

INFORUM

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

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- [APTLA's Information Conference: Modern Litigation & the Art of Intelligence Gathering](#) – November 2
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:: NOTICES ::

SOCIETY NEWS

UPDATE: Barristers' Library now open at Summit Place

Due to renovations to upgrade the heating, ventilation and air conditioning systems at The Law Courts on Upper Water Street, the Barristers' Library in Halifax has moved to temporary quarters on the fifth floor of Summit Place (1601 Lower Water Street).

The Barristers' Library reopened on Monday, October 22 and is expected to remain in the temporary location for approximately one year. During this time, the collection is available for use **Monday through Friday, 8:30 am to 4:30 pm**. After-hours access to the library collection is not possible at the Summit Place location.

The entire circulating collection – texts, treatises and continuing professional development materials – is available for loan at Summit Place. Key resources of the non-circulating collection – including federal and Nova Scotia legislation, Nova Scotia case law, British report series, encyclopedias, forms and precedents, and rules of court – are also available for use.

Internet available in Barristers' Lounge

As a service to lawyers still attending court in The Law Courts, the Society has placed some equipment in the Barristers' Lounge on the first floor at 1815 Upper Water Street. Wi-Fi is available; the password is posted on the wall. One computer with internet access is also available.

A photocopier is also available, and is connected to the computer in order to print documents. Payment for copies will be managed with a form located on a clipboard by the copier. Please record your name, the number of copies made, and your billing reference; the Society will then invoice you for the costs. Copiers are also available at the temporary Barristers' Library location on the fifth floor of Summit Place.

The Society will provide further updates on the website and in *InForum* as they become available. Please contact Library & Information Services at 425 2665, 1 866 219 1201 (toll-free) or nsbslib@nsbs.org with questions or concerns.

Other changes at Law Courts during renovations

For changes relating to courtroom space and court services during the renovations, please see the Courts of Nova Scotia website: www.courts.ns.ca. A detailed memo from the Honourable Joseph P. Kennedy, Chief Justice of the Nova Scotia Supreme Court, has been posted on the Notices to the Bar page.

2013 Society Elections: Memorandum from the Governance and Nominating Committee

Although elections for the Second Vice-President and members of Council are still several months away, the Governance and Nominating Committee invites you to begin to think about the Society's leadership.

In 2013, a Second Vice-President will be elected. The *Legal Profession Act* requires that person to be from outside of Halifax Regional Municipality, because the incoming President and First Vice-President are from Halifax.

Council elections will also be conducted next year in March and April; more detail will be provided about them in due course.

As the Governance and Nominating Committee begins its work to nominate a candidate for a Second Vice-President (which must be done by the end of January 2013), it invites all lawyers to provide recommendations on who might be nominated. Under its policies, in addition to the ability to meet the expected time commitments (approximately 500 hours), the Committee will look for such characteristics as unquestionable integrity, respect for others, communications skills, strategic thinker, consensus builder, leadership skills, and fit with the other officers.

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As well, the Society strives for diversity of leadership with respect to personal characteristics, area of practice, and geographic location of the candidate.

If you are interested in being considered for this position or wish to recommend someone for consideration by the Committee, you are invited to do so in writing, or by calling the Chair of the Committee, Daniel Campbell QC, at dmccampbell@coxandpalmer.com or 902 491 4105.

Changes in Category – October 15 to 29, 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:

Rebecca Carol Druhan

Revised Notice of Hearing: Philip Whitehead

The hearing respecting charges against Philip Whitehead, originally scheduled for October 23, will now commence on **November 14 at 9:30 am**.

For more details, see the Revised Notice of Hearing, which was posted on the [Public hearings](#) page of the Society's website on October 19.

Notice of Hearing: Michael Iosipescu

The Hearing Committee of the Nova Scotia Barristers' Society will hold a hearing respecting charges against Michael Iosipescu, a member of the Nova Scotia Barristers' Society, scheduled for **Friday November 2, 2012**, commencing at 9:30 am at the Nova Scotia Barristers' Society's classroom, Cogswell Tower Suite 800-2000 Barrington Street, Halifax, Nova Scotia.

For more details, see the Notice of Hearing, posted October 5 on the [Public hearings](#) page of the Society's website

In Memoriam

The Society wishes to advise members of the recent death of the following colleague. We extend our condolences to his friends and family.

- David Campbell, Sydney – October 26, 2012

Society's new CPD Requirement Handbook online

The [NSBS CPD Requirement Handbook](#) is now available on the website, in the section [For lawyers](#), under the [Professional Development](#) heading. It should answer most questions about the Society's new mandatory continuing professional development requirement, which **came into effect on June 1, 2012**.

Effective June 1, all practising lawyers in Nova Scotia will be required to complete at least 12 hours of continuing professional development annually, and to report this education on their Annual Member Reports.

For further details about the new CPD requirement, please visit the [NSBS CPD Requirement](#) page of the Society's website, and the [CPD Requirement Chart](#). Also see the special feature section of the April edition of the [Society Record](#).

For links to examples of CPD programming and providers, visit the [CPD resources](#) page and [Upcoming events](#).

For any further questions not addressed on the website or in the new handbook, please email the Society at cpd@nsbs.org, or phone the **NSBS CPD line: 902 422 1491 ext. 371**. A staff member will respond to your query within five business days.

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Follow the Society's social media channels

- On Twitter at <http://twitter.com/NSBS>
- On LinkedIn at <http://www.linkedin.com/company/ns-barristers'-society>
- On YouTube at <http://www.youtube.com/user/nsbarristersociety/videos>
 - Latest videos: "The Revolution in Legal Services Delivery," a presentation by Darrel Pink, Executive Director, at the 2012 Annual Meeting, June 16 at the Schulich School of Law.

Please note, these links are also available at the bottom right of the Society's homepage at nsbs.org.

FROM THE COURTS

Notice to the Profession from Halifax Provincial Court: 2013 Intake Dates

The Provincial Court in Halifax has released its 2013 schedule of intake dates for long trials in courtroom #6. To access the schedule, see the Notices to the Bar page on the Courts of Nova Scotia website: <http://www.courts.ns.ca/General/bar.htm>

Notice to the Bar: Seventh floor renovations to begin shortly at Halifax Law Courts

The courtrooms on the seventh floor of the Halifax Law Courts will be shut down in the near future as part of phase two of the renovation of the building's heating, ventilation and air conditioning systems. A new courtroom and related offices are being prepared in the Summit Place building just down the street.

Find out more in the detailed memo from the Honourable Joseph P. Kennedy, Chief Justice of the Nova Scotia Supreme Court, posted on the [Notices to the Bar](http://www.courts.ns.ca/General/bar.htm) page at www.courts.ns.ca.

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 new Twitter service to be automatically notified whenever something new is added to this web page. For instructions, visit <http://www.courts.ns.ca/General/bar.htm>.

Several Twitter accounts have been set up to better serve the legal profession, the general public and the media, replacing the RSS Feed service that was previously available on the website.

- **Decisions of the Courts:** 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. http://www.courts.ns.ca/decisions_recent/decisions_weekly_list.htm
- **Notices To The Bar:** These Tweets include notices about Court schedules, the Prothonotary's "Hints And Tips", 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. <http://www.courts.ns.ca/General/bar.htm>
- **News of the Courts:** 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. <http://www.courts.ns.ca>

Other notices to the Bar:

Federal Court: Ongoing updates are posted on the [Notices to Parties and the Legal Profession](http://www.courts.ns.ca/General/bar.htm) web page.

FROM THE PROVINCE

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Adjudicative & Non Adjudicative Agencies, Boards and Commission (ABCs)

Want to make a difference? If you have an interest, we have a committee.

The Province of Nova Scotia is accepting applications from individuals interested in being appointed to serve on its various Adjudicative and Non Adjudicative Agencies, Boards and Commissions (ABCs). To learn more, visit www.gov.ns.ca/exec_council/abc or call 1-902-424-4877 in HRM (Toll-free: 1-866-206-6844).

The Province of Nova Scotia is an equal opportunity employer. Through the Employment Equity Policy, the Government of Nova Scotia seeks to better represent the diverse public it serves. Government is committed to ensuring diversity in the workplace by supporting initiatives that promote the equitable participation of Aboriginal persons, African Nova Scotians and other racially visible persons, persons with disabilities, and women in positions where they are under-represented. All applicants who are members of an employment equity group are encouraged to self-identify.

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 **Antigonish** and **Colchester** County Land Registration Offices. To view these notices in full, refer to the Errors & Omissions page on the [Property Online](#) (PO) website.

Call for nominations and applications: Queen's Counsel Appointments 2012 – due October 31, 2012

Dear Member:

In the fall of this year the Advisory Committee on Queen's Counsel Appointments, chaired by the Honourable Justice Peter Bryson, will consider candidates for the next Queen's Counsel appointments.

The criteria for these appointments are:

- a. fifteen years or more as a member of the Bar of Nova Scotia as of October 31, 2012 and eligible to practise law in Nova Scotia;
- b. demonstrated professional integrity, good character and outstanding contributions to the practice of law through one or more of:
 - i. recognition by other members of the profession as an exceptional barrister or solicitor,
 - ii. exceptional contributions through legal scholarship, teaching or continuing legal education,
 - iii. demonstration of exceptional qualities of leadership in the profession, and
 - iv. (iv) engaging in activities of a public or charitable nature in such a way as to raise the esteem in which the legal profession is held by the public;
- c. the Advisory Committee on Queen's Counsel Appointments is asked to consider regional, gender and minority representation among the persons recommended for appointment as Queen's Counsel.

In order to be considered as a candidate for a Queen's Counsel appointment, you must apply pursuant to this request. The Committee will not consider applications or nominations from previous years.

A complete application or nomination package must consist of an original and 12 copies of the following documents:

- a. application or nomination form;
- b. authorization for disclosure of information and release; and
- c. Information form. Ordinarily the information will be confined to the form provided. However, if you find the space on the form insufficient, additional material that you may wish to provide (not exceeding two pages in length), will be considered by the Committee. Material exceeding two pages will not be forwarded to the Committee.

These forms are available on the [Queen's Counsel process](#) page of the Nova Scotia Barristers' Society website. In addition, please ensure you have provided with your application materials a current telephone number where you can be reached. If you wish, you may include two letters of reference for consideration by the Committee. The inclusion of reference letters is optional.

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Persons may either apply personally or may nominate a member of the Bar. All applicants will be treated equally by the Committee whether they are nominated, or whether they apply personally.

Your complete application or nomination must be received by Justice Bryson **no later than 4:00 pm, Wednesday, October 31, 2012**. It may be mailed or delivered to:

**Advisory Committee on Queen's Counsel Appointments
c/o The Honourable Justice Peter Bryson
The Law Courts, 1815 Upper Water Street
Halifax, NS B3J 1S7**

Thank you for your attention to this matter.
Judith F. Ferguson, Deputy Minister of Justice

LABOUR/ADVANCED EDUCATION: Province consults with construction sector

(August 9, 2012) The province is asking builders, architects, engineers, municipal building officials and other interested parties for input on 24 recommendations prepared for the Building Advisory Committee.

A discussion paper, in English and French, and the complete Review of Obligations under Letters of Undertaking are posted at www.gov.ns.ca/lae/policy/BuildingCodeLettersofUndertaking.asp.

The department will review comments that are received by Dec. 14. Responses will be reviewed by staff and summarized for the Building Advisory Committee in early 2013, and the committee will make its final recommendations to government later in the year. See the [August 9 announcement](#).

OTHER NOTICES

Andrew S. Wolfson QC and Steven G. Zatzman QC join BOYNECLARKE LLP

(October 23, 2012 – Halifax): Andrew Wolfson QC and Steven Zatzman QC, longtime partners of the law firm Wolfson Schelew Zatzman, will join BOYNECLARKE LLP in the practice of law on December 1, 2012.

Wolfson Schelew Zatzman has carried on a broad and successful practice of law in Dartmouth for more than 30 years, and on December 1, partner Jeff Schelew will be retiring from the practice of law, while Andrew Wolfson QC and Steven Zatzman QC will continue to serve the clients of Wolfson Schelew Zatzman at BOYNECLARKE LLP.

Both are graduates of the Dalhousie Law School. Mr. Wolfson's practice focuses on debt recovery, business and real estate law, while Mr. Zatzman carries on an estate and litigation practice with a particular emphasis on general litigation and family law.

BOYNECLARKE LLP Chairman John A. Young, Q.C. commented "Andrew and Steven are very successful and talented lawyers who enjoy an outstanding reputation in the profession and in our community. We know they will make a significant contribution to the continuing growth and development of BOYNECLARKE LLP."

BOYNECLARKE LLP welcomes Tim Hill and Meghan Russell

(October 26, 2012 – Halifax): On October 29, Tim Hill and Meghan Russell join BOYNECLARKE LLP in the practice of law with a focus on civil and business litigation and bankruptcy and insolvency.

Tim received his education in law at Dalhousie University, where he has taught the Bankruptcy & Insolvency course since 1998. Between 1997 and 2002 he served as Registrar of Bankruptcy for the Supreme Court of Nova Scotia. Tim is a member of the Canadian Bar Association, an associate member of the Canadian Association of Insolvency & Restructuring Professionals (CAIRP), and a member of the Canadian Association of Law Teachers. Tim recently received

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the 2012 Lifetime Achievement Award of the National Bankruptcy, Insolvency & Restructuring Section of the Canadian Bar Association.

Meghan, a native of Grand Bank, Newfoundland, obtained her LLB from the University of New Brunswick in 2008 and was admitted to the Nova Scotia Bar in 2009. Meghan volunteers as a member of the Nova Scotia Barristers' Society Gender Equity Committee and is also a member of the Capital Health Research Ethics Board.

"We are thrilled to have Tim and Meghan join the team," said James MacNeil, Managing Partner at BOYNECLARKE LLP. "We look forward to not only having them support BOYNECLARKE's existing clients, but having BOYNECLARKE assist their clients as well."

BOYNECLARKE LLP practices law in the four Atlantic Provinces from its offices in Dartmouth, and is one of the largest law firms in Atlantic Canada.

Notice from the Actuarial Standards Board: Exposure Draft for Revised Standards of Practice *September 7, 2012*

Dear Stakeholder:

The mission of the Actuarial Standards Board (ASB) is to develop, establish and maintain Standards of Practice governing actuarial practice in Canada. An important part of the ASB's role is to communicate effectively and efficiently with people or organizations that have, or may have, an interest in the work of the ASB. Your organization has been identified as one of these stakeholders.

On August 30, 2012 the ASB approved an exposure draft which proposes revised Standards for Actuarial Evidence and several related changes to the General Standards of Practice. These revisions are pertinent for actuaries working in Canada as expert witnesses and performing other actuarial evidence work.

In accordance with our due process, we are forwarding the exposure draft to stakeholders that may wish to review and comment on the proposed changes. Both the exposure draft and the current Actuarial Evidence Standards are attached.

We would be very grateful if you would distribute the documents, as appropriate, within your organization. Comments are invited **by November 30, 2012** and may be sent to Nancy Yake at nancy.yake@sympatico.ca, with a copy to Chris Fievoli at chris.fievoli@actuaries.ca.

We look forward to receiving any feedback that you may wish to provide.

Dave Pelletier
Nancy Yake

Find this document on the Actuarial Standards Board website at www.asb-cna.ca, under the Discussion Documents heading:

- Exposure Draft for Revised Standards of Practice – Part 4000 Practice-Specific Standards for Actuarial Evidence and Relevant Paragraphs of Part 1000 General Standards

MISSING WILLS

Seeking will for Dorothy Mae Mills (nee: Leonard) in Sydney

Anyone having any knowledge of a Last Will and Testament for Dorothy Mae Mills (nee: Leonard) born June 19, 1939, late of 46 Canso Drive, Sydney, Nova Scotia, B1P 7E5, previously residing at 5210 Outer Drive, RR #1, Windsor, Ontario, N9A 6J3, please contact the following law firm:

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Jill C. Anthony Law Office
10 Highway 20 East
Box 743, Fonthill, Ontario
L0S 1E0
905-892-2621 (phone)
905-892-1022 (fax)

Seeking will for Richard “Bryce” Greene of Amherst

Lawyers with any information on the location, or existence, of an original Last Will and Testament of Richard “Bryce” Greene are asked to please contact his brother, Boyd Greene at 902-759-0982 or boyd@ns.aliantzinc.ca. Richard “Bryce” Greene lived in Amherst and passed away on October 9, 2012 at the age of 59 years.

Thank you,
Catherine A. McKean, Law Department
Michelin North America (Canada) Inc.
Phone: (902) 753-1811 | Fax: (902) 396-2183
Email: Catherine-Anne.McKean@ca.michelin.com

AWARDS & APPOINTMENTS

2012 LEXPERT ZENITH AWARDS: Celebrating Leadership through Change

The following five Nova Scotians were among 57 honourees for the 2012 Lexpert Zenith Awards, presented October 11 at a gala event at The Ritz-Carlton in Toronto. The awards recognize lawyers who have been change-agents for 40 or more years for their clients, firms, companies, departments, faculties, profession, colleagues and communities. The descriptions below appear in the current edition of *Lexpert*.

George Caines QC, Stewart McKelvey

An instrumental part of the leadership team at Stewart McKelvey, George Caines has not only been a mentor and role model, but also set the tone for the entire firm. One of his most visible contributions came when the firm decided to pursue a partnership among its six offices. As managing partner of the Nova Scotia office and Chair of the Partnership Board, his strategy in the merger helped create what has become a leading corporate law firm in Atlantic Canada.

George Cooper, CM, CD, QC, McInnes Cooper

In the mid 1990s, George Cooper predicted the growing consolidation of the legal profession and became convinced that McInnes Cooper needed to change into a regional force. He helped engineer new offices in St. John's and Moncton and a merger in Charlottetown. His community involvement, on the CBC Board for example, is remarkable. He has recently become the University of King's College interim President.

The Hon. Constance R. Glube, OC, ONS, QC

Constance Glube led the way for women in the Canadian judiciary. In 1977, she became the first woman appointed to the Nova Scotia Supreme Court, and in 1982, she was appointed its first woman Chief Justice. In 1998, she was appointed Chief Justice of the Nova Scotia Court of Appeal, which included the title of Chief Justice of Nova Scotia.

George MacDonald QC, McInnes Cooper

George MacDonald, Chair of McInnes Cooper's Business Dispute Resolution Practice Group, mediator, arbitrator and litigator, has been a leader in the face of changes in both legal profession and client expectations. He has also been keenly involved in Haligonian affairs, including former service on Dalhousie University's Board of Directors.

Thomas J. O'Reilly QC, Cox & Palmer

Thomas O'Reilly was instrumental in arranging the merger of Newfoundland firm O'Reilly Noseworthy with firms in the other three Atlantic Provinces to form the regional Atlantic Canadian firm Cox Hanson O'Reilly Matheson — now Cox &

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Palmer. Having chaired the board of the regional firm for several years after its creation, his leadership is credited with being a driving force behind its success.

VOLUNTEER & PRO BONO OPPORTUNITIES

The Avalon Sexual Assault Centre is recruiting new board members

Avalon Centre is the only sexual assault centre in Nova Scotia that provides a continuum of specialized sexual assault services. We are a registered, not-for-profit, community based, charitable organization. The Centre provides immediate care and support, counselling, advocacy, information and referral to women who have experienced sexual assault. We also offer community education and training to promote sexual assault awareness and to prevent sexualized violence.

Our Vision: To eliminate sexual assault/abuse and to change the current socio-political culture that fosters sexism, social injustice and other forms of oppression.

Our Mission: To provide services for those affected by sexual violence, with primary emphasis on support, education, counselling, and leadership/advocacy services for women.

The Centre is currently recruiting new members to join the Board of Directors. We are seeking individuals who reflect diverse backgrounds and experiences as well as various skills sets. Candidates will support Avalon's vision and mission and be willing to offer their time and energy to the organization. A commitment of 3-6 hours a month includes monthly board meetings and committee work when appropriate.

For more information, please contact Irene Smith, Executive Director of the Centre, at 902-422-4240 or executivedirector@avaloncentre.ca or visit www.avaloncentre.ca.

Nova Scotia College of Early Childhood Education looking for new Directors

The Nova Scotia College of Early Childhood Education is a non-profit institution located on Quinpool Road, which offers courses leading to an Early Childhood Education diploma and also operates daycare centres at the three Halifax campuses of the Nova Scotia Community College.

We are looking for new members for our dynamic Board of Directors. If you would like to find out more about helping with the direction of an organization that trains many of the daycare workers in the province, please contact Jane Cawley (Executive Director) by phone at 423-7114 or by email at janecawley@nscece.ca.

Alex's Safe Harbour Society – seeking members for Board of Directors

Alex's Safe Harbour Society is a registered charity in Halifax Regional Municipality that provides grief support to children, teens and families at a time when they need it the most, when someone they love has died.

We are presently seeking individuals to enhance our Board of Directors who may have expertise in the following fields: Legal, Business Management, Accounting, Banking, Insurance, Public Relations, Advertising, Technology, Fundraising, Medical, Social Work and Community Services.

Would you, or someone you know, be willing to donate some time and expertise to help us help others?

Our organization has received funding from private and corporate donors, the IWK Health Foundation, local Community Health Boards and the Mental Health Foundation of Nova Scotia.

If you would like more information, please call our Bereavement Coordinator, Trish Dominie at 902-448-8396 and visit our website www.alexssafeharbour.com.

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Help promote access to justice for Nova Scotians

The Legal Information Society of Nova Scotia is celebrating 30 years of helping Nova Scotians access information about the law so they are better prepared to deal with their legal issues and questions.

Thousands of Nova Scotians access its services every year through a variety of channels. LISNS is now busier than ever, with a number of important projects underway and special events planned over the coming months.

LISNS is a small charity with limited resources and it needs your help. We are actively recruiting volunteers to work on various projects and special events, to join our committees, and to serve on our Board of Directors. Committees include Finance, Legal Content, Philanthropy, PR and Communications, and Community Connections. We seek people with a wide range of skills and interests from all backgrounds.

For more information about the various volunteer opportunities available, please contact lisns@legalinfo.org. To learn more about LISNS and its services, visit www.legalinfo.org.

Artists' Legal Information Services (ALIS)

Artists' Legal Information Society (ALIS) is a non-profit legal support volunteer organization based in Halifax. Our mission is to make a stronger, more vibrant arts community in Nova Scotia by helping to resolve legal issues for artists living here. This will be accomplished by providing free clinics, workshops and library resources to artists in Atlantic Canada. We work with all types of artists to help them understand how the law impacts them, and provide a framework for navigating potential obstacles.

If you are a lawyer with experience in contract law, entertainment law, tax law, or just have an interest in the needs of local artists, then we would love to hear from you. We are looking for support from the Atlantic Canada legal community on a *pro bono* basis.

If you are interested in getting involved, please contact us at info@nsalis.com. For more information please visit www.nsalis.com.

reachAbility Volunteer Opportunities

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

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

Join other members of the legal community by completing our online lawyer volunteer form at: <http://reachability.org/legal/vla>

For further information, contact us: (902) 429-5878 or legal@reachability.org
OR visit us online at <http://reachability.org/legal>.

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/. 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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CAREER OPPORTUNITIES: 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 ::

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

NSBS ADMISSIONS & PROFESSIONAL DEVELOPMENT

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

Land Registration Act Training

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

Dates for next LRA course:

- November 14 to 21, 2012
- January 23 to 30, 2013
- April 17 to 24, 2013
- June 19 to 26, 2013

[Register online](#)

OUTSIDE CONFERENCES & SEMINARS

Dalhousie Health Law and Policy Seminar Series 2012-2013

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

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

No registration required. No fee. Call 902.494.6881 for more information

http://hli.law.dal.ca/Seminar_Series.php

Series schedule

- **Friday, November 23**
The Medical Non-Necessity of In Vitro Fertilization
Carolyn McLeod, Department of Philosophy, University of Western Ontario
- **Friday, January 18**
HIV Testing and Disclosure: Public Health or Legal Matters?
Jacqueline Gahagan, Gender and Health Promotion Studies Unit, Dalhousie University
- **Friday, February 8**
Nonexcludability and the Limits of Patents in Furthering Health
Amy Kapczynski, Yale Law School
(co-sponsored by the Law and Technology Institute, Dalhousie Schulich School of Law)
- **Friday, March 8**
The Culture and Context of Frequent Marijuana Use in Teens: Accounting for Gender, Diversity and Place
Joy Johnson, Scientific Director, Institute of Gender and Health, Canadian Institutes of Health Research
(co-sponsored by the Faculty of Health Professions, Dalhousie University)

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- **Friday, March 22**
Is There a Constitutional Right to Die?
Joseph Arvay QC, Arvay Finlay Barristers, British Columbia

Upcoming events from CBA-NS

Conferences:

Legal Assistants' Conference on General Civil Litigation

December 7, 2012 - Marriott Harbourfront Hotel

Mid-Winter Meeting

January 31 – February 1, 2013 – Marriott Harbourfront Hotel

Serious Personal Injury

May 10, 2013 – Casino Nova Scotia

Online CLE:

- November 30, 2012 – Snowbirds: Cross Border Planning
- December 14, 2012 – Fracking/Windmills/Mining Projects
- January 18, 2013 – Being an Executor: How to Stay Out of Court
- February 22, 2013 – Technology - 45 Tips in 90 Minutes
- March 22, 2013 – Property Condition/Disclosure Statements/Home Inspecting
- April 12, 2013 – Immigration law: Impact of Criminal Charges
- April 26, 2013 – The Status of Pension and Disability in Wrongful Dismissal Claims
- June 7, 2013 – Small Claims Court

Leadership for Women Lawyers: Practising law in today's fast-paced environment

Halifax, NS | October 31, 2012

Why participate?

- Identify and overcome barriers to communicating difficult issues, resistance to change and gaining buy-in
- Find out if you have what it takes to be an effective project manager
- Learn how to read a financial statement - the key considerations regardless of the accounting or auditing principles used
- Get to know the five huge traps in negotiating and the strategies to deal with them
- Explore the principles of ethical behaviour and the challenges faced by women lawyers
- Find out what the art of successful delegation requires
- Hear the perspective of a lawyer in a large private firm on the imperatives of quality client service
- Get to know the nuts and bolts of what technology can offer the legal profession
- Understand the role of the Nova Scotia Barristers' Society in retaining women in private practice (Speaker: Marie Paturel, Equity Officer)

Further information

Movember: Official Judicial Kickoff

The Law Courts, 1815 Upper Water Street

Wednesday, October 31, 9:00 am

According to the Movember rules, all participants must start the month of November clean shaven. All the Mo Bros who work in the Nova Scotia justice system are encouraged to gather on October 31 for a mass shaving in the style of the late Reverend Sun Myung Moon's mass weddings. Bring your sistah, partner or anyone else who you trust near your face with a razor, some shaving cream, a cup of water and a towel.

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Depending on the anticipated crowd and weather, it may take place outdoors on the square in front of the main entrance, otherwise it will be held inside the building in a designated courtroom.

The combined efforts of lawyers and judges in Nova Scotia raised approximately \$105,000 last year. Of that sum the judiciary, under its team banner *Putting A New Face On Justice*, raised more than \$19,000. This is especially noteworthy since judges appreciate that they are not able to solicit funds for any cause and that therefore their fundraising was limited to their own contributions along with support from family, colleagues and close friends.

Please register or join your firm team by visiting www.movember.com. If you have any questions regarding Movember or require assistance, please contact Andrew Nahas at anahas@boyneclarke.ca

APTLA's Information Conference: Modern Litigation & the Art of Intelligence Gathering **Friday, November 2, 2012 | Delta Halifax, Halifax, NS**

Information wins cases. More information is now available to litigants than ever before. But what exactly is available and where? How can I get? What information is protected from disclosure? Find out the answers to these and other questions at APTLA's Intelligence Officer Training School for Litigators.

Learn from national policing instructors, engineering experts and leading lawyers about:

- the uses and limitations of freedom of information requests in securing information vital to your case;
- what crash data secrets lie within the "little black box" and how you can use it for your client;
- how your client's footsteps can be retraced using GPS and other data located in their "smart phones";
- how to preserve electronic data from cell phones, computers and more;
- protecting your client's right to privacy in their own medical records;
- recognizing and advancing claims for solicitor/client, litigation, spousal and settlement privilege;
- ensuring you have received all of your client's information from the insurance adjuster's file; and why you and your client need to pay attention to Facebook and other social media or suffer the consequences.

You will also hear directly from the Bench about the latest in eDiscovery.

APTLA's *Modern Litigation & the Art of Intelligence Gathering* is open to APTLA Members and Non-Members, lawyers and non-lawyers. [Complete conference information and registration.](#)

2012 Cape Breton Barristers Society Bench & Bar Dinner – Saturday, November 3

The Cape Breton Barristers Society cordially invites members of the Bench and Bar to attend the 2012 Bench & Bar Dinner. This year the dinner will honor retiring Justice Robert Ferguson and Justice Patrick Murray. The dinner will be held on Saturday, November 3rd, 2012 at the Holiday Inn Sydney. Reception at 6pm and dinner at 7pm.

Tickets may be obtained by contacting Madonna by telephone at 902-563-5901 or via email

Madonna@bretonlawgroup.com.

Registration open: BRINGING IT HOME **November 9, 2012 | Delta Sydney**

The Cape Breton Barristers' Society invites you to its

[First Annual Professional Development Conference](#)

Friday, November 9, 2012

Sydney Holiday Inn (formerly Delta Sydney)

7.5 hours of eligible CPD

[REGISTRATION FORM AND SPEAKER SCHEDULE](#)

Keynote Address: "Civility: A View from the Bench," with the Hon. Justice Kevin Coady of the Nova Scotia Supreme Court

Other sessions:

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- Getting the most of your CPD: Understand the new NSBS requirement; Jennifer Pink, NSBS Officer, Education & Credentials
- So you think you know the new *Code of Professional Conduct?*; Victoria Rees and Elaine Cumming, NSBS Professional Responsibility department
- Cultural competence and the law: Working with diverse clients; Robert S. Wright
- An ounce of prevention is worth a pound of cure; Melanie McGrath and Stacey Gerrard, Lawyers' Insurance Association of Nova Scotia
- A practitioner's point of view; Gail Rudderham-Chernin QC
- Lunch with Paula Marshall, Mi'Kmaq Legal Support Network

Please note: This conference includes 7.5 hours of eligible study under the Nova Scotia Barristers' Society CPD requirement.

- Registration deadline (subject to space): November 2, 2012
- Registration is open to non-members of the Cape Breton Barristers' Society as of October 10, 2012

For more details, contact Jill Perry at 902 563 2295 or jill.perry@nslegalaid.ca.

REGISTRATION NOW OPEN: Earn 6 CPD hours at LIANS Risk and Practice Management Conference, November 23 from 9:00 am to 4:15 pm

The 4th annual LIANS' Risk and Practice Management Conference will be held on November 23 from 9:00 am to 4:15 pm at the Westin Nova Scotian in Halifax. **Earn 6 hours of CPD** with featured sessions on The Art of Negotiation; Research in the Digital Age; Cultural Competence; Workload Management and more ...

Confirmed speakers include Ray Wagner, Paul Saunders, Naiomi Metallic, Kendrick Douglas, Kathryn Dumke, Tony Mancini of Priority Management consulting, and a health and wellness session with Homewood Human Solutions™.

Online registration is now available through LIANS' *News & Alerts* at www.lians.ca.

Early Bird Rate: \$200+tax; after Nov.2nd: \$250+tax

All-day parking available to all participants for \$6.

Sessions will appeal to lawyers, office managers, paralegals and legal assistants from across Atlantic Canada. Lawyers and staff from all sized firms are welcome. We look forward to seeing you there!

Breakfast Series presented by the Institute of Chartered Accountants of Nova Scotia (ICANS) in partnership with the Canadian Institute of Chartered Accountants (CICA) November 27, 2012

As part of a breakfast series being held in several locations across Canada, The Institute of Chartered Accountants of Nova Scotia (ICANS)—in partnership with the Canadian Institute of Chartered Accountants (CICA)—is pleased to extend an invitation to NSBS members and a guest to join our members in attending a complimentary breakfast seminar on **November 27, 2012 at the Westin Nova Scotia (1181 Hollis St.) in Halifax**. The registration and light breakfast will begin at 7:30 am, followed by the presentation/Q&A from 8 to 9:30 am.

Speaker: Entitled, "Understanding Financial Statements For Non-Financial NPO Directors," the key note speaker for this event is Julie Thomson, CA, National Leader for the Not-for-Profit Practice at PricewaterhouseCoopers LLP and a member of the CICA's Not-for-Profit Committee of the Risk Oversight and Governance Board (ROGB).

Target Audience:

This seminar will be of particular interest to NSBS members who have clients or colleagues who are directors in the not-for-profit sector, have a non-financial background, and are interested in an introductory level understanding of financial statements and their responsibilities in overseeing organizational finances.

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Seminar Topics:

- Fiduciary Duties Related to Financial Oversight
- Some Common Barriers to Full Participation in Financial Oversight
- Roles and Responsibilities of Management, Board and Auditor
- The Process of Financial Reporting
- The Concepts and Terminology of Financial Reporting
- Accounting for Contributions
- Four Key Financial Statements
- Auditor's Opinion
- The Role of the Director
- *The seminar will conclude with a Q&A session.

Bonus: Participants will receive a copy of *A Guide to Financial Statements of Not-for-Profit Organizations: Questions for Directors to Ask*, a practical publication by the CICA's Risk Oversight and Governance Board that can be used as a guide to navigating financial statements and directors' duties surrounding their organization's financial affairs.

How to register: Space is limited and registration is required. Please go to www.cica.ca/NPOBreakfasts to register and obtain a printable ticket.

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.

Ambiguous Crossroads: Persons with Mental Health Problems and the Criminal Justice System

Presented by the Canadian Institute for the Administration of Justice

Friday, February 1, 2013 | Schulich School of Law, Dalhousie University, Halifax, Nova Scotia

[Brochure and Registration](#)

This conference is intended to bring together many of the actors responsible for ensuring equitable treatment for persons with mental health problems who come into contact with the criminal justice system. As many challenging cases have revealed and as the ratification by Canada of the Convention on the Rights of Persons with Disabilities mandates, this is a time for change. Persons with lived experience and their advocates, police officers, lawyers and judges, among others, will collaborate to present and discuss the latest developments and preferred practices at the often difficult intersection of criminal justice and mental health. The goals of the conference include updating attendees, fostering discussion and enabling participants to emerge with better tools and firmer links to other justice, health and social service professionals and to the community. [More information...](#)

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:: LIBRARY & INFORMATION SERVICES ::

Lawyers' Lounge at The Law Courts – services available

With the temporary relocation of the Barristers' Library to Summit Place, the Society has placed some equipment in the Barristers' Lounge on the first floor of The Law Courts.

Wi-Fi is available. The password is posted on the wall. One computer with internet access is also available.

A photocopier is also in the Barristers' Lounge. It is also connected to the computer so you can print documents. Payment for copies will be managed with a form located on a clipboard by the copier. Please record your name, the number of copies made, and your billing reference; the Society will then invoice you for the costs. We realize this is not as convenient as having a copy card, but there is no way to manage the cards without Library & Information Services staff in the building.

Copiers will also be available at the temporary Barristers' Library location on the fifth floor of Summit Place.

The Society appreciates that the library move is inconvenient for users. If you have any suggestions on other ways we can minimize the impact of our relocation, please let us know.

:: NEW DECISIONS ::

ARBITRATION (LABOUR) *Nova Scotia (Public Service Commission) v. Nova Scotia Government and General Employees Union*, S.H. No. 370199, Murray, J., August 20, 2012. [2012 NSSC 373](#)

BANKRUPTCY *Sethi (Re)*, Court No. B36340; Estate No. 51-1522754, Cregan, Registrar in Bankruptcy, October 23, 2012. [2012 NSSC 370](#)

COMPANY LAW *Island Seafoods, LLC v. R. & L. Fisheries Ltd.*, Yar. No. 356561, Muise, J., October 12, 2012; September 6, 2012 (orally). [2012 NSSC 348](#)

CRIMINAL LAW *Blais v. Canada (Attorney General)*, C.A. No. 373199, Hamilton, J.A., October 11, 2012. [2012 NSCA 109](#)

CRIMINAL LAW *R. v. T. (B.)*, No. 2388561 - 2388565, Derrick, J.P.C., September 27, 2012. 2012 NSPC 86

CRIMINAL LAW *R. v. T. (B.)*, No. 2388561 - 2388565, Derrick, J.P.C., October 1, 2012. 2012 NSPC 87

CRIMINAL LAW *R. v. T. (B.)*, No. 2388561 -2388565, Derrick, J.P.C., October 12, 2012. 2012 NSPC 88

CRIMINAL LAW *R. v. Rhyno*, C.R.H. No. 357546, Pickup, J., October 15, 2012. 2012 NSSC 357

CRIMINAL LAW *R. v. Smith et al.*, No. 2430319, Atwood, J.P.C., October 9, 2012. [2012 NSPC 95](#)

CRIMINAL LAW *R. v. P. (J.)*, SN. No. 380060, Murray, J., September 10, 2012; August 20, 2012 (orally). 2012 NSSC 365

CRIMINAL LAW *R. v. Brake*, CR. Am. No. 398001, Scanlan, J., October 23, 2012. [2012 NSSC 372](#)

DAMAGES *Wambolt v. Armstrong*, Hfx. No. 347634, Moir, J., October 18, 2012. [2012 NSSC 363](#)

FAMILY LAW *Bruno v. Keinick*, No. 1206-004799, Forgeron, J., October 10, 2012; September 21, 2012 (orally). [2012](#)

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[NSSC 336](#)

FAMILY LAW *Nova Scotia (Minister of Community Services) v. C.D.N. (F.)*, F.N. No. 11SB077214, Comeau, J.F.C., September 18, 2012. [2012 NSFC 17](#)

FAMILY LAW *Piasecki v. Piasecki*, No. 1201-064095; S.F.H.D. No. 067497, Legere-Sers, J., October 19, 2012. [2012 NSSC 337](#)

FAMILY LAW *Hubley v. Tanner*, No. 1201-48902; S.F.H.D. No. 13728, Legere-Sers, J., October 19, 2012. [2012 NSSC 338](#)

FAMILY LAW *MacNeil v. MacNeil*, No. 1201-064040; S.F.H.D. No. 067126, MacDonald, B. J., October 2, 2012. [2012 NSSC 345](#)

FAMILY LAW *Nova Scotia (Minister of Community Services) v. B. (C.)*, S.F.H. C.F.S.A. No. 075654, Jollimore, J., October 15, 2012. [2012 NSSC 358](#)

FAMILY LAW *Ward v. Lawrence*, S.F.S.N.F. No. 13889, Forgeron, J., October 9, 2012. [2012 NSSC 362](#)

FAMILY LAW *Anderson v. Renzetti*, No. 1201-063236; S.F.H.D. No. 62365, Dellapinna, J., October 25, 2012. 2012 NSSC 361

FAMILY LAW *Elliott v. Elliott*, No. 1201-059388, Campbell, J., October 18, 2012. [2012 NSSC 364](#)

FAMILY LAW *Paul v. Dennis*, S.F.S.N.M.C.A. No. 77088, Forgeron, J., October 22, 2012; September 26, 2012 (orally). [2012 NSSC 366](#)

INCOME TAX *R. v. Martin*, No. 2276770 - 2276795, Atwood, J.P.C., October 22, 2012. [2012 NSPC 92](#)

INSURANCE *Economical Insurance Group v. Master Forestry Ltd.*, Cr. Am. No. 388776, MacAdam, J., October 11, 2012; August 21, 2012 (orally). [2012 NSSC 353](#)

LANDLORD AND TENANT *Doyle v. Topshee Housing Co-operative Ltd.*, Ant. No. 388319, Scanlan, J., October 11, 2012. 2012 NSSC 371

MAINTENANCE *W. (C.L.) et al. v. F. (P.J.)*, F.T.M.C.A. No. 067837, Comeau, J.F.C., September 12, 2012. [2012 NSFC 16](#)

MORTGAGES *Farm Credit Canada v. Beaumont et al.*, Hfx. No. 391213, Smith, J., October 16, 2012; October 9, 2012 (orally). [2012 NSSC 356](#)

NEGLIGENCE *Anderson v. Queen Elizabeth II Health Sciences Centre*, Hfx. No. 155158, Bourgeois, J., October 16, 2012. [2012 NSSC 360](#)

PRACTICE *Giffin v. Soontiens*, Hfx. No. 292594, Moir, J., October 12, 2012. [2012 NSSC 354](#)

PRACTICE *Coates v. Capital District Health Authority*, Hfx. No. 314177, Murray, J., July 24, 2012. [2012 NSSC 283](#)

PRACTICE *Stevens v. Nova Scotia (Department of Labour and Workforce Development)*, Hfx. No. 377941A, Scanlan, J., October 22, 2102. [2012 NSSC 367](#)

REAL PROPERTY *Bain et al. v. Nova Scotia (Attorney General)*, Syd. No. 313233, Murray, J., October 10, 2012. [2012 NSSC 355](#)

WILLS AND ESTATES *DeLong v. Lewis Estate*, Hfx. No. 371244, Moir, J., October 23, 2012. [2012 NSSC 369](#)

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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.

October 26, 2012

[R. v. Boudreault](#)

Neutral Citation: [2012 SCC 56](#) (CanLII)

File No.: 34582.

2012: June 6; 2012: October 26.

Present: LeBel, Deschamps, Fish, Abella, Cromwell, Moldaver and Karakatsanis JJ.

On Appeal from the Court of Appeal for Quebec

Criminal law — Care or control of motor vehicle while impaired — Elements of offence — Accused starting vehicle to keep warm while waiting for taxi — Accused falling asleep in driver's seat — Whether or not accused in care or control of vehicle — Whether risk of danger is essential element of care or control offence — Whether trial judge erred in finding that there was no risk of danger — Criminal Code, R.S.C. 1985, c. C-46, s. 253(1).

Criminal law — Appeals — Whether trial judge committed error of law alone — Whether Crown had right of appeal against acquittals — Criminal Code, R.S.C. 1985, c. C-46, s. 676(1)(a).

B was inebriated and unfit to drive when it was time for him to return home after a night of drinking. At B's request, a taxi was called for him, for which he had to wait outside. It was a cold and windy February morning. B got into his truck, started the engine, turned on the heat and fell asleep. When the taxi arrived, the driver called the police. B was arrested and charged with having care or control of a motor vehicle (1) while his ability was impaired by alcohol and (2) with more than 80 mg of alcohol in 100 mL of his blood, contrary to ss. 253(1)(a) and (b) of the *Criminal Code*. He was acquitted on both counts at trial but the Court of Appeal allowed the Crown's appeal, set aside the acquittals and entered convictions.

Held (Cromwell J. dissenting): The appeal should be allowed and the acquittals restored.

October 25, 2012

[Opitz v. Wrzesnewskyj](#)

Neutral Citation: [2012 SCC 55](#) (CanLII)

File No.: 34845.

2012: July 10; 2012: October 25.

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

On Appeal from the Ontario Superior Court of Justice

Elections — Contested election application — Candidate defeated in federal election by a margin of 26 votes alleging "irregularities . . . that affected the result of the election" — Whether election in electoral district should be annulled — Canada Elections Act, S.C. 2000, c. 9, ss. 524(1)(b), 531(2).

Evidence — Fresh evidence — Relevance and reliability — Motion seeking to adduce evidence from national registry of electors on appeal — Whether fresh evidence should be admitted.

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O was the successful candidate in the electoral district of Etobicoke Centre for the 41st Canadian federal election, with a plurality of 26 votes. The runner-up, W, applied to have the election annulled, on the basis that there were “irregularities” that affected the result of the election” (s. 524(1)(b) of the *Canada Elections Act* (the “Act”). The Ontario Superior Court of Justice granted the application, finding that 79 votes amounted to such irregularities and that, since this number exceeded the plurality of 26 votes, the election could not stand. O appealed to the Supreme Court of Canada as of right, and W cross-appealed (s. 532(1) of the Act). The Chief Electoral Officer and the returning officer for Etobicoke Centre also brought a motion for directions, seeking to adduce fresh evidence, pursuant to s. 62(3) of the *Supreme Court Act*.

Held (McLachlin C.J. and LeBel and Fish JJ. dissenting): The appeal should be allowed and the cross-appeal should be dismissed. The motion to adduce fresh evidence should be dismissed.

October 19, 2012

R. v. Cole

Neutral Citation: [2012 SCC 53](#) (CanLII)

File No.: 34268.

2012: May 15; 2012: October 19.

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

On Appeal from the Court of Appeal for Ontario

Constitutional law — Charter of Rights — Search and seizure — Information contained on computer — Pornographic pictures of child found on employer-issued work computer — Whether accused had reasonable expectation of privacy in employer-issued work computer — Whether warrantless search and seizure of laptop computer and disc containing internet files breached accused's rights under s. 8 of Charter — If so, whether evidence ought to be excluded pursuant to s. 24(2) of Charter.

The accused, a high-school teacher, was charged with possession of child pornography and unauthorized use of a computer. He was permitted to use his work-issued laptop computer for incidental personal purposes which he did. While performing maintenance activities, a technician found on the accused's laptop a hidden folder containing nude and partially nude photographs of an underage female student. The technician notified the principal, and copied the photographs to a compact disc. The principal seized the laptop, and school board technicians copied the temporary internet files onto a second disc. The laptop and both discs were handed over to the police, who without a warrant reviewed their contents and then created a mirror image of the hard drive for forensic purposes. The trial judge excluded all of the computer material pursuant to ss. 8 and 24(2) of the *Canadian Charter of Rights and Freedoms*. The summary conviction appeal court reversed the decision, finding that there was no s. 8 breach. The Court of Appeal set aside that decision and excluded the disc containing the temporary Internet files, the laptop and the mirror image of its hard drive. The disc containing the photographs of the student was found to be legally obtained and therefore admissible. As the trial judge had wrongly excluded this evidence, the Court of Appeal ordered a new trial.

Held (Abella J. dissenting): The appeal should be allowed. The exclusionary order of the Court of Appeal is set aside and the order of a new trial is affirmed.

October 18, 2012

Canada v. GlaxoSmithKline Inc.

Neutral Citation : [2012 SCC 52](#) (CanLII)

File No.: 33874.

2012: January 13; 2012: October 18.

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

On Appeal from the Federal Court of Appeal

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Taxation — Income Tax — Transfer Pricing — Taxpayer manufacturing and marketing patented and trademarked drug pursuant to Licence Agreement — Taxpayer purchasing active pharmaceutical ingredient pursuant to separate Supply Agreement with related non-resident company — Minister of National Revenue reassessing taxpayer by increasing its income on basis that taxpayer had overpaid non-arm's length supplier for purchase of drug ingredient — Minister not considering effect of Licence Agreement on reasonableness of price paid for ingredient under Supply Agreement — What circumstances are to be taken into account in determining reasonable arm's length price against which to compare non-arm's length transfer price — Whether Licence Agreement is a circumstance to be taken into account — Whether Federal Court of Appeal erred in remitting matter to Tax Court for rehearing and reconsideration — Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), s. 69(2).

Between 1990 and 1993, the respondent, GlaxoSmithKline Inc. ("Glaxo Canada"), purchased ranitidine, the active pharmaceutical ingredient in the brand name anti-ulcer drug Zantac, from Adechsa S.A., a related non-resident company, for between \$1,512 and \$1,651 per kilogram. During the same period, two Canadian generic pharmaceutical companies, Apotex Inc. and Novopharm Ltd. purchased ranitidine from other sources for use in their generic anti-ulcer drugs for between \$194 and \$304 per kilogram from arm's length suppliers.

A Licence Agreement conferred rights and benefits on Glaxo Canada and a Supply Agreement set the transfer prices of ranitidine. The combined effect of the Licence and Supply agreements enabled Glaxo Canada, among other things, to purchase ranitidine, put it in a delivery mechanism, and market it under the trademark Zantac.

The appellant, Minister of National Revenue reassessed Glaxo Canada for the taxation years 1990, 1991, 1992, and 1993 pursuant to the then applicable s. 69(2) of the Act (now s. 247(2)) on the basis that the prices it paid for ranitidine, were greater than an amount that would have been reasonable in the circumstances had they been dealing at arm's length. Glaxo Canada appealed to the Tax Court of Canada, where, with one minor revision, the reassessment was upheld on the basis that the Licence and Supply agreements were to be considered independently. The Federal Court of Appeal allowed the appeal and remitted the matter back to the Tax Court for redetermination of the "reasonable amount" payable for Glaxo Canada's ranitidine transactions.

Held: The appeal and cross-appeal should be dismissed.

October 17, 2012

[Southcott Estates Inc. v. Toronto Catholic District School Board](#)

Neutral Citation: [2012 SCC 51](#) (CanLII)

File No.: 33778.

2012: March 20; 2012: October 17.

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

On Appeal from the Court of Appeal for Ontario

Contracts — Commercial contracts — Remedies — Specific performance — Duty to mitigate — Single-purpose company entering into agreement for purchase of land — Vendor breaching contractual obligations — Company seeking specific performance — Whether single-purpose company must mitigate its losses — Whether plaintiff seeking specific performance has obligation to mitigate its losses — Whether trial judge erred in concluding there were no comparable properties available for mitigation.

The appellant S is a single-purpose company incorporated solely for the purpose of a specific land purchase, with no assets other than money advanced to it by its parent company for the deposit relating to such purchase. It entered into an agreement of purchase and sale for a specific property with the respondent. When the respondent failed to satisfy a condition and refused to extend the closing date, S sought specific performance of the contract. It argued that it was not required to mitigate its losses. The trial judge refused to award specific performance but awarded damages to S in the

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amount of \$1,935,500. The Court of Appeal concluded that the respondent had breached its contractual obligations but that S had failed to take available steps to mitigate its losses. It reduced the damage award to a nominal sum.

Held: (McLachlin C.J. dissenting) The appeal and cross-appeal should be dismissed.

October 12, 2012

[R. v. Prokofiew](#)

Neutral Citation: [2012 SCC 49](#) (CanLII)

File No.: 33754.

2011: November 8; 2012: October 12.

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

On Appeal from the Court of Appeal for Ontario

Criminal law — Evidence — Failure to testify — Charge to jury — Accused did not testify but incriminated by co-accused's testimony — Co-accused's counsel inviting jury to infer accused's guilt from failure to testify — Trial judge refrained from giving remedial instruction to jury about accused's right to silence — Whether trial judge prohibited by Canada Evidence Act from affirming right to silence — Whether failure to give explicit remedial instruction constituted error — If so, whether curative proviso applicable — Canada Evidence Act, s. 4(6); Criminal Code, s. 686(1)(b)(iii).

Criminal law — Evidence — Hearsay — Whether trial judge's erroneous admission of hearsay evidence sufficiently serious to preclude application of curative proviso — Criminal Code, s. 686(1)(b)(iii).

The Crown alleged that P and his co-accused, S, participated in a fraudulent scheme involving the fictitious sale of heavy equipment to generate harmonized sales tax that was then not remitted to the federal government as required. The fraudulent nature of the scheme was never challenged. The involvement of P and S in the scheme was also conceded. The question for the jury was whether either or both accused were aware of the fraudulent nature of the scheme. P did not testify, but was incriminated by S's testimony. In his closing address, S's counsel invited the jury to infer P's guilt from P's failure to testify. The trial judge refrained from giving a remedial instruction to the jury about P's right to silence. P was convicted and sentenced and his appeal was dismissed.

Held (McLachlin C.J. and LeBel, Fish and Cromwell JJ. dissenting): The appeal should be dismissed.

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:: NOVA SCOTIA BILLS ::

The House resumed sitting on Thursday, October 25, 2012.

To keep current, consult the Status of Bills page on the Nova Scotia Legislature website:

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

The Status of Bills page provides a list of current Bills sortable by status, number, title, and date of most recent change. Visit this webpage and sort Bills by date to see what's changed since your last viewing.

To subscribe to the RSS feed for Bills status, look for the RSS icon on the left side navigation below the heading "Stay Up to Date".

Please contact Library & Information Services at 425 2665, 1 866 219 1202 (toll-free), or nsbslib@nsbs.org for further assistance with setting up RSS feeds.

:: PROCLAMATIONS UPDATE ::

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

Justice Administration (2012) Act, S.N.S. 2012, c. 8, s. 29

NS Gaz Pt 2, [10/19/2012](#)

NS Reg 185/2012

Maritime Link Act, S.N.S. 2012, c. 9, s. 7

NS Gaz Pt 2, [10/19/2012](#)

NS Reg 188/2012

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 ::

SAVE ON REGISTRATION FEES UNTIL NOVEMBER 2: Earn 6 CPD hours at LIANS Risk and Practice Management Conference, November 23; 9:00 am to 4:15 pm

Pay only **\$200+HST** until November 2 (**\$250+HST** after November 2) for the 4th annual LIANS Risk and Practice Management Conference. Join us at the Westin Nova Scotian in Halifax and **earn 6 hours of CPD** with featured sessions on the art of negotiation; research in the digital age; cultural competence: recognizing issues of culture; workload management: effective management of priorities, tasks and email; a wellness seminar and more ...

Confirmed speakers include Ray Wagner, Mark Scott, Brad Proctor, Naiomi Metallic, Kendrick Douglas, Kathryn Dumke, Paul Saunders, Scott Amyoony, Stacey Gerrard, Tony Mancini of Priority Management consulting, and Andria Lehr from Homewood Human Solutions™.

All-day parking available to all participants for \$6.

Sessions will appeal to lawyers, office managers, paralegals and legal assistants from across Atlantic Canada. Lawyers and staff from all sized firms are welcome.

Contact Erin McKiel emckiel@lians.ca or 902 423 1300 x326 to register.

We look forward to seeing you there!

RISK AND PRACTICE MANAGEMENT TIP: Email communication: Confirming receipt and review

With today's technology, it is not uncommon for lawyers to communicate with the clients via email but sending an email does not guarantee that the message has been received or reviewed. Setting up your default notification to confirm receipt and review can help. If you are using Outlook, here's how you do it:

1. Under "Tools" at the top left of your Outlook screen, select "options";
2. Under the "Preferences" tab, select "email options" under Email heading;
3. Select "Tracking Options" and under "For all messages I send, request" select the two checkboxes for "read receipt" and "delivery receipt".

This will assist you with tracking your email communication. If the email to your client includes an important deadline, do not rely solely on that form of communication. Set up a bring-forward system with your assistant to confirm that emails have been received and reviewed by your clients, otherwise a missed email reminder may result in a missed limitation.

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

FRAUD ALERT: Separation agreement scam: "Bella Kyung"

Several Nova Scotia members have received the following request for representation:

*From: Bella Kyung [mailto:lovebellak@gmail.com]
Sent: Tuesday, October 23, 2012 1:38 AM
To: Reception
Subject: Inquiry...*

Dear Counsel,

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I wish to know if your firm handle case related to Child Support, Spousal Support, Equitable distribution and Medical support.

Please advise if you handle such case.

Bella

Having responded to this request, the lawyers then received an email with further detail – excerpts are below:

Good day Counsel,

I appreciate your prompt response to my inquiry. I live in South Korea while my ex-spouse Sung Kyung lives in Halifax, NS, Canada. ...

We both agreed under a separation agreement incorporated, merged into and made part of the court decree for a settlement of child support, spousal support, and medical support of \$781,750.00, he has paid me \$195,000.00 but still owing \$586,750.00 and the stipulated time for completion of payment has long elapsed. ...

These emails have been confirmed as scams, with lawyers from the US having reported receiving them as well. The Nova Scotia lawyers who reported this have been advised that at this point they may simply dismiss these emails and any subsequent communications they receive from “Bella Kyung”.

If in doubt, remember that **you must always confirm** a prospective client’s identification in accordance with the [Client ID Regulations](#) of the Nova Scotia Barristers’ Society. Be sure to Google any potential clients you are unable to meet in person, **do not** deposit cheques in advance of a deal being signed and **do not** release funds until you verify with your bank that the cheque has cleared.

If you do 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.

As always, trust your instincts – and when in doubt, contact Cynthia Nield, LIANS’ Database and Information Officer, at cnield@lians.ca or 423 1300 x346 to help you debunk any emails or evaluate potential “clients”.

NSLAP WELLNESS TIP: Managing workplace conflict

The following is a newsletter excerpt from Homewood Human Solutions™, your health and wellness provider.

Every workplace contains a variety of personalities that can sometimes clash. Managing workplace conflict effectively requires a cool head and keeping an eye on the real goals – saving time, energy and stress.

We’ve all met them at some point in our working lives: the gossip, the complainer, the know-it-all, the bully, the kiss-up, the procrastinator, the control freak, the game player – the list goes on. They’re the people who waste our time, cause us stress and often draw us into unwanted conflict and drama.

An array of talents and personalities are needed if a business hopes to remain innovative and competitive. Conflicts, however, can be costly for employees and employers alike. Fifty-two percent of work time is wasted defending, avoiding and venting to others.

Absenteeism (due to workplace conflict) costs Canadian firms more than three billion dollars a year.² Employees who feel mistreated and disrespected often withhold ideas and refuse to share information, skills and knowledge, which further damages organizations.³ Workplace conflicts also result in: increased client complaints, sabotage, increased injury and accidents, rising disability claims, grievances and litigation, employee turnover and low morale.

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For individuals, the results are equally damaging. They include: stress, frustration and anxiety; depression; loss of sleep; strained relationships and poor performance. There are many causes for conflict. Some of the primary sources of conflict are mentioned below:

- **Poor communication.** Different communication styles can lead to misunderstandings.
- **Different values.** Each of us sees the world differently. Conflict occurs when there is a lack of acceptance about these differences.
- **Differing interests.** Conflict happens when individuals 'fight' to attain their personal goals, putting them before organizational goals and disregarding the feelings of others.
- **Personality clashes.** We're not all going to like each other, but we all do need to find ways to work effectively together.
- **Different work styles.** We all work in different ways and conflicting working styles can cause problems.
- **Poor performance.** When one or more people within a department are performing poorly and others are picking up the slack, conflict is inevitable.

Addressing conflict

There are a number of ways people deal with any conflict. They can: ignore it and hope it goes away, compete and let the winner take all, accommodate by surrendering their own needs to please the other person, collaborate to find a mutually beneficial solution, or compromise and find the middle ground. Collaboration and/ or compromise are obviously the most productive forms of dealing with any dispute because both parties work together to find an agreeable solution. No one loses and everyone wins.

Resolution

The first step in resolving a workplace conflict is to think about the other person's point of view. Try to be reasonable, respectful and polite, or at least neutral, in all your dealings. Your rational behaviour might encourage the other person to act accordingly. If simply changing your own behaviour isn't enough, you might need to address the person head on. If so, keep these following tips for resolving conflict in mind:

- Try to understand the cause of the conflict. What's the problem really about? Is it a personality conflict? Is a personal agenda getting in the way of organizational needs?
- Be prepared with some solutions before you even approach the other person, and address the issue face-to-face.
- Stay calm and stick to the subject. Avoid saying things like, "You make life difficult for everyone!" or "You never get your stats to me in time!" Accusatory statements only make people defensive.
- Listen to the other person. Give the other person a chance to tell his or her side of the issue without interrupting.
- Be prepared to compromise. Resolving conflicts fairly almost always involves give and take on both sides.
- Get help from a manager or human resources representative if necessary. If you don't feel that you can handle the conflict on your own, talk to your manager or someone from human resources for support.

The last word

You might think work would be so much easier if you didn't have to deal with difficult people, but difficult co-workers or clients can actually be helpful in your professional growth. Successfully managing workplace conflict requires patience, logic, excellent communication skills and a cool head – essential tools for any successful people-leader or anyone else trying to resolve conflict in order to maintain a healthy workplace.

¹ Safety Council of Canada, 2002; ² CPRN, 2001; ³ Sloan Management Review, 2001

For information, support, resources and counselling to deal with workplace conflict, visit the NSLAP website at www.nslap.ca. Please note that **LAP** is your "company" name when you register. When you call the NSLAP 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 ::

Office for rent in modern downtown Halifax building

The law firm of Singleton & Associates has a vacant office for rent in its new premises at Suite 604, Cogswell Tower in Halifax. Great views of Halifax Harbour and downtown. Use of a conference room and other services can be negotiated.

To inquire, please contact Tom Singleton at tsingleton@singleton.ns.ca or telephone (902)492-7000.

Office for rent in historic downtown Halifax building

One office for rent in the St. Paul's Building, a historic downtown building located at 1684 Barrington Street, Halifax. Located on the fifth floor, with elevator and stair access. Great light, lovely views. Use of shared conference room included.

Available October 1.
\$600/month plus HST.

To view or inquire, please contact ewozniak@nsimmigration.ca.