes, forms, concordance and index
- All Practice Memoranda with forms in editable Word and PDF format
- Interactive (fillable) PDF forms accompanying the rules and practice memoranda developed by the Executive Office of the Nova Scotia Judiciary
- The Court's official consolidated *Civil Procedure Rules* and unofficial French translation

### Court of Nova Scotia's CPR interactive forms tip: turn on Highlight Existing Fields

The Executive Office of the Nova Scotia Judiciary has converted all forms accompanying the *Civil Procedure Rules* – including practice memoranda forms – into interactive PDF format.

The areas to type within on each form should be visible as shaded boxes. If the areas are not visible as shaded boxes, click on the button entitled **Highlight Existing Fields** found on the top right side (see screen shot snippet below).

***This tip is provided as a courtesy; NSBS has no responsibility for Court forms. Please direct all inquiries regarding these Court forms to John Piccolo, Communications Director for the Nova Scotia Judiciary, at [piccolj@gov.ns.ca](mailto:piccolj@gov.ns.ca).***



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## JSTOR offers free reading access to selected journals

JSTOR, a not-for-profit digital archive of scholarly journals and conference proceedings, has announced an initiative to provide free, online reading-only access to a limited number of titles. Through Register & Read, registered users can access – read, but not print or copy – up to four articles per two-week period.

Law journals included in this experimental release include:

- *American Journal of International Law* (American Society of International Law)
- *Journal of Criminal Law and Criminology* (Northwestern University)
- *Modern Law Review* (Blackwell Publishing)

More titles, more content coverage for titles, and more features or functionality may be added to this service at a later date. For further details, see Simon Fodden's [recent posting on slaw.ca](#) or JSTOR's [Register & Read announcement](#).

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## ::: NEW DECISIONS :::

**CIVIL RIGHTS – Unreasonable search and seizure – warrantless search** *R. v. Cater*, No. 1997518 – 1997550; 2035773 – 2035784, Derrick, J.P.C., January 13, 2012. [2012 NSPC 2](#); **M25**

**CONTRACTS – Breach of contract – provider of support services to persons with disabilities** *Kairos Community Development Inc. v. Nova Scotia (Community Services)*, Hfx. No. 265555, Coady, J., December 30, 2011. [2011 NSSC 490](#); **S641/25**

**CRIMINAL LAW – Bail – pending appeal dismissed** *R. v. Delorey*, C.A.C. No. 352181, Farrar, J.A., January 18, 2012. [2012 NSCA 5](#); **S640/6**

**CRIMINAL LAW – Evidence – principled exception to hearsay rule** *R. v. Ord*, Hfx. No. 352400, McDougall, J., January 10, 2012. [2012 NSSC 13](#); **S641/21**

**CRIMINAL LAW – Sentencing – possession of cocaine for the purpose of trafficking** *R. v. Marriott*, CR. No. 330428, Wright, J., January 6, 2012. [2012 NSSC 16](#); **S641/26**

**CRIMINAL LAW – Sexual assault – consent** *R. v. Hutchinson*, C.R.H. No. 328502, Coughlan, J., November 16, 2011; September 28, 2011 (orally). [2011 NSSC 361](#); **S641/27**

**CRIMINAL LAW – Trafficking in a controlled substance – appeal of convictions and sentence** *R. v. Calder*, C.A.C. No. 347492, Hamilton, J.A., January 11, 2012. [2012 NSCA 3](#); **S640/5**

**CRIMINAL LAW – Weapons offenses – possession for dangerous purpose, concealment, careless use** *R. v. MacLeod*, No. 2265084; 2265085; 2265086; 2265087; 2265088, Whalen, J.P.C., November 30, 2011. [2011 NSPC 105](#); **M25**

**FAMILY LAW – Access – variation** *M. (C.) v. M. (K.)*, F.L.B.M.C.A. No. 053616, Dyer, J., October 3, 2011. [2011 NSFC 24](#); **FC38**

**FAMILY LAW – Child in need of protection – permanent care and custody order** *Nova Scotia (Minister of Community Services) v. R. (J.L.) and D. (S.J.)*, F.A.N.C.F.S.A. No. 073062, Comeau, J.F.C., December 6, 2011. [2011 NSFC 28](#); **FC38**

**FAMILY LAW – Constructive trust – unjust enrichment** *Carroll v. Richardson*, S.F.H.M.C.A. No. 069321, Gass, J., January 11, 2012. [2012 NSSC 18](#); **S642/2**

**FAMILY LAW – Divorce – custody and access, child and spousal support, matrimonial property** *Gagnon v. Gagnon*, No. 1201-064264; S.F.H.D. No. 068425, MacDonald, B. J., December 30, 2011. [2011 NSSC 486](#); **S641/16**

**INCOME TAX – Appeals – reassessment** *R. v. Ocean Nutrition Canada Ltd.*, Hfx. No. 354692, Robertson, J., December 1, 2011. [2011 NSSC 493](#); **S642/1**

**INSURANCE – Disability insurance – long-term disability benefits, costs** *Inglis v. Nova Scotia Public Service Long Term Disability Trust Fund*, Hfx. No. 203247, McDougall, J., January 10, 2012. [2012 NSSC 11](#); **S641/19**

**LANDLORD AND TENANT – Residential tenancies – appeal, safety of premises, return of rental fees** *Cote et al. v. Armsworthy*, S.A.T. No. 338464, Kennedy, C.J., January 10, 2012. [2012 NSSC 15](#); **S641/22**

**LIMITATION OF ACTIONS – Limitation period – third party claim for contribution and indemnity** *Smith v. Atlantic Wholesalers Ltd.*, Syd. No. 115217, Wood, J., January 10, 2012. [2012 NSSC 14](#); **S641/23**

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**MAINTENANCE – Spousal support – application for interim spousal support** *Rochon v. McCready*, No. 73316, Forgeron, J., January 12, 2012. [2012 NSSC 9](#); **S641/30**

**PRACTICE – Costs – pre-judgment interest, offer to settle** *Sysco Canada Inc. v. Joe's Warehouse Ltd.*, Hfx. No. 326282, Hood, J., October 18, 2011. [2011 NSSC 378](#); **S641/28**

**PRACTICE – Costs – amount involved, non-monetary issue** *3209292 Nova Scotia Ltd. v. MacDuff*, Hfx. No. 309982, Scaravelli, J., December 22, 2011. [2011 NSSC 483](#); **S641/24**

**PRACTICE – Costs – motion to convert application to action** *Boone et al. v. Medusa Medical Technologies Inc.*, Hfx. No. 352947, Boudreau, J., January 10, 2012. [2011 NSSC 492](#); **S641/31**

**PRACTICE – Costs – Tariff C** *Shea v. Bowser*, Hfx. No. 348548, Rosinski, J., January 9, 2012. [2012 NSSC 10](#); **S641/18**

**PRACTICE – Costs – Tariff C, judicial review, statutory interpretation** *Nova Scotia (Department of Community Services) v. Cleary*, Hfx. No. 352457, Rosinski, J., January 9, 2012. [2012 NSSC 12](#); **S641/20**

**PRACTICE – Parties – motion to add plaintiffs, motion to appear by assistant** *Williams et al. v. Halifax (City of)*, Hfx. No. 126561, Duncan, J., December 22, 2011. [2011 NSSC 481](#); **S641/29**

**PRACTICE – Production – relevance, privilege** *Halifax (Regional Municipality Pension Committee) v. State Street Global Advisors Ltd.*, Hfx. No. 309063, Duncan, J., January 5, 2012. [2012 NSSC 6](#); **S641/17**

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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.

January 20, 2012

### [Catalyst Paper Corp. v. North Cowichan \(District\)](#)

Neutral citation: [2012 SCC 2](#) (CanLII)

File No.: 33744.

2011: October 18; 2012: January 20.

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

On appeal from the Court of Appeal for British Columbia

*Municipal law — Bylaws — Validity — Standard of review applicable to municipal taxation bylaw — What standard of reasonableness requires in context of judicial review of taxation bylaw — Community Charter, S.B.C. 1996, c. 26, s. 197.*

One of C's four mills is located in the District of North Cowichan ("District") on Vancouver Island. C seeks to have a municipal taxation bylaw set aside on the basis that it is unreasonable having regard to objective factors such as consumption of municipal services. The District argued that reasonableness must take into account not only matters directly related to the treatment of a particular taxpayer, but a broad array of social, economic and demographic factors relating to the community as a whole. The chambers judge upheld the bylaw. The Court of Appeal dismissed the appeal.

Held: The appeal should be dismissed.

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January 12, 2012

*Toronto-Dominion Bank v. Canada*

Neutral citation: 2012 SCC 1 (CanLII)

File No.: 33878

2010: June 30; 2012: January 12.

Coram: LeBel, Deschamps, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

BETWEEN:

Toronto-Dominion Bank

Appellant

- and -

Her Majesty the Queen

Respondent

JUDGMENT

The appeal from the judgment of the Federal Court of Appeal, Number A-490-09, 2010 FCA 174, dated June 30, 2010, was heard this day and the following judgment was rendered orally:

LeBel J. — We agree with the reasons of Noël J.A. of the Federal Court of Appeal. The appeal is accordingly dismissed without costs.

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## :: NOVA SCOTIA BILLS ::

There are no new bills at this time.

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

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## :: PROCLAMATIONS UPDATE ::

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### Proclamations Update

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

***Elections Act***, SNS 2011, c 5.

NS Gaz Pt 2, [01/13/12](#)

NS Reg 330/2011

***Nova Scotia Jobs Fund Act***, SNS 2011, c 40.

NS Gaz Pt 2, [01/13/12](#)

NS Reg 329/2011

***Public Interest Disclosure of Wrongdoing Act***, SNS 2010, c 42.

NS Gaz Pt 2, [01/13/12](#)

NS Reg 322/2011

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

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

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

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## :: LIANS TIPS ::

### **ABA TECHSHOW® – Super Pass discount for Nova Scotia members**

Learn and network with legal technology experts from March 29-31, 2012 at the Hilton Chicago, bringing you the latest legal technology news and emerging technologies. Legal professionals are increasingly engaging their audience with social media, managing documents more efficiently in the “cloud”, and operating a law firm virtually. [ABA TECHSHOW®](#) is dedicated to helping you understand what technology will best suit your needs.

Attend the Conference on a full SuperPass – with 10 Nova Scotia registrations, each member will **pay only \$497.50 per person!** Simply notify Stacey with your intent to attend, and she will coordinate payment with one cheque or credit card number for the registration fee.

For additional information, contact Stacey Gerrard, LIANS Counsel, 902 423 1300, x 345 or [sgerrard@lians.ca](mailto:sgerrard@lians.ca).

### **LIANSWERS newsletter: January 2012 edition now online**

In this issue you'll learn about judgment naming rules, claim trend tips, how to thrive in winter, improving client communication, using Code 451 on a Form 24, reducing risk with LAP, executor insurance for your clients, recent court decisions and more. Visit <http://www.lians.ca/news/newsletter/>

### **RISK AND PRACTICE MANAGEMENT TIP: Avoiding Fee Disputes**

Suing for unpaid legal fees can sometimes result in a countersuit for legal malpractice. Sometimes all it takes is mailing out that final bill to trigger a claim. In order to avoid fee disputes, consider doing the following:

- Don't accept clients who cannot afford your legal services. If your client is overly concerned with cost and will ultimately not be able to afford the bill, you may be torn between putting in the required number of hours and minimizing cost. Learn to say “no” to these clients;
- Use a written fee agreement that clearly explains your fee structure. In addition, be sure to include the costs for disbursements such as photocopying, computer research and court costs;
- Unless your client has specifically requested another arrangement, bill on a monthly basis. This avoids large, unexpected bills. If there is a zero balance that month, let the client know with a note indicating that you are continuing to work on the file;
- Use detailed billing statements and daily time entries so that the client knows exactly what they are paying for. Simply writing “research” for a 10 hour time entry is not sufficient – let the client know what you were researching;
- Take prompt action on accounts in arrears. Review all past due accounts on a monthly basis and make sure your retainer agreements outline what actions will be taken should the client fall behind in paying their bill.

Consider working out a realistic payment schedule with your client, or consider resolving the dispute through ADR such as mediation as an alternative to suing for your fees.

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

### **FRAUD ALERT: Debt collection scam from Wang Shun**

An email recently circulating to Nova Scotia members involves a debt collection representation request. Read an excerpt below:

*From: Liu Wang [mailto:wang.liu8765@yahoo.com.hk]  
Subject: FILE: DEBT COLLECTION CASE.*

*We want to retain your service for the purpose of debt collection in your jurisdiction Please give us the opportunity to prove our self and we shall provide all document you need to accept our proposal.  
Kindly let me know if you can.*

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Regards  
Wang Shun  
Wuhan Iron & Steel (Group) Corporation.  
Qingshan District of Wuhan,  
China.  
Zip Code: 430080  
Email: wang.liu8768@yahoo.com.hk  
wangliu1@wisco1.tk  
wang.liu3535@hotmail.com  
FAX ; +85 230-1733286  
TEL: 86-237-2225499, 2225599, 2225699  
[http://www.wisco.com.cn/wisco\\_en/](http://www.wisco.com.cn/wisco_en/)

Following further investigation, these emails have been reported to several international scam warning sites, and can be dismissed immediately. Note the multiple email address variations given, none of which match the name provided in the email's signature (e.g., Wang Liu vs. Wang Shun)

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](mailto:cnield@lians.ca) or 902 423 1300, x346.

## **NSLAP WELLNESS TIP: How to deal with bedwetting**

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

Have you thought of this? Emotional distress is usually not the cause of bedwetting, though it may be its consequence. Bedwetting can be upsetting for the whole family. However, it's neither the child's fault nor the parent's fault. Most often, bedwetting is involuntary.

Children generally want to stop wetting the bed since it's distressing for them, too. Usually, a child simply has not learned how to control the muscles that prevent bedwetting. Muscle control can be learned by appropriate motivational training. Such training requires the involvement of parents and child, but the parents need to initiate the process.

Taking action to deal with bedwetting will be a positive challenge. It shouldn't be a battle. Relax, and include activities you and your child enjoy in the training process. The trick is to take it easy – on yourself and on your child.

### **Keep track of successes**

- Put a calendar with large squares on a wall near your child's bed.
- Buy some gold stars (or, some other stickers your child picks out).
- Propose to your child that for each night he or she does not wet the bed, you'll put a star on the calendar.

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## **When your child earns a star, praise his or her behaviour**

- Do not overemphasize that he or she has to stay dry again tomorrow.
- Give verbal rewards. For example, say "That's great!" or "Wow!" when your child stays dry all night.

## **Reward consistent success**

After three stars in a row, give your child a treat. Decide with your child what the treat will be (e.g., going to see a movie together, playing an extra game of ball, or reading an extra story).

## **Gradually increase the number of stars required to get a treat**

For example, after three weeks of good results with three stars per treat, increase the number of stars per treat to five.

## **Before your child goes to bed, facilitate his or her success**

- Make sure he or she doesn't drink too much.
- Make sure your child goes to the toilet.

## **Pay attention to your attitude towards your child when he or she wets the bed**

- Simply encourage your child to try again to get a star tomorrow.
- Do not scold him or her for wetting the bed.
- Do not criticize your child as a person – don't accuse him or her of personal weakness.
- Do not punish your child for bedwetting.
- Do not talk too much about the accident.

**Note:** If you have already done any of these 'Do Not's, remember it's never too late to change! Give yourself and your child time. Be patient. It is not realistic to expect the problem to go away in one night. You will probably notice that, gradually, your child will recognize that he or she is gaining control and will start to feel better.

While this process is taking place, the reward that was initially external (e.g., stars or treats) is becoming internal (your child feels proud). You will eventually get to a point where you won't need the star system anymore.

## **Many factors can affect bedwetting behaviours**

At age five, 7% of males and 3% of females have bedwetting problems; by age ten, the percentages drop to 3% for males and 2% for females.

Bedwetting has unhappy consequences. It places limitations on a child's social activities. For example, it interferes with a child sleeping at places other than home. It can affect a child's self-esteem and the degree of social rejection he or she experiences from other children. It may also trigger anger, punishment or rejection on the part of parents.

If you try this strategy and it doesn't seem to work, consider seeking professional help. In particular, if your child starts to wet the bed after a year or more of being dry, emotional distress could be a cause. In this case, you may wish to seek a counsellor's advice.

*For more information and support in dealing with bedwetting, along with resources and counselling to improve your health and wellness, visit the NSLAP website at [www.nslap.ca](http://www.nslap.ca). Please note that **LAP** is your "company" name when you register. When you call the LAP number at **1-866-299-1299**, your call will be answered any time, day or night, 365 days per year.*

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## :: CLASSIFIEDS ::

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

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

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## :: CURRENT ISSUES IN GENDER EQUITY ::

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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.

### ***"Killer Instinct" v. Compassion***

By Catherine A. Cogswell, Member, Gender Equity Committee

"Working in a law firm one summer in college I was told by senior male partners in criminal law that women should not/could not practise criminal law as women lacked the 'killer instinct'."

Many male criminal lawyers in Nova Scotia are no doubt chuckling to themselves that I am taking the time to address the archaic and outmoded perspective of this senior male partner. In this article, I will address this position on two levels. First, it presupposes that a "killer instinct" is essential to the practice of criminal law. Second, the position attributes a blanket generalization on the personality attributes of all women everywhere.

The notion that a "killer instinct" is essential to the practice of criminal law is simplistic and ill-informed. The practice of criminal law, whether it be the prosecution or defence of alleged criminal delicts, requires logical and thoughtful analysis. The women and men practising in this area must frequently draw upon their sense of compassion to better understand the larger social context of criminal law. This includes sensitivity to and understanding of the multi-generational socio-economic disadvantage many people in our communities suffer from; the cultural and racial discrimination many people in our communities suffer from; the pain and suffering that addiction, mental health and victimization create within our communities. This is true whether you are dealing with complainants or accused persons.

In my experience, the best criminal lawyers are those with balance in their lives. The best are those who have an understanding of human pain and suffering and who do their best to understand human failings, understand victimization and, for prosecutors, understand the need to protect the community, in particular those who are vulnerable. Those who fail are those who merely "go for the kill" or are "out to win" and who fail to understand or take into account the human element involved in every case.

For many generations, criminal law was almost exclusively a male domain. As women entered this domain, we have brought our differing life experiences and perspectives. There can be no doubt that together with some of our male colleagues, we have changed the practice of criminal law in a very real and human way. That is, the practice of criminal law today involves a more holistic and compassionate approach to criminal behaviour and victimization.

The suggestion that all women everywhere and for all time lack "a killer instinct" is a generalization that by its very nature is intellectually suspect. It is difficult to discern what precisely is meant by the term "killer instinct". If it refers to an ability to be assertive or even aggressive on occasion or a tendency on occasion to lose one's temper, or the ability to strongly advocate, then it is indeed sad that the male senior partner's experience with women has been so very limited.

When I was first tasked with writing an article dealing with our "postcard campaign," I thought, "Perfect! Another opportunity to talk about my kids!" Yet another opportunity to talk about the strength and joy drawn from being a mother who happens to practise criminal law on the side. As a woman prosecutor who may or may not have a streak of "killer instinct", my children have taught me about true compassion and have made me a better criminal lawyer as a result.

*In case you missed the previous articles:*

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- ["Mom, LLB,"](#) by Amy Sakalauskas, Member, Gender Equity Committee, December 19, 2011
- ["Closing the pay equity gender gap: a task made for lawyers,"](#) by Kathleen Lumsden, member, Gender Equity Committee, November 21, 2011
- ["Come on, honey, just laugh it off,"](#) by Candee McCarthy, Co-Chair, Gender Equity Committee, October 24, 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](mailto:equity@nsbs.org).