

# INFORUM

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

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## Career Opportunities

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

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## :: NOTICES ::

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### SOCIETY NEWS

#### **Society moving to new location in April 2012**

The Nova Scotia Barristers' Society is moving this spring to a new location on the 8<sup>th</sup> floor of Cogswell Tower. Effective April 1, 2012, the new address will be as follows:

**Nova Scotia Barristers' Society  
Cogswell Tower  
800–2000 Barrington Street  
Halifax, NS B3J 3K1**

Prior to April 1, please continue to use the Society's current Granville Street address, available on the website's **Contact us** page: <http://nsbs.org/contact-us>.

#### **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 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.

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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)

## **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.

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(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

### **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.

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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.

## **Changes in Category – January 23 to February 6, 2012**

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

### **The Society welcomes the following lawyers, called to the Nova Scotia Bar since January 23:**

Patricia Ashley McFadgen  
Andrew Antonious Nahas

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

Mark Andrew Bailey  
Craig Maxwell Harding

### **The following members have changed to the Non-Practising Member category:**

Sheherazade Ghorashy  
Jill Susanne McKim

## **In Memoriam**

The Society wishes to advise members of the recent deaths of the following colleagues. We extend our condolences to their friends and families.

Mr. Roderick Joseph Chisholm, Antigonish – January 21, 2012 [\*Obituary\*](#)

Ms. Patricia Ann Coolen, Toronto – January 28, 2012 [\*Obituary\*](#)

(Please note: Ms. Coolen's funeral mass will be held in Halifax on Tuesday, February 7, 10:30 am at St. Theresa's Church, North Street.)

## **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**

### **New: Hints & Tips from the Prothonotary – February 3, 2012**

This edition includes court dockets for February and March, as well as a notice from the Court of Appeal regarding revealing the identity of panel members prior to appeal hearings.

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

These [Hints & Tips](#) are also now available via Twitter – see details in the notice below.

### **Twitter on the Courts of Nova Scotia website**

To better serve the media, the general public and the legal profession, the Courts of Nova Scotia are now "tweeting" news and information, decisions of the Courts, and notices to the Bar.

Several Twitter accounts have been set up on the Courts of Nova Scotia website ([www.courts.ns.ca](http://www.courts.ns.ca)). Each is specific to the needs of prospective subscribers. Twitter replaces the RSS Feed service that was available on the website.

**"Decisions of the Courts" at:** [http://www.courts.ns.ca/decisions\\_recent/decisions\\_weekly\\_list.htm](http://www.courts.ns.ca/decisions_recent/decisions_weekly_list.htm)

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Receive Tweets when the Courts post new decisions on the website. The Tweet will link you directly to the decision itself. Choose to receive Tweets about decisions released by one or all of the Courts.

**“Notices To The Bar”** at: <http://www.courts.ns.ca/General/bar.htm>

Follow notices important to the legal profession as they are posted on the website. These Notices Tweets include notices about Court schedules, the Law Courts Prothonotary's "Hints And Tips" newsletter, amendments to the *Civil Procedure Rules*, and changes to the online dockets of the Court of Appeal, Supreme Court in Kentville/Windsor, and the Bankruptcy Court.

**“News of the Courts”** at: <http://www.courts.ns.ca>

Follow news about the Courts as it is posted on the website. These News Tweets will be in addition to News Releases regularly emailed directly to the media.

## **Nova Scotia's Civil Procedure Rules now available in French**

The French-Speaking Jurists Association of Nova Scotia (L'Association des juristes d'expression française de la Nouvelle-Écosse – AJEFNE) made submissions when the rules of court were being revised that they be translated into French. The judges of the Supreme Court agreed, and they asked the Department of Justice to consider funding the translation. The Department agreed, and both levels of government contributed.

The translation was prepared by scholars at the University of Moncton.

Rules under the *Criminal Code* are made in both languages. The court does not have the capacity to make, or amend, the rest of the *Civil Procedure Rules* in both languages at this time. At this time, the English text is the only effective one. The translation is for the convenience of those who prefer the French language, but it does not assist in the interpretation of a Rule.

**The Forms associated with the *Civil Procedure Rules* are not available in French and must be filed with the Court in English.**

## [The French translation of the \*Civil Procedure Rules\*](#)

### **Les règles de procédure civile de la Nouvelle-Écosse**

Lorsque les règles de procédure civile étaient en cours de révision, l'Association des juristes d'expression française de la Nouvelle-Écosse a demandé aux juges de considérer la préparation d'une version française des règles. Les juges de la Cour suprême ont accepté, et ils ont demandé au Ministère de la Justice de la Nouvelle-Écosse d'assumer le financement de la traduction. Le Ministère a accepté et les deux paliers de gouvernement (fédéral et provincial) ont contribué.

La traduction a été faite par le Centre de traduction et de terminologie juridiques de l'Université de Moncton.

Les règles de procédure nécessaires en vertu du Code criminel sont toujours bilingues. En matière civile, la Cour n'a présentement pas la capacité linguistique d'adopter ou de modifier ces règles en français. Pour le moment, la version anglaise est la version officielle des règles de procédure civile de la Nouvelle-Écosse. La version française peut-être utilisée par ceux qui favorise la langue française, sans autorité interprétative.

**Les formules associées aux règles de procédure civile ne sont pas disponibles en français. Seule la version anglaise des formulaires doivent être déposées à la cour.**

[Les règles de procédure civile de la Nouvelle-Écosse en français](http://www.courts.ns.ca/Rules/rules_in_french.htm) [http://www.courts.ns.ca/Rules/rules\\_in\\_french.htm](http://www.courts.ns.ca/Rules/rules_in_french.htm)

## **Discussion Paper on a possible global review of the Federal Courts Rules\document de travail sur une révision globale possible aux Règles des Cours fédérales**

At its last plenary meeting, the Federal Courts Rules Committee agreed that the Discussion Paper on a possible global review of the Federal Courts Rules should receive wide distribution to members of the public and the profession. The final version of the paper is posted in both official languages on the websites of the Federal Court of Appeal and the Federal

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Court. Please circulate it to your colleagues and others who may have an interest in providing their feedback and comments on this topic.

- See the [consultation document](#) online for more details from the Federal Courts Rules Committee.
- Read [Global Review of the Federal Courts Rules: A Discussion Paper](#).
- Please note that the deadline for input is **February 17, 2012**. Thank you.

Bonjour,

Lors de sa dernière réunion du comité plénier des règles, il fut déterminé que le document de travail sur une révision globale possible aux Règles des Cours fédérales soit distribué de façon globale aux membres de la profession et au public. Veuillez trouver la version finale du document de travail qui sera affichée dans les deux langues officielles sur les sites web de la Cour d'appel fédérale et de la Cour fédérale. Veuillez le circuler à vos collègues et autres personnes qui aimeraient apporter leurs commentaires à ce sujet.

- [Bulletin: Examen global des règles des cours fédérales](#)
- [Examen global des Règles des Cours fédérales: un document de travail](#)
- Veuillez noter que la date limite est **le 17 février 2012**. Merci

## 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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### Request for applications for provincial judicial vacancies

Under the Guidelines, applications for a dual appointment as a Provincial Court and Family Court judge are accepted by the Provincial Judicial Appointment Committee at any time and remain on file for a period of three years from the date of the application.

As these Guidelines came into effect in April of 2009, there are applications about to expire and those candidates affected are encouraged to reapply. Presently it is anticipated that the Provincial Judicial Appointment Committee will be reviewing applications again the first of April, 2012. Although applications can be accepted at any time, new applications and those being resubmitted must be received by April 2, 2012 in order to be reviewed by the Committee at this time.

To obtain a copy of the Guidelines and Application Form and for further information on how to submit an application, please visit the Department of Justice, Court Services Division website at [http://gov.ns.ca/just/Court\\_Services/default.asp](http://gov.ns.ca/just/Court_Services/default.asp)

If you have any questions, please contact:

Heather Boyle, Executive Secretary to the Minister  
Department of Justice, 5151 Terminal Rd., 4<sup>th</sup> Floor, Halifax, NS B3J 2L6  
Phone: 424-4020 | Fax: 424-0510  
email: [boyleha@gov.ns.ca](mailto:boyleha@gov.ns.ca)

### 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.

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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.

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

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## **OTHER NOTICES**

### **AJEFNE conducting survey to evaluate linguistic capabilities throughout NS justice system**

L'Association des juristes d'expression française de la Nouvelle-Écosse has prepared a survey to evaluate the linguistic capabilities of those who work in the judicial system throughout Nova Scotia such as lawyers, police officers, clerks, sheriffs and others. The results of this study will enable us to evaluate French-language services offered in the judicial system of the province of Nova Scotia and better target our future interventions to meet the needs of our citizens.

This survey will only take a few minutes to complete. To access the survey, please click the link below:  
<https://docs.google.com/spreadsheet/viewform?formkey=dHpldmNzWW5yZG9fZ2VtU1ZTQ21idWc6MQ>.

If you have problem accessing the survey, please call us at (902) 433-2085 or email us at [dq@ajefne.ns.ca](mailto:dq@ajefne.ns.ca) and we will send you a paper copy. We would like to thank you in advance for your help and collaboration. Please note that your responses will be kept confidential.

L'AJEFNE fait une recherche visant à évaluer la capacité linguistique des intervenants du système judiciaire dans les différentes régions de la Nouvelle-Écosse. Le but de cette recherche est de connaître la situation du français et de mieux cibler nos interventions afin de répondre aux besoins des citoyens.

Pour ce faire, nous avons réalisé un sondage qui ne prend que quelques minutes à compléter. Vous pouvez accéder à ce sondage en cliquant sur le lien suivant:

<https://docs.google.com/spreadsheet/viewform?formkey=dHpldmNzWW5yZG9fZ2VtU1ZTQ21idWc6MQ>

Si vous avez de la difficulté à y accéder, veuillez s'il vous plaît communiquer avec nous et nous vous ferons parvenir une copie papier par la poste. Nous vous remercions à l'avance de votre aide et de votre précieuse collaboration. Veuillez noter que vos réponses sont confidentielles.

### **CanLII requests feedback on its strategic priorities for 2012-2014**

CanLII has released its strategic priorities for 2012-2014:

- Secure permanent role as foremost source of free law in Canada
- Continually enrich content to meet the needs of public and professional users
- Deliver easy to use professional grade tools and a compelling site experience
- Continuously promote and defend free access to law

Enhancements to CanLII under consideration include incorporating secondary sources material (digests, journals), search personalization and online training tools. Enhancements planned for spring 2012 will allow development of Web 2.0 features on the site.

Read the [full overview](#) on CanLII's news page or view the full PDF [Strategic Priorities 2012 to 2014](#).

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As professional CanLII users, your feedback is especially important. CanLII President Colin Lachance is seeking input and can be reached at [clachance@canlii.org](mailto:clachance@canlii.org).

## **Contact List for Mortgage Discharges / Liste de personnes-ressources pour les dossiers de quittance hypothécaire**

The Canadian Bankers Association ("CBA") has provided an updated list of bank officials to contact in the case of delays in the discharge of mortgages. This list, in English and French, contains two changes (Manulife Bank and Laurentian Bank) and replaces all earlier versions. The CBA has requested that it be made available to lawyers immediately.

LIANS maintains the current contact list for mortgage discharges on its website, at this link:

[http://www.lians.ca/real\\_estate/mortgage\\_discharge\\_escalation\\_contact\\_list/](http://www.lians.ca/real_estate/mortgage_discharge_escalation_contact_list/)

L'Association des banquiers canadiens (ABC) nous a envoyé une liste mise à jour des personnes-ressources avec qui communiquer en cas de retards afférents aux quittances hypothécaires. Cette liste, que vous trouverez ci-joint en français et en anglais, contient deux changements (Banque Manuvie et Banque Laurentienne) et remplace toutes les versions antérieures. L'ABC a demandé qu'elle soit distribuée aux juristes dès maintenant.

*Frederica Wilson*

*Director, Policy and Public Affairs / Directeure, politiques et affaires publiques*

*Federation of Law Societies of Canada / Fédération des ordres professionnels de juristes du Canada*

[www.flsc.ca](http://www.flsc.ca)

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## **AWARDS & APPOINTMENTS**

### **BOYNECLARKE LLP appoints James D. MacNeil as Managing Partner**

(February 1, 2012 – Halifax, Nova Scotia) BOYNECLARKE LLP is pleased to announce that James D. MacNeil has been appointed Managing Partner, succeeding John A. Young QC, who now becomes Chairman of the firm.

This month, BOYNECLARKE LLP, Atlantic Canada's fourth largest law firm, celebrates its 40<sup>th</sup> anniversary and the firm looks forward to continuing growth by focusing on client service and increasing specialization.

Mr. MacNeil has been associated with BOYNECLARKE LLP since graduating from the University of New Brunswick in 2000. A successful member of the litigation team, with a particular emphasis on construction law, Mr. MacNeil has been a member of the firm's Executive Committee and was responsible for the development and move by the firm in 2010 to its new offices in Metropolitan Place in Dartmouth.

Mr. Young has served as Managing Partner for the past eight years, and as Chairman he will focus on client development and community relations.

### **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.

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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.

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:

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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.

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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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## :: 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**

Please visit the [events](#) page on our website for the most up-to-date listings.

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

##### **February Online CLE *Trial Prep for Legal Assistants***

**Date:** Friday, February 10, 2011

**Time:** 12:00 - 1:30 pm (Atlantic Time)

This session will be focused on file management and court preparation in the civil context and how a lawyer and paraprofessional (legal assistant, paralegal) can effectively work together to ensure the lawyer is prepared and provide efficiency and value to the client. (Some of the content may apply to other fields; however, the focus will be on the Nova Scotia Courts, the Federal and the Supreme Court of Canada in a civil context.)

**Speakers:** Jane O'Neil, McInnes Cooper & Rachel Barnes, McInnes Cooper

Deadline to register is Wednesday, February 8, 2012. Register today!

Fees: \$90.00 plus HST for CBA Members and \$140.00 plus HST for Non-members.

Group rate available at \$400.00 plus HST for one firm with 5-10 CBA registrants in a boardroom setting. Bring the experts to your office. All you need for this live interactive educational opportunity is a phone, computer and 90 minutes. Please contact Riea Elder with any questions at (902) 425-8170 or by email at [riea.elder@cbans.ca](mailto:riea.elder@cbans.ca).

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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 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

COMING UP:

**Friday March 2**

**Medical Science in the Courtroom: Lessons from the Inquiry into Pediatric Forensic Pathology**

The Honourable Justice Stephen Goudge, Court of Appeal for Ontario

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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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## **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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## **Speech on the Internet: Danger Ahead?**

*Part of the Eminent Speakers Series from the Law & Technology Institute at the Schulich School of Law*

**Thursday, February 16, 2012 - 14:30 to 16:30**

**Room 305, Schulich School of Law, 6061 University Avenue**

Three eminent speakers will each address pressing issues relating to how we communicate on the Internet: How free is our speech? What limits should the law allow? How do we deal with speech that injures?

The Panel will consist of:

- **Lisa Munro** (Lerners LLP), Co-Counsel to Conrad Black in Black v Breeden (currently pending before the Supreme Court of Canada)
- **Brian Awad** (Burchells LLP), Technology Litigator
- **A Wayne MacKay** (Schulich School of Law), Chair, Nova Scotia Cyber-Bullying Task Force

**Moderator: Professor Rob Currie** (Schulich School of Law), Director, Law & Technology Institute

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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

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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**

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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## **Actions with Class: Atlantic Class Action Symposium at Schulich School of Law**

**Friday, March 2nd, 2012  
Schulich School of Law, Dalhousie University, Halifax**

Our program includes:

- National & Regional Class Action Round-Up: Lawyers from across Canada present a look at filings and outcomes in class actions across the nation.
- Case Evaluation and Acceptance: Making the Right Decision at the start of the file
- The Elephant in the Room: The Real and Substantial Connection
- Certifying the Class: Motions and the Evidentiary Threshold in Certification
- The Evolution of Class Actions
- Crown Liability: Class Actions against the Crown, and the attitude of the Federal and Provincial Crowns.
- Mediation in Class Actions
- Environmental Class Actions: The future in light of the Inco decision
- A View from the Bench: Judicial Panel: Case Management and Certification Motions

We have assembled an excellent faculty from the Bench and Bar from across Canada; including Justice Maurice Cullity (Retired), Justice Leo Barry, Justice Gerald Moir, and Justice George Strathy.

Complete conference information and registration is set out on our website: <http://www.atl-classaction.ca>  
Space is limited. Please register as soon as possible.

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## **Two workshops presented by the Nova Scotia Human Rights Commission's Race Relations, Equity and Inclusion Division**

### **One-day workshop: Human Rights in the Workplace**

**March 7, 2012, 9:00 am – 4:00 pm**

Nova Scotia Health Research Foundation, 1660 Hollis Street, 9th Floor, Suite 905, Halifax

Please let us know if you are interested in attending by **February 29, 2012**. There are 20 spaces available for this workshop.

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## **Five-day workshop: Creating Cultural and Organizational Change**

**May 14-18, 2012**, 9:00 am – 4:00 pm daily

Halifax (venue to be confirmed)

Please let us know if you are interested in attending by **May 1, 2012**.

If you are interested in attending either of these two workshops, please contact Melissa Brayley at 902-424-4683 or [brayleym@gov.ns.ca](mailto:brayleym@gov.ns.ca). Both workshops are by registration only.

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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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## **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

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- 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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## :: LIBRARY & INFORMATION SERVICES ::

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### Bookmark this: Legislation links on the new Society website

The [Legislation](#) page on the new Society website provides links to key online resources in one location:

- Nova Scotia bills, statutes and proclamations from the 1995-1996 session to date from the Office of the Legislative Counsel. PDFs of assented-to bills from the second session of 2003 onward have official status.
- Consolidated federal statutes and regulations (official) and annual statutes from 2001 (not official) from the Department of Justice Canada's Justice Laws site
- Legislation, with some point-in-time version coverage, from Canadian provinces and territories and the federal realm on CanLII (not official)

### **Nova Scotia Law News v. 37 no. 1 now online**

[Nova Scotia Law News v.37 no.1 \(January 2012\)](#) is now available on the *Nova Scotia Law News* webpage in the Publications section of the Society website.

This issue contains decisions received between July 11, 2011 and December 12, 2011, with digests for decisions of precedent value.

The table below summarizes some of the options available to keep current with new case law.

ONLINE SOURCE	TIMELINESS
Review <a href="#">new decisions</a> in each issue of <i>InForum</i>	Published biweekly
Use the new decisions search in <a href="#">Law News Online</a>	Same-day access
Follow the <a href="#">Courts' release of decisions</a> via Twitter	Same-day notification and access
Receive notification of new decisions on <a href="#">CanLII</a> via RSS feed	As uploaded to the service

### **CanLII's 2012-2014 strategic direction: a free, comprehensive and robust legal research service**

CanLII has released its strategic priorities for 2012-2014:

- Secure permanent role as foremost source of free law in Canada
- Continually enrich content to meet the needs of public and professional users
- Deliver easy to use professional grade tools and a compelling site experience
- Continuously promote and defend free access to law

Enhancements to CanLII under consideration include incorporating secondary sources material (digests, journals), search personalization, and online training tools. Enhancements planned for Spring 2012 will allow development of Web 2.0 features on the site.

Read the overview [here](#) on CanLII's news page or view the full PDF [Strategic Priorities 2012 to 2014](#).

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## :: NEW DECISIONS ::

**ADMINISTRATIVE LAW – Boards and tribunals – declaratory judgments, Nova Scotia Securities Commission** *Nova Scotia (Securities Commission) v. Potter et al.*, C.A. No. 351542; C.A. No. 353014, Bryson, J.A., January 31, 2012. [2012 NSCA 12](#); **S640/14**

**ADMINISTRATIVE LAW – Boards of inquiry – jurisdiction** *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, C.A. No. 352666, Saunders, J.A., January 25, 2012. [2012 NSCA 11](#); **S640/12**

**ADMINISTRATIVE LAW – Freedom of information – appeal dismissed** *Coates v. Capital District Health Authority*, C.A. No. 344161, Beveridge, J.A., January 20, 2012. [2012 NSCA 4](#); **S640/7**

**BANKRUPTCY – Discharge – conditional** *Byrne (Re)*, Court No. B 35420; Estate No. 51-1397618, Cregan, Registrar in Bankruptcy, January 18, 2012. [2012 NSSC 23](#); **S642/4**

**BANKRUPTCY – Discharge – denied** *MacLean (Re)*, Court No. 34380; Estate No. 51-1205260, Cregan, Registrar in Bankruptcy, January 18, 2012. [2012 NSSC 24](#); **S642/5**

**CIVIL RIGHTS – Right to counsel – application for funded counsel** *Bradley v. Canada (Correctional Service)*, Amh. No. 357720, Bourgeois, J., December 6, 2011. [2011 NSSC 463](#); **S642/6**

**CIVIL RIGHTS – Sexual assault – limitation defence allowed in part** *C. (H.) v. Nova Scotia (Attorney General)*, Tru. No. 285348, Scanlan, J., January 17, 2012; December 13, 2011 (orally). [2011 NSSC 494](#); **S642/19**

**CREDITOR AND DEBTOR – Judgments – satisfied by recovery of assets** *Martin v. Hawkins*, Hfx. No. 312185, Wood, J., January 11, 2012. [2012 NSSC 32](#); **S642/13**

**CREDITOR AND DEBTOR – Monies owing – unpaid invoices** *Eastech Consultants Ltd. v. Silco Contracting Ltd. et al.*, Claim No. 10-329803, Casey, Adjudicator, September 27, 2010. [2010 NSSM 81](#); **SmC119/26**

**CREDITOR AND DEBTOR – Receivership – doctrine of res judicata** *Scanwood Canada Ltd. (Re)*, Hfx. No. 342377, Hood, J., January 20, 2012; December 19, 2011 (orally). [2011 NSSC 495](#); **S642/15**

**CRIMINAL LAW – Animal Protection Act – permit animals to be in distress** *R. v. Jackson*, No. 2271453, Gabriel, J.P.C., June 2, 2011. [2011 NSPC 108](#); **M25**

**CRIMINAL LAW – Appeals – misapprehended the evidence, new trial ordered** *R. v. W. (B.)*, C.A.C. No. 346509, Beveridge, J.A., January 31, 2012. [2012 NSCA 13](#); **S640/15**

**CRIMINAL LAW – Intervenors – former lawyer, ground for appeal trial counsel's representation ineffective** *R. v. Ross*, C.A.C. 356611, Fichaud, J.A., January 23, 2012. [2012 NSCA 8](#); **S640/10**

**CRIMINAL LAW – Multiple counts – of assault, harrassement, mischief, damage to property, breach of recognizance** *R v. Frank*, No. 2244882-88; 2277992-95; 2287846-53; 2287856-59, Derrick, J.P.C., August 12, 2011. [2011 NSPC 107](#); **M25**

**CRIMINAL LAW – Sentence – appeal of sentence for sexual assault of a minor** *R. v. W. (J.M.)*, C.A.C. No. 339020, MacDonald, M. C.J., January 25, 2012. [2012 NSCA 9](#); **S640/11**

**CRIMINAL LAW – Sentencing – breaches of undertakings, recognizances and probation** *R. v. Frank*, No. 2244882-88; 2277993; 2277995-96; 2287846-53; 2287856; 2287858, Derrick, J.P.C., January 24, 2012. [2012 NSPC 5](#); **M25**

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**CRIMINAL LAW – Sentencing – collapsing of conditional sentence order** *R. v. Marcelli*, Hfx. No. 355052A, Rosinski, J., January 30, 2012. [2012 NSSC 44](#); **S642/25**

**CRIMINAL LAW – Sentencing – driving while disqualified** *R. v. MacKenzie*, No. 2153877; 2153879; 2163597, MacQuarrie, J.P.C., January 16, 2012. [2012 NSPC 4](#); **M25**

**CRIMINAL LAW – Sentencing – possession of a loaded prohibited firearm with ammunition, concealed weapon** *R. v. Pye*, No. 2350743; 2350749; 2350751; 2350753; 2272798, Tax, J.P.C., November 29, 2011. [2011 NSPC 104](#); **M25**

**CRIMINAL LAW – Tampering with a witness – failure to keep the peace and be of good behaviour** *R. v. Jefferson*, No. 2294386, Batiot, J.P.C., January 18, 2012; December 20, 2011. [2012 NSPC 3](#); **M25**

**DAMAGE AWARDS – Personal injuries – torn meniscus** *Roscoe v. Halifax (Regional Municipality)*, Hfx. No. 307889, Muise, J., December 29, 2011. [2011 NSSC 485](#); **S642/8**

**DAMAGES – Motor vehicle accident – liability, crusher dust in detour zone** *Naugler v. J.R. Eisener Contracting Ltd.*, Claim No. 10-334211, Casey, Adjudicator, October 29, 2010. [2010 NSSM 82](#); **SmCI19/27**

**DAMAGES – Tailor – hemming pants** *Beals v. Katies Tailors*, Claim No. 10-331323, Casey, Adjudicator, August 27, 2012. [2010 NSSM 80](#); **SmCI19/25**

**FAMILY LAW – Child in need of protective services – permanent care and custody order** *Nova Scotia (Minister of Community Services) v. M. (J.) and S. (D.)*, S.F.S.N.C.F.S.A. No. 070478, Forgeron, J., January 11, 2012. [2012 NSSC 19](#); **S642/3**

**FAMILY LAW – Common law relationship – division of business assets and debts, joint venture** *Tabensky v. Campbell*, S.F.P.A.M.P.A.Y. No. 065415, Legere-Sers, J., January 25, 2012. [2012 NSSC 39](#); **S642/21**

**FAMILY LAW – Custody – parenting plan** *Hammond v. Nelson*, H.F.D.M.C.A. No. 68746, Dellapinna, J., January 20, 2012. [2012 NSSC 27](#); **S642/12**

**FAMILY LAW – Custody – shared parenting, parental deficits** *M. (A.) v. Y. (A.)*, No. 77542, Forgeron, J., January 17, 2012. [2012 NSSC 25](#); **S642/10**

**FAMILY LAW – Custody – sole custody to father** *Brooks v. Soto*, S.F.H.M.C.A. No. 067661, Williams, J., January 23, 2012; December 15, 2011 (orally). [2011 NSSC 498](#); **S642/20**

**FAMILY LAW – Division of assets – family corporation** *Dobson v. Meldrum*, S.A.M. No. 1202-001711; 055546, Murphy, J., January 30, 2012; January 26, 2012 (orally). [2012 NSSC 41](#); **S642/24**

**FAMILY LAW – Division of assets – sale of home** *Harrington v. Coombs*, S.F.H.P.A. No. 0711113, Dellapinna, J., January 30, 2012. [2012 NSSC 47](#); **S642/26**

**FAMILY LAW – Divorce – interim spousal support, imputing income** *Richards v. Richards*, C.A. No. 341497, Bryson, J.A., January 20, 2012. [2012 NSCA 7](#); **S640/9**

**FAMILY LAW – Procedure – costs** *Dawson v. Dawson*, No. 1204-005160, Warner, J., January 23, 2012. [2012 NSSC 36](#); **S642/16**

**FAMILY LAW – Spousal support – variation, termination** *Barnes v. Barnes*, S.F.H.M.C.A. No. 059649, Jollimore, J., January 18, 2012. [2012 NSSC 21](#); **S642/9**

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**FISH AND GAME – Appeal – of amendments to three licences/leases issued for aquaculture operations, standard of review** *Specter v. Nova Scotia (Minister of Fisheries and Aquaculture) et al.*, Hfx. No. 350371, Wood, J., January 30, 2012. [2012 NSSC 40](#); **S642/27**

**LANDLORD AND TENANT – Residential tenancies – appeal allowed in part** *McIntyre v. Omers Realty*, Hfx. No. 349060A; S.C.C.H. No. 340123, Wood, J., January 23, 2012. [2012 NSSC 35](#); **S642/23**

**MAINTENANCE – Child support – retroactive support and extraordinary expenses** *MacCulloch v. MacCulloch*, C.A. No. 347774, Farrar, J.A., January 25, 2012. [2012 NSCA 10](#); **S640/13**

**MAINTENANCE – Child support – variation** *Bury v. Beaton*, S.F.S.N.M.C.A. No. 009442, Wilson, J., January 24, 2012. [2012 NSSC 37](#); **S642/17**

**PRACTICE – Class actions – certification** *MacQueen et al. v. Sydney Steel Corp.*, Hfx. No. 218010, Murphy, J., January 19, 2012; June 24, 2010 (orally) and July 6, 2011 (orally). [2011 NSSC 484](#); **S642/7**

**PRACTICE – Costs – multiplier** *Parker Mountain Aggregates Ltd. v. Nova Scotia (Minister of Environment) et al.*, Hfx. No. 324761, Robertson, J., January 20, 2012. [2012 NSSC 26](#); **S642/11**

**PRACTICE – Costs – party and party costs** *Poulain v. Iannetti*, Hfx. No. 288814, Pickup, J., January 25, 2012. [2012 NSSC 29](#); **S642/22**

**PRACTICE – Res judicata – relitigation of issues, abuse of process** *Lienaux v. Purcell*, Hfx. No. 357864, Rosinski, J., January 24, 2012. [2012 NSSC 38](#); **S642/18**

**REAL PROPERTY – Easements – application for injunction dismissed** *Cobalt Investments Ltd. v. Panko*, Hfx. No. 346645, Wood, J., January 20, 2012. [2012 NSSC 34](#); **S642/14**

**REAL PROPERTY – Jurisdiction – of Small Claims Court to hear** *Swaine v. Hackney*, Claim No. 10-334787, Casey, Adjudicator, December 17, 2010. [2010 NSSM 83](#); **SmCI19/28**

**WORKERS' COMPENSATION – Appeal – new evidence** *Drake v. Nova Scotia (Workers' Compensation Appeals Tribunal) et al.*, C.A. No. 341624, Farrar, J.A., January 23, 2012. [2012 NSCA 6](#); **S640/8**

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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.

February 3, 2012

### [Merck Frosst Canada Ltd. v. Canada \(Health\)](#)

Neutral citation: [2012 SCC 3](#) (CanLII)

File Nos.: 33290, 33320.

2010: November 12; 2012: February 3.

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

On appeal from the Federal Court of Appeal

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*Access to information — Third party information — Exemptions — Notice requirements — Severance — Access to information requests filed with Health Canada relating to third party pharmaceutical company's new drug submissions — Whether government institution fulfilled obligations to review records before providing notice of intention to disclose third party's information and in severing non-exempt information — Whether statutory notice requirements triggered — Whether third party information falling within Act's exemptions — Access to Information Act, R.S.C. 1985, c. A-1, ss. 20(1), 25, 27, 28.*

*Access to information — Appeals — Standard of appellate review — Evidence — Access to information requests filed with Health Canada relating to third party pharmaceutical company's new drug submissions — Whether deference owed to reviewing judge's findings that exemptions from disclosure applied to third party information — Whether pharmaceutical company provided sufficient direct and objective evidence information falling within exemptions — Access to Information Act, R.S.C. 1985, c. A-1, ss. 20(1), 44.*

Health Canada received access to information requests relating to two new drug submissions made to it by M, a pharmaceutical company and third party to the requests. A series of disputes arose between the parties about what information had to be disclosed and what was exempt from disclosure under the *Access to Information Act* (the "Act"). In particular, Health Canada identified several hundred pages in response to each request. It reviewed those pages, concluded some contained information that could not be disclosed under the exemptions found in s. 20(1) of the Act, and redacted those pages in part. It also concluded a number of pages did not contain any exempted information and disclosed those pages without notifying or consulting M. Enclosing hundreds of the still undisclosed pages, Health Canada then notified M of the access to information requests and of its intention to disclose the enclosed pages, asking M to explain which portions of the remaining pages M considered confidential under s. 20(1), and why. Following a number of exchanges, Health Canada agreed to further redactions but rejected the balance of M's objections. M filed for judicial review of Health Canada's decisions under s. 44.

The Federal Court found that disclosure by Health Canada without prior notice to M contravened s. 20(1) of the Act and held that over 200 pages were exempted from disclosure, while the remaining pages could be disclosed. The reviewing judge also held that it would be extremely difficult to sever and disclose non-exempt information pursuant to s. 25. The Federal Court of Appeal allowed Health Canada's appeals, ordering that all the remaining pages at issue should be disclosed.

*Held* (Deschamps, Abella and Rothstein JJ. dissenting): The appeals should be dismissed.

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

**Assessment Act**, SNS 2009, c 8.

NS Gaz Pt 2, [01/27/12](#)

NS Reg 4/2012

**Dangerous and Unsightly Premises Amendment (2011) Act**, SNS 2011, c 4.\*

NS Gaz Pt 2, [01/27/12](#)

NS Reg 5/2012

\* amends the *Halifax Regional Municipality Charter*, SNS 2008, c 39 and *Municipal Government Act*, SNS 1998, c 18

**Municipal Grants Act**, SNS 2009, c 8.

NS Gaz Pt 2, [01/27/12](#)

NS Reg 4/2012

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 ::

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### **LIANS moving to new location in April 2012**

Please note, LIANS will be moving this spring to a new location on the 8th floor of Cogswell Tower. Effective April 1, 2012, the new address will be as follows:

Lawyers' Insurance Association of Nova Scotia  
Cogswell Tower  
801–2000 Barrington Street  
Halifax, NS B3J 3K1

Prior to April 1, please continue to use the current Hollis Street address, available on the website's contact page:  
<http://www.lians.ca/contact>.

### **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).

### **RISK AND PRACTICE MANAGEMENT TIP: Identifying your client**

The Society's Client Identification and Verification Regulation 4.5 requires that you keep records of the identification of all clients. When financial transactions are involved, with a few exceptions, you have to verify the identification of the client and keep that information on file. However, the sophistication of fraudulent schemes is making it increasingly difficult for practitioners to detect forged identification.

If the identification document you are looking at appears legitimate but your spidey senses are still tingling, one option is to type the person's name into Google to see whether the name comes up in your search.

Want to confirm that the property for which your client is seeking financing actually exists as described? Use Google Earth. Simply type in the address and you will see a photo of the property.

For more information on Client ID, go the LIANS website at: [http://www.lians.ca/rpm/risk\\_management/client\\_id/](http://www.lians.ca/rpm/risk_management/client_id/)

*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: Fraud attempt email from "TD Canada Trust"**

We have had several reports of a scam attempt email purporting to be from TD Canada Trust bank, claiming that an outstanding credit payment is overdue. The wording follows below:

*TD Canada Trust <<http://www.senate.go.th/profile/fb/wellsfargo.php>>*

*Dear Customer,  
Recent account checking shows that you have an unpaid payment.*

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*A payment was sent to you but could not be credited in your account. This is due to your account being out of date.*

*We ask you to take 5-10 minutes to update your online account and security information. An extra verification process has been placed to ensure your identity and your account data.*

*Once updating has been successful funds will be available in your account within 24hrs.*

*Please logon now <<http://www.albatop.hu/login>> to continue updating your account. or go to our online banking website at <<http://www.easywebcpo.td.com/waw/idp/login.htm?execution=e1s1>> <<http://www.albatop.hu/login>>*

*Failure to update your account details may lead to account termination.*

*Thank you.  
Customer Service*

*©2001-2012 TD Canada Trust*

Please remember that financial institutions will **never** send an unsolicited email requesting that you reconcile a payment or provide your private financial information to resolve a problem with your account. From the [TD Bank Financial Group](#) website "On occasion, TD Bank Financial Group will send you an email ... At no time will we ask you to reply to an email with account numbers, passwords, PINs, IdentificationPlus questions and answers, or other personal information, because unencrypted email is not secure."

Protect yourself:

- Do not click on any links that are included in these types of emails – this action can provide hackers with access to your computer's functions.
- Do not provide your confidential or financial information over the Internet in response to unsolicited emails.

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

*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: Communicating your feelings of love and affection**

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

Although love and affect are strong emotions, people often experience difficulty communicating these feelings to one another. Here are some suggestions that may help you communicate love and affection better. Being silent about your feelings may be interpreted as an expression of the absence of those feelings.

### **Strategies to adopt and adapt**

Here are some strategies to help you convey your love and affection. Some focus on verbal communication, spoken or written, but there are other ways to let the person you care about know that you care. We suggest you personalize these strategies, and hope our examples will help you generate some ideas of your own.

### **Talk about your feelings**

Speaking is the most direct way to convey your feelings. Your feelings for the person you love are simple and not complicated so you can put them into simple words. For example, "I love you" or "I love being with you and doing things together."

No doubt you experience these emotions frequently. Try giving voice to these feelings at least half the time you experience them. Be assured, the person listening will not tire of hearing them!

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## **Sometimes actions speak louder than words**

Caring behaviours are as important as caring words. Paying careful attention to the person you love is an example of caring behaviour.

- Take an interest in the other person's daily life, what happened at work, or his or her relations with friends or family.
- Listen to what he or she has to say. If the other person has a problem, you needn't feel you have to solve it for them. It is your understanding and sympathy that really matters.

Real listening means paying attention so that you can sum up what the other person has said. A real listener looks at the other person while he or she is talking.

## **Talk, listen, and touch**

Touching matters as much as talking and listening. Holding hands, hugs, kisses, all work very well as unmistakable signs of your love and affection. They are hard to overdo.

## **Some other ideas that work well**

- Phone your loved one at work just to say hello.
- Write your loved one a note and put it on the fridge or his or her briefcase.
- Do things together; a walk in the rain, a trip to the museum, a weekend in the country.
- Plan something special for your loved one's birthday and/or your anniversary!
- Take enough time to make your gifts personal. This means going beyond the usual box of chocolates, necktie or new frying pan.

## **Persist**

Remember, there's more than one way to deliver your message. Try some strategies and observe the consequences. Doing so will help you progress successfully towards communicating your love and affection.

However, if you have tried these suggestions and you find it difficult to apply the strategies or would like more ideas, you might benefit from professional help.

*For more information and support in communicating love and affection, 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).