

# INFORUM

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

## :: WHAT'S NEW ::

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### Society News

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- [Council Highlights from Friday, November 23, 2012](#)
  - Revised Trust Account Regulations approved
  - Changes for timing of trust account filing
  - New honorarium for Officers
- [Law Office Search and Seizure Guidelines – request for comments](#)
- [Decision: Michael Iosipescu](#) – posted November 15, 2012
- [Changes in Category](#) – November 13 to 26, 2012
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### NSBS Continuing Professional Development

- [Register for online LRA course: January 23 to 30, 2013](#)

### COLUMNS

- Current Issues in Legal Ethics – [Solicitor-client privilege: The Future Harm/Public Safety Exception to duties regarding confidential information](#) (Latest column in a series on ethical responsibilities, by Elaine Cumming, Professional Responsibility Counsel)

### Library & Information Services

- [Finding Point-in-time Legislation](#)
- [New books at the library](#)
- [New decisions](#)
- [New bills](#)
- [Proclamations update](#)

### From LIANS

- [Save time using pre-addressed email!](#) – a new Risk and Practice Management Tip from the Risk and Practice Management Program, LIANS
- [Inheritance scam from “Glen R. Moreno”](#) – a new Fraud Alert from the RPM Program, LIANS
- [Wellness during the holiday season](#) – a new Wellness Tip from NSLAP

### From the Courts

- [Report of the Subcommittee on Global Review of the Federal Courts Rules](#)

### From the Province

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- JUSTICE: Find all DOJ announcements at <http://www.gov.ns.ca/just/communications/>
  - New case in Rewards for Major Unsolved Crimes: Homicide of Edward William Phalen (Nov. 22)
  - New Medical Examiner's facility opens (Nov. 21)
  - Transgender rights to be protected in Human Rights Act (Nov. 20)
  - Government investing in justice system (Nov. 20)
- SIRT
  - [Truro Police Service report released](#) (Nov. 23, 2012)
  - [Investigation into Lunenburg County death](#) (Nov. 14, 2012)
- SNSMR: Find all news releases at <http://www.gov.ns.ca/snsmr/>
  - Province helps victims of domestic violence (Nov. 26)
  - Sydney Alcohol and Gaming Office moving (Nov. 22, 2012)
  - New rules for Nova Scotia tenants, landlords (Nov. 14)

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  - [Settlement agreement approved for Gregory Matthew Duncan](#) (Nov. 23, 2012)
  - [Settlement agreement approved for Keybase Financial Group Inc.](#) (Nov. 23, 2012)
  - [Sanctions issued Against Timothy Adams, Lowell Weir, Carol McLaughlin-Weir](#) (Nov. 21)
- LABOUR/ADVANCED EDUCATION: [Province, safety leaders work to improve workplace safety](#) (Nov. 21)
- HEALTH/WELLNESS
  - [New Insured Health Services Act replaces Health Services and Insurance Act](#) (Nov. 22)
  - [Act supports collaboration among health professions](#) (Nov. 22)
  - [Pilot project connects patients, doctors online](#) (Nov. 20)
  - [New programs will help Nova Scotian seniors receive care at home](#) (Nov. 19)
- AUDITOR GENERAL: [Fall 2012 Report released](#) (Nov. 21)
- TREASURY BOARD: [Province updates progress on Auditor General recommendations](#) (Nov. 20)
- PREMIER'S OFFICE: [Nova Scotia receives 200 more Immigrant Nominees](#) (Nov. 14)
- ENERGY/ENVIRONMENT: [Province introduces pilot Sustainable Transport Program](#) (Nov. 16)
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## Awards & appointments

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- [First inductees to the Bertha Wilson Honour Society announced at Annual Law Alumni Dinner](#)
- New Chair and Vice-Chair for SMU Board of Governors: [John Fitzpatrick QC and Karen Oldfield QC](#)
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- [Halifax lawyers among recent Diamond Jubilee recipients](#)

## Other notices

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- [Call for proposals: LAW ON THE EDGE](#) (by December 10, 2012)
- [Call for submissions: Indigenous Law Journal](#) (by January 15, 2013)
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- [Foundation for Legal Research: 2013 Research Grants](#) (applications due February 11, 2013)
- [Dial 311 for municipal government information and services in HRM](#)
- MISSING WILLS: [Seeking will for Gary Michael Jackson of Bass River](#)

## Events of Interest

- [Upcoming events from CBA-NS](#)
  - [Legal Assistants' Conference on General Civil Litigation, December 7, 2012](#)
  - [Mid-Winter Meeting, January 31 - February 1, 2013](#)
  - [Serious Personal Injury, May 10, 2013](#)
  - [Online CLE programs](#)
- [Breakfast Series presented by the ICANS in partnership with CICA – November 27](#)
- [Ethics in Development: Opportunities and Challenges for Economic, Social and Cultural Development in Nova Scotia – November 28](#)
- [5th Annual Symposium on Inclusive Education and Employment – December 3-4](#)
- [Cyberbullying and Open Courts: The A.B. v. Bragg Case and the Way Ahead – January 10, 2013](#)
- [Dalhousie Health Law and Policy Seminar Series: Next session – January 18](#)
- [Ambiguous Crossroads: Persons with Mental Health Problems and the Criminal Justice System](#), presented by the Canadian Institute for the Administration of Justice – February 1, 2013

## Career Opportunities

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

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## :: NOTICES ::

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### SOCIETY NEWS

#### **Society's website now enhanced for mobile devices**

Technical upgrades to the website – <http://nsbs.org> – have made most of the Society's web contents more compatible with smartphones, tablets and other mobile devices. No special 'apps' are required, due to a 'responsive design' format that allows the Society's website to automatically adapt to multiple devices and screen sizes as required.

Thanks to Red Sky IT Solutions Inc. of Bedford, for assisting in this necessary step in the website's evolution. Technology experts are projecting that by the year 2015, more people will access the Internet via mobile devices than by desktop computers.

The changes were introduced on November 23, though further work remains in several areas of the website (including the *InForum* newsletter). To share feedback on your mobile experiences with [nsbs.org](http://nsbs.org), please contact Marla Cranston, Communications Officer, at 422 1491 or [communications@nsbs.org](mailto:communications@nsbs.org).

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#### **Council Highlights from Friday, November 23, 2012**

For details about matters discussed at Council's meeting on Friday, November 23, please see the Council Highlights and Documents, available on the Council materials page of the Society's website: <http://nsbs.org/council-materials>.

At the meeting, Council set June 15, 2013 as the date for the 2013 Annual Meeting, and received the [Admissions Monitoring Report](#) and the [Trust Account Monitoring Report](#), as well as a report from LIANS.

Council also approved the new Trust Account Regulations, a number of Regulation amendments regarding the timing and filing process for Trust Account Reports, as well as a recommendation to streamline the current filing requirements for law firms. Complete details can be found in the [Council documents](#) for November 23 and will be communicated to the membership shortly.

Council also approved the Governance and Nominating Committee's recommendation to increase the President's honorarium and extend honoraria to the two Vice-Presidents, starting in June 2013.

The next regular meeting of Council is scheduled for **Friday, January 25, 2013** at the Society's offices.

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#### **Law Office Search and Seizure Guidelines – request for comments**

The current [Law Office Search and Seizure Guidelines](#) for lawyers when faced with a search warrant respecting your law office were developed in 2002, and are posted on the [Practice standards and guidelines](#) page of the Society's website.

They follow the procedures set out in the Supreme Court of Canada's decisions in *Lavallee, Rackel & Heintz v. Canada (Attorney General)*; *White, Ottenheimer & Baker v. Canada (Attorney General)*; *R. v. Fink*, 2002 SCC 61 (CanLII), [2002] 3 SCR 209 and *Maranda v. Richer*, [2003] SCC 67. These Guidelines were last revised in 2003 and are now in need of review and updating, particularly to take into account the amount of information now stored electronically and 'in the cloud'.

Over the last few years, the Society has had occasion to become involved in several law office searches conducted by the Halifax Regional Police, RCMP and Canada Revenue Agency, both in a consultative role as well as to arrange for an independent referee to ensure that client interests and privilege are protected throughout the process. The Society itself has also responded to a number of search warrants served on our office relating to information obtained during complaint investigations. For the most part, the authorities understand and respect issues of privilege.

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Law office searches are disconcerting and stressful for the lawyers whose offices are the subject of the searches, so it is important that you have access to current resources and information regarding the procedures to be followed before law enforcement authorities arrive on your doorstep.

The Professional Responsibility Policies and Procedures Committee has created a Law Office Search and Seizure (LOSS) Subcommittee with a mandate to review these guidelines and update them as may be required. The LOSS Subcommittee would like to hear from members of the Society regarding the current Guidelines, your own experiences and any changes or additions that you feel may be appropriate to ensure that it is providing appropriate and useful guidance.

The LOSS Subcommittee is requesting that any comments be received in writing (by mail or email) not later than **4:30pm on Friday, December 21, 2012.**

*Please direct comments to:*

The LOSS Subcommittee  
c/o Elaine Cumming, Professional Responsibility Counsel  
Nova Scotia Barristers' Society  
800-2000 Barrington Street, Halifax, NS B3J 3K1  
[ecumming@nsbs.org](mailto:ecumming@nsbs.org)

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## **Decision and Settlement Agreement for Michael Iosipescu – November 2, 2012**

On Friday, November 2, 2012, a Hearing Panel approved a Settlement Agreement whereby Michael Iosipescu was permitted to resign. For more information, see the Resolution, Settlement Agreement (posted Nov. 2) and Decision (posted Nov. 15) on the [Decisions and Dispositions](#) page of the Society's website.

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## **Changes in Category –November 13 to 26, 2012**

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

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

Erin Rebecca Fowler	Christine Elizabeth Nault
Scott MacKenzie Hughes	Ivan George Cecil Nault

*The following member has changed to Non-Practising status:*

Susannah Margison

*The following members have resigned:*

Waverly Ann Bird	José Miguel Antonio Rodriguez
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## **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),

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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.

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](mailto:dmccampbell@coxandpalmer.com) or 902 491 4105.

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## 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.

- **Robert S Huestis QC**, Halifax, NSBS Life Member – November 20, 2012 [Obituary](#)

Also see:

## Legal colleagues remember Bob Huestis

Allnovascotia.com Nov. 22, 2012 (by subscription only)

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## 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](mailto: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](http://nsbs.org).

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## FROM THE COURTS

### Report of the Subcommittee on Global Review of the Federal Courts Rules

OTTAWA, November 9, 2012 — Significant and unprecedented reforms to the practices and procedures of the Federal Courts may be in the offing as a result of a study approved November 9. The study proposes new tools to address

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abusive, inappropriate, disproportionate and wasteful litigation conduct. It also identifies a number of steps – many novel – to improve access to the Federal Courts, particularly by self-represented parties.

The study is the product of a comprehensive policy review of the practices and procedures of the Federal Courts. A national subcommittee chaired by Justice David Stratias and comprised of 13 judges, prothonotaries, lawyers and court personnel conducted the policy review. The subcommittee consulted with hundreds of people, received many formal submissions, and achieved unanimity or near-unanimity on the 26 findings and recommendations it made.

Overall, the subcommittee found that, by and large, the practices and procedures of the Federal Courts work well. However, it urged that certain reforms be made to meet contemporary needs and circumstances.

The subcommittee found that while the Federal Courts system “exists for the benefit of parties to litigation, something broader must not be forgotten: the Federal Courts system belongs to the community, is financed by the community, and must serve the community.” This philosophy underlies many of the study’s proposals.

Under the proposals, the vast majority of litigants – those who conduct their cases reasonably – will see little change. But those few who engage in abusive, inappropriate and disproportionate litigation conduct may find themselves on the receiving end of stiff new measures. The study decries the costs they impose on other litigants and the Federal Courts system.

Noting the rising tide of litigation conducted by self-represented parties, the study urges a top-to-bottom examination of the rules to make them more understandable and accessible and offers tangible ideas for the aggressive use of web technologies to make self-help by lay-litigants a reality. It also recommends judicial education on the creative but acceptable ways in which the rules can be used to further access to justice.

“The access to justice proposals, when fully implemented, will make the Federal Courts a world leader in dealing with this difficult but urgent problem,” says Chief Justice Crampton of the Federal Court.

There are a number of other proposals designed to further the fast, efficient and fair disposition of cases, whether by way of settlement or adjudication.

The Federal Courts’ Rules Committee has considered the study and, on a preliminary basis, has adopted all of the proposals in it. It has established a new subcommittee to study the implementation of the proposals. Before any amendments to the Federal Courts Rules implementing the proposals become law, there will be a further public consultation process.

However, at the present time, the Rules Committee welcomes feedback concerning the subcommittee’s study. This feedback may shape the implementation process.

The study can be accessed on the web at: [http://www.fca-caf.gc.ca/bulletins/notices/subcommittee\\_report\\_FINAL\\_e.pdf](http://www.fca-caf.gc.ca/bulletins/notices/subcommittee_report_FINAL_e.pdf)

Any feedback should be directed to the Secretary to the Rules Committee no later than January 31, 2013, at [Chantelle.Bowers@cas-satj.gc.ca](mailto:Chantelle.Bowers@cas-satj.gc.ca).

Read more:

- [Announcement – en français](#)
- [Notices to the Profession](#) – Discussion Paper and Report of the Subcommittee

**[Federal Courts eyeing plain-language internet help for self-represented litigants, The Ottawa Citizen, Nov. 12, 2012](#)**

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## 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>.

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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](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](#) web page.

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## FROM THE PROVINCE

### Notice from Access Nova Scotia: Amherst Land Registration Office has moved

Please be advised that the Amherst Land Registration Office has moved. It reopened on Monday, November 26 for in-person service in its new location at 144 Robert Angus Drive.

- Our civic & mailing address will be **144 Robert Angus Drive, Amherst NS B4H 4R7.**
- You can continue to reach us at **667-3131 (phone)** and **667-5657 (fax).**
- Office hours remain Monday to Friday, 8:30 am – 4:30 pm.

We are excited to announce that we are co-locating with the **Amherst Access NS Centre** in our new office location, which includes many services such as the Registry of Motor Vehicles and Information Services such as Residential Tenancy, Debtor Assistance, Driver Enhancement Services, Business Registration, and many more ...

We look forward to serving you at our new location. If you have any questions, please direct them to Valerie George, Manager, (902) 870-5550 (c) or by email at [georgeve@gov.ns.ca](mailto:georgeve@gov.ns.ca).

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### Error & Omission notices

A number of new *Land Registration Act* and *Registry Act* Error & Omission notices have recently been posted online. Please note the new notices from the **Colchester and Kings County** Land Registration Offices. To view these notices in full, refer to the Errors & Omissions page on the [Property Online](#) (PO) website.

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### 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](http://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](#).

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## AWARDS & APPOINTMENTS

### **PUBLIC PROSECUTION SERVICE: Crown Attorney appointed in Sydney**

Stephen Melnick has been appointed a Crown attorney in the Sydney office of the Public Prosecution Service.

"Mr. Melnick's extensive background in criminal law will be an asset to the Nova Scotia Public Prosecution Service. We are very pleased to have him on board," Martin Herschorn, Director of Public Prosecutions, said November 22 in announcing the appointment.

A native of Sydney, Mr. Melnick graduated in 1980 from the University College of Cape Breton and in 1986 from the University of New Brunswick Law School. He became an associate with MacIntyre MacLellan in Sydney in 1987, moving to Murrant Brown (later known as Walsh and Melnick) in 1990. Mr. Melnick's practice focused on civil litigation, criminal, family, corporate, commercial, real estate and immigration law.

In 1993, Mr. Melnick was appointed clinical director of the Arctic Rim Law Center Society in the Northwest Territories, where he provided legal services in the Delta Region as a satellite office of the territory's Legal Services Board. In 1995, he was appointed Executive Director of the MacKenzie Court Workers Society in the Northwest Territories, providing a full range of legal services but primarily criminal law in the District of MacKenzie.

In 1997, Mr. Melnick returned to private practice in Sydney with Cusack Law. In 2001, he joined Nova Scotia Legal Aid as a staff lawyer. Mr. Melnick sits on the board of directors of the Atlantic Coastal Action Program Cape Breton, a non-profit charitable community organization.

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### **First inductees to the Bertha Wilson Honour Society announced at Annual Law Alumni Dinner**

HALIFAX, NS – The Schulich School of Law at Dalhousie University and the Dalhousie Law Alumni Association are pleased to announce that 10 alumni have been inducted into the newly established Bertha Wilson Honour Society.

This year's members were recognized at the Law School's Annual Alumni Dinner on Sept. 28, 2012.

Of the many nominations received, the Board of the Society named 10 inductees:

- Anita Anand ('92), Toronto, ON
- William Crosbie ('82), St. John's, NF
- Daniel Laprès ('72), Paris, France
- Harold MacKay QC, ('63) Saskatoon, SK
- Theresa McDonald QC ('80), The Pas, MB
- Tracy-Anne McPhee ('90), Whitehorse, YT
- Charles Meagher ('83), Calgary, AB
- Valerie Moore ('83), Charlottetown, PE
- Dr. Pamela Palmater (LLM'99, JSD '09), Toronto, ON
- Prof. John Yogis QC, (LLB'64, LLM'67) Halifax, NS

"We're enormously proud of Bertha Wilson's contributions to the legal profession, the judiciary, and law and society generally," Dean Kim Brooks said in announcing the inductees. "She is in the good company of others among our alumni who have made exceptional contributions. Our inductees to the Bertha Wilson Honour Society span the range of contributions — from senior international diplomats to champions of causes in their hometowns. We're delighted to celebrate these alumni and I'm already looking forward to see who is among next year's inductees."

#### *About the Bertha Wilson Honour Society*

The Honourable Bertha Wilson ('57) was a native of Kirkcaldy, Scotland. After earning a Master's degree from the University of Aberdeen, she emigrated to Canada where she attended Dalhousie Law School and graduated near the top of her class. She moved to Toronto in 1959, was called to the Ontario Bar, and joined the law firm of Osler Hoskin Harcourt, where she practised for nearly two decades. In 1975, she became the first woman appointed to the Ontario Court of Appeal. In 1982, she became the first female Justice of the Supreme Court of Canada, appointed by then-Prime Minister Pierre Trudeau.

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The Bertha Wilson Honour Society at the Schulich School of Law has been established to pay tribute to this pioneer of the Canadian judiciary. The Society recognizes extraordinary alumni of the Schulich School of Law that exemplify the ideals of Bertha Wilson and showcases the geographic reach of their contributions to law and society.

Find nomination forms and more information about the inductees on the [Bertha Wilson Honour Society](#) page in the [Alumni and Friends](#) section of the Law School's website.

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## **New Chair and Vice-Chair for SMU Board of Governors: John Fitzpatrick QC and Karen Oldfield QC**

Saint Mary's University President Dr. J. Colin Dodds is pleased to announce the appointment of John Fitzpatrick QC as the new Chair of the University's Board of Governors, and Karen Oldfield QC as the new Vice-Chair.

Mr. Fitzpatrick is a partner with BOYNECLARKE in Halifax and has served on the Board since 1995. Ms. Oldfield is President and CEO of the Halifax Port Authority and has served on the Board since 1997. The Board, along with faculty and staff, create a university experience focused on academic excellence, experiential learning and the development of the next generation of leaders.

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## **Grant Machum appointed Chair of NSCAD University Board of Governors**

Halifax lawyer Grant Machum has been appointed chair of the NSCAD University Board of Governors. A partner at Stewart McKelvey, he has been a member of NSCAD's board since 2010 and is presently also a board member of Telefilm Canada and the Prescott Group.

"I think having NSCAD in Halifax makes the city different, more vibrant, more interesting, than any other city in Canada," he says in the recent [Board briefs](#) on the NSCAD website. "NSCAD has so much potential and we need to make sure it's strong and sustainable by focusing on the most important aspect--our students. We need to position the university for their future."

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## **Lena Diab – recent appointment and award**

Halifax lawyer Lena Diab was appointed to the Nova Scotia Motor Vehicle Appeal Board on October 24, to hear appeals in relation to sections in the *Motor Vehicle Act*.

On November 12, Ms. Diab was also awarded the Queen's Diamond Jubilee medal, for exceptional service to her community and to profession.

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## **Halifax lawyers among recent Diamond Jubilee recipients**

On October 30, Halifax MP Megan Leslie awarded Diamond Jubilee medals, alongside Lieutenant Governor JJ Grant, to "incredible people working to make our community a better place." Several lawyers were among the 26 recipients:

- **Josh Judah:** For his work as head coach of the Canadian National Debating Team, involving many hours of commitment, and for his work as a volunteer with local literacy networks.
- **Kevin Kindred:** For his work in the LGBTQ community as Chair and Director of the Nova Scotia Rainbow Action Project; and, for his work for the Atlantic Fringe Festival.

For more details and a list of the other recipients, see Ms. Leslie's [announcement](#).

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## **OTHER NOTICES**

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## **Sealy Cornish Coulthard welcomes Donald Murray QC**

(November 16, 2012 -- Dartmouth) Donald Murray has joined Sealy Cornish Coulthard in the practice of law, as of November 1, 2012.

Don primarily represents individuals and companies charged with a range of criminal and regulatory offences, including people charged with the most serious offences in the *Criminal Code* (such as life imprisonment homicide offences.) For the past decade, Donald has served as a Board of Inquiry under the *Nova Scotia Human Rights Act*, and he is currently engaged as an Adjudicator under the Indian Residential Schools Settlement Agreement.

Managing partner Doug Sealy QC says, "All three SCC partners have known Don throughout his quarter-century career and we're delighted to have such a well-regarded senior lawyer join us. In addition to his individual practice, we appreciate his level of commitment to the profession and the additional mentorship opportunities his presence brings us."

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## **Call for proposals: LAW ON THE EDGE**

Law on the Edge is jointly presented by the Canadian Law and Society Association and the Law and Society Association of Australia and New Zealand and will be hosted at UBC July 1 - 4, 2013. Proposals for conference sessions must be emailed to [lawontheedge@law.ubc.ca](mailto:lawontheedge@law.ubc.ca) by December 10, 2012. More information: Law on the Edge conference website [http://www.law.ubc.ca/events/law\\_on\\_the\\_edge/](http://www.law.ubc.ca/events/law_on_the_edge/)

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## **Call for submissions: Indigenous Law Journal**

The *Indigenous Law Journal* is dedicated to developing dialogue and scholarship in the field of Indigenous legal issues, both within Canada and internationally. We encourage submissions from all perspectives on these issues. Our central concerns are Indigenous legal systems and the interaction of other legal systems with Indigenous peoples. We are the only legal periodical in Canada with this focus. We welcome the addition of your voice to the discussion.

To ensure the integrity of our double-blind selection process, all submissions and questions related to submissions must be directed to our Submissions Manager at [submissions.ilj@utoronto.ca](mailto:submissions.ilj@utoronto.ca).

Submission deadline: January 15, 2013

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## **Lloyd Houlden Memorial Research Fellowship: Canadian Insolvency Foundation**

APPLICATION DEADLINE: 15 JAN 2013

The Canadian Insolvency Foundation (CIF) invites applications for the Eighth Annual Lloyd Houlden Memorial Research Fellowship. To a maximum of \$20,000, the Lloyd Houlden Memorial Research Fellowship will be awarded for a paper that addresses current issues in Canadian insolvency policy and practice.

Papers should be 7,000 to 10,000 words in length and should be written for an audience consisting of those involved in insolvency practice, insolvency law or in the development and analysis of insolvency policy. The author should propose an original analysis of innovative ways to improve the insolvency system, a historical analysis of particular features of the system or an exploration of any other insolvency-related idea. More information: <http://www.cairp.ca/canadian-insolvency-foundation/houlden-fellowship/>

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## **Foundation for Legal Research: 2013 Research Grants**

The Foundation for Legal Research provides funds for legal research falling into three broad categories, namely:

- Research and writing where the emphasis is on the statement of existing rules of law, sometimes referred to as doctrinal research;
- Research with regard to the working of the legal system; and
- Research with regard to development in fields peripheral to legal doctrine, such as criminology, psychology, psychiatry, sociology and economics and their relationship to rules of law.

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The goal of the Foundation is to encourage legal writing that would be valuable to Canadian lawyers and judges in their day-to-day practice of law and in the administration of justice. The Foundation's grants are normally in the range of \$5,000. The Foundation does not reject applications for smaller amounts, but rarely makes larger grants because of the limited amount of money available. Most applicants are law teachers in Canada seeking funding for summer research.

The annual deadline for receipt of applications is **February 11**, so the Foundation can make its decisions by mid-March.

Application forms and a list of prior recipients are available on the [Research Grants](#) page of the Foundation for Legal Research website at <http://foundationforlegalresearch.org>.

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## **Dial 311 for municipal government information and services in HRM**

Effective November 14, residents, visitors and businesses can dial 311 from anywhere in HRM for easy and direct access to important municipal government information and services. Citizens should continue to dial 911 for emergency calls.

An abbreviated telephone number regulated by the Canadian Radio-Television and Telecommunications Commission, 311 provides a single point of contact for citizens to request non-emergency local government service, complete a transaction, or receive general municipal information. It has been adopted by many cities across North America to improve accessibility to city information and services, and to increase effectiveness in responding to public inquiries.

Notable enhancements to HRM's citizen contact centre with the implementation of 311 telephone service include:

- Service in over 150 languages using a telephone interpretation service
- Return of holiday call taking (only closed on Christmas Day and New Year's Day)
- More efficient routing of calls through self-service options
- The ability to call from anywhere in HRM without it being a long distance call (regular pay phone and cellular phone charges still apply)

HRM will also be launching 311 online, offering citizens the choice to make a variety of self-service requests through [www.halifax.ca](http://www.halifax.ca).

Residents can call the 311 citizen contact centre from 7 a.m. to 11 p.m. daily, with the exception of Christmas Day and New Year's Day. Calls related to illegally parked vehicles or urgent transportation, animal services, municipal operations, or wastewater service issues will be accepted outside of these hours. Hearing impaired teletypewriter users can continue to call (902) 490-6645.

For more information on 311 telephone service, visit [www.halifax.ca/311](http://www.halifax.ca/311).

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## **Call for Papers: Federation of Law Societies of Canada 2014 National Family Law Program**

Location: British Columbia (Site to be announced)

Planning for the National Family Law Program in 2014 is underway. We are inviting submissions of proposals for Papers/Presentations under the following guidelines:

1. One page outline of topic(s), format of presentation and estimated time for presentation or workshop.
2. Your agreement to provide an original written paper on the topic(s) by May 30, 2014.
3. Your agreement to participate in other presentations as workshop leader or panelist if required.
4. Please include a copy of your curriculum vitae and co-presenters with your submission.

Your proposal must be received no later than **May 30, 2013**.

For complete details, see the [Call for Papers](#) notice on the Federation's website.

Please submit your Family Law proposal by mail to:  
Heather Walker

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Program Co-coordinator  
P.O. Box 244 Woodville, ON K0M 2T0  
or email: [nationalfamilylawprogram@sympatico.ca](mailto:nationalfamilylawprogram@sympatico.ca)

(Please identify the proposal as a submission for the 2014 program on the re line of the e-mail)  
Note: Presenters will receive a contribution toward travel and accommodation expenses.

For event information and updates, consult the National Family Law section of the Federation's website:  
[www.flsc.ca/en/national-family-law-program](http://www.flsc.ca/en/national-family-law-program).

## **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](mailto:nancy.yake@sympatico.ca), with a copy to Chris Fievoli at [chris.fievoli@actuaries.ca](mailto: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](http://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

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## **MISSING WILLS**

### **Seeking will for Gary Michael Jackson of Bass River**

Lawyers who can provide any details on the existence of a last will and testament for Gary Michael Jackson of Bass River, Nova Scotia, are asked to please contact:

Dean Jackson  
204 St George Blvd.  
Hammonds Plains NS B4B 1K7  
(902) 832-9204

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**Seeking will for John Arno Roston of Sydney**

Lawyers with any information on the existence of a Last Will and Testament for John Arno Roston are asked to please contact Arno Roston or Marjorie Burke at (902)562 2479. John Arno Roston resided on Rotary Drive in Sydney, and passed away on October 28, 2012 at age 76.

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**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:

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

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**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](mailto:executivedirector@avaloncentre.ca) or visit [www.avaloncentre.ca](http://www.avaloncentre.ca).

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**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](mailto:janecawley@nscece.ca).

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## **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](http://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](mailto:lisns@legalinfo.org). To learn more about LISNS and its services, visit [www.legalinfo.org](http://www.legalinfo.org).

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## **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).

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## **reachAbility Volunteer Opportunities**

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

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

Join other 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](mailto:legal@reachability.org)

OR visit us online at <http://reachability.org/legal>.

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### **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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### **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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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](#)

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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:

- January 23 to 30, 2013
- April 17 to 24, 2013
- June 19 to 26, 2013

[Register online](#)

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## OUTSIDE CONFERENCES & SEMINARS

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### 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](http://hli.law.dal.ca/Seminar_Series.php)

#### Series schedule

- **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)
  - **Friday, March 22**  
**Is There a Constitutional Right to Die?**  
Joseph Arvay QC, Arvay Finlay Barristers, British Columbia
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#### Upcoming events from CBA-NS

Conferences:

[Legal Assistants' Conference on General Civil Litigation](#)

December 7, 2012 - Marriott Harbourfront Hotel

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*This conference is tooled for litigation support staff and paralegals, and lawyers are also welcome to attend. The CBA brings representatives from law offices, the courts and government to talk face to face about civil procedure, documents, filing, to answer questions and to provide tips.*

## Mid-Winter Meeting

**January 31 – February 1, 2013 – Marriott Harbourfront Hotel**

*This conference will offer an opportunity to learn and engage with skilled practitioners from various fields; topics will be offered concurrently. Two morning plenaries will be presented, one on “Client Services” and the other “Chief Justices Round Table on Advocacy”. As a final incentive, by attending the full conference you are able to obtain your full 12 hour mandatory continuing professional development (CPD) requirement for 2012-2013.*

## Bench and Bar Reception and Dinner

**January 31, 2013**

*CBA Nova Scotia will be hosting a Bench and Bar Reception and Dinner on Thursday, January 31st with special guest The Right Honourable Beverley McLachlin, Chief Justice of Canada. Come see former Chief Justices Constance R. Glube, Lorne O. Clarke and former Associate Chief Justice Robert F. Ferguson receive Honourary CBA Memberships. Good company, good food and live entertainment! Tickets may be purchased [online](#).*

## Serious Personal Injury

May 10, 2013 – Casino Nova Scotia

## Online CLE:

- November 30, 2012 – [Snowbirds: Cross Border Planning](#)
  - **Speakers:** Jessica Lyle, McInnes Cooper, Jason Hale, Grant Thornton and Charles Cullen, RBC Dominion Services Wealth.
  - *Deadline to register is Wednesday, November 28, 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.*
- 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

***Bring the experts to your office. All you need for this live interactive educational opportunity is a phone, computer and 90 minutes. Please contact the CBA office with any questions at (902) 422-1905 or by email at [cbainfo@cbans.ca](mailto:cbainfo@cbans.ca).***

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## **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).

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**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.

**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](http://www.cica.ca/NPOBreakfasts) to register and obtain a printable ticket.

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**Ethics in Development: Opportunities and Challenges for Economic, Social and Cultural Development in Nova Scotia**

*Presented by the Canadian Centre for Ethics in Public Affairs, in partnership with the Canadian Business ethics Network and Acadia University*

**November 28, 2012, 7:00 pm  
Acadia University, Wolfville, NS**

A panel discussion focusing on planning, immigration, access to services and education providing an opportunity to define some of the development challenges faced in Nova Scotia and through an ethical lens, discuss opportunities and roadblocks to growth through public participation in the conversation.

**Panel Discussion:**

- Arthur Bull - Senior corporate policy analyst, Nova Scotia Department of Policy and Priorities
- Ray Ivany - President, Acadia University
- Andy Fillmore - Director, School of Planning, Dalhousie University
- Elizabeth Mills - Executive Director, Nova Scotia Office of Immigration

**Moderated by:**

- Dr. Edith Callaghan - Professor, Environmental & Sustainability Studies, Acadia University (Moderator)

Free admission - reception to follow.

WATCH IT LIVE: [www.ccepa.ca](http://www.ccepa.ca) | For more information please email [admin@ccepa.ca](mailto:admin@ccepa.ca) or [atlantic@cbern.ca](mailto:atlantic@cbern.ca)

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**5th Annual Symposium on Inclusive Education and Employment  
December 3 to 4 | Harbourfront Marriott, 1919 Upper Water Street, Halifax**

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The 5th Annual Symposium on Inclusive Education and Employment, on Monday, Dec. 3 and Tuesday, Dec. 4, focuses on challenges and opportunities persons with disabilities face in the workplace and with education. The theme this year is *Ability Starts Here - Join the Conversation*. It coincides with the United Nations International Day of Persons with Disabilities, held each year Dec. 3.

Workshops and panel discussions provide an opportunity for educators, employers and persons with disabilities to learn from each other about human rights, education, meaningful employment and community participation. It also promotes a greater awareness and understanding of disability issues.

In Nova Scotia, one in every five people, or about 20 per cent of the province's population, live with a disability. Around the world, about 10 per cent, or 650 million people, live with disabilities.

The symposium is being held at the Harbourfront Marriott, 1919 Upper Water St. Captioning and sign language interpreters will be available. For details go to [www.abilitystartshere.ca](http://www.abilitystartshere.ca)

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## **Cyberbullying and Open Courts: The A.B. v. Bragg Case and the Way Ahead** January 10, 2013 | Schulich School of Law

SAVE THE DATE! On Thursday, 10 January 2013, the Law & Technology Institute will be hosting "Cyberbullying and Open Courts: The A.B. v. Bragg Case and the Way Ahead," a symposium on the Supreme Court of Canada's September 2012 decision in the important case of *A.B. v. Bragg Communications Inc.*

Joining us for the symposium panel will be Michelle Awad (counsel to A.B.), Prof. Wayne MacKay (Chair of the Nova Scotia Cyberbullying Task Force) and James Rossiter (author of Carswell's *Law of Publication Bans, Private Hearings and Sealing Orders*). The symposium will be held at the Schulich School of Law, 6061 University Ave., Halifax, at 2:30 pm. More details to follow.

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## **APTLA ONLINE LEGAL EDUCATION**

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

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

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

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## **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

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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 ::

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### Finding Point-in-time Legislation

As Susannah Tredwell writes in a recent *Slaw* post, sometimes you need to know how a section of an act reads at a particular point in time.

Her post, [Finding Point-in-Time Legislation](#), highlights three online sources for this – CanLII, Quicklaw, and government websites – and provides a useful table summarizing sources and coverage for each Canadian province and territory.

For Nova Scotia, CanLII provides point-in-time versions back to 2003, but there are gaps in coverage, and acts with complex retroactive amendments are not presented with perfect accuracy.

If the point in time of interest is within the last 15 years or so, resources on the Office of Legislative Counsel website can assist.

Consult the [Table of Public Statutes](#) (as it appears in the 2010 annual statutes) for amendments to public acts since the last revision (1989) to December 10, 2010. Select acts [Of all years](#) for annual statutes listed by session or sitting back to 1995-96 (including official PDF versions).

For copies of older statutes or assistance in conducting a legislative history, visit the Barristers' Library in Halifax or contact Library & Information Services at 425 2665, 1 866 219 1202 (toll-free), or [nsbslib@nsbs.org](mailto:nsbslib@nsbs.org).

### New books at the library

#### BANKRUPTCY

THE 2012-2013 ANNOTATED BANKRUPTCY AND INSOLVENCY ACT / Houlden, Lloyd W; Morawetz, Geoffrey B; Sarra, Janis P -- Toronto: Carswell Thomson Reuters, 2012. [KB 113 H838 2012(2)]

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#### CONTRACTS

CANADIAN CONTRACT LAW / Swan, Angela; Adamski, Jakub -- 3d ed. -- Markham, Ont. LexisNexis Butterworths, 2012. [KB 130 S972 2012]

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#### CRIMINAL INVESTIGATION

TRUTH-FOCUSED INTERVIEWING FOR INVESTIGATORS / Byrnes, Kevin -- Toronto: Canada Law Book, 2012. [KB 24.C65 B995 2012]

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#### TRUSTS

WATERS' LAW OF TRUSTS IN CANADA / Waters, D.W.M; Gillen, Mark R; Smith, Lionel D -- 4th ed. -- Toronto: Carswell Thomson Reuters, 2012. [KB 154 W329 2012]

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## :: NEW DECISIONS ::

Please note, in cases below where no link is present, the decision was not yet available on [CanLII](#) at the time of *InForum* publication. Consult the [Courts of Nova Scotia](#) Twitter feeds or [Decision Database](#).

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**BARRISTERS AND SOLICITORS** *Dawe v. Gordon et al.*, Bwt. No. 350335, Hood, J., November 20, 2012. [2012 NSSC 403](#)

**CIVIL RIGHTS** *Doncaster v. Chignecto-Central Regional School Board*, Hfx. No. 398426, Coady, J., November 5, 2012. [2012 NSSC 383](#)

**CRIMINAL LAW** *R. v. Frank*, C.A.C. No. 382020, Farrar, J.A., November 16, 2012. [2012 NSCA 114](#)

**CRIMINAL LAW** *R. v. MacDonald*, No. 2323463; 2323464, Atwood, J.P.C., November 16, 2012; October 22, 2012 (orally). [2012 NSPC 99](#)

**EMPLOYMENT LAW** *Burgess v. Yellow Pages Group Co.*, Hfx. No. 359700, Rosinski, J., November 9, 2012. [2012 NSSC 390](#)

**FAMILY LAW** *Matthews v. Singer*, S.F.P.A.M.C.A. No. 073858, Legere-Sers, J., November 8, 2012. [2012 NSSC 388](#)

**FAMILY LAW** *Nova Scotia (Community Services) v. S. (J.) et al.*, S.F.H.C.F.S.A. No. 076248, Jollimore, J., November 9, 2012. [2012 NSSC 396](#)

**FAMILY LAW** *Kozma v. Kozma*, No. 1201-062330; S.F.H.D. No. 056503, MacDonald, B. J., November 2, 2012. [2012 NSSC 380](#)

**FAMILY LAW** *Doncaster v. Field*, C.A. No. 393423, Saunders, J.A., November 22, 2012; November 21, 2012 (orally). [2012 NSCA 116](#)

**FAMILY LAW** *Hepworth v. Hepworth*, C.A. No. 354165, Oland, J.A., November 23, 2012. [2012 NSCA 117](#)

**FAMILY LAW** *Mi'kmaw Family and Children's Services v. KDo*, C.F.S.A. No. 077093, Forgeron, J., November 2, 2012. [2012 NSSC 379](#)

**PRACTICE** *Halifax (Regional Municipality Pension Committee) v. State Street Global Advisors Ltd.*, Hfx. No. 309063, Duncan, J., November 15, 2012. [2012 NSSC 399](#)

**PRACTICE** *iNOVA Credit Union Ltd. v. Giamac Inc.*, Hfx. No. 382080, Rosinski, J., November 20, 2012. [2012 NSSC 400](#)

**PRACTICE** *Barton v. Nova Scotia (Attorney General)*, Hfx. No. 396602, Coady, J., November 20, 2012. [2012 NSSC 405](#)

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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.

November 23, 2012

[Canada \(Attorney General\) v. Kane](#)

Neutral Citation: [2012 SCC 64](#) (CanLII)

File No.: 34147.

# INFORUM

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

2012: November 6; 2012: November 23.

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

On Appeal from the Federal Court of Appeal

*Administrative law — Judicial review — Standard of review — Public Service Staffing Tribunal concluding that decision by employer to staff position by means of advertised process did not constitute abuse of authority — Whether decision of Tribunal reviewable on standard of reasonableness.*

K was employed by Service Canada in a position classified at the PM-05 level. As part of a reorganization, the position of Regional Manager was created at the PM-06 level. The employer decided to fill the PM-06 position through an internal advertised process. K applied to the competition but failed a mandatory examination. K filed a complaint with the Public Service Staffing Tribunal, stating an abuse of authority contrary to the *Public Service Employment Act*. The Tribunal dismissed K's claim because he had not established abuse of authority. The Federal Court affirmed the Tribunal's decision. The Federal Court of Appeal allowed the appeal sent this case back to the Tribunal.

*Held:* The appeal is allowed and the decision of the Tribunal is affirmed.

November 16, 2012

*R. v. D.J.W.*

Neutral Citation: [2012 SCC 63](#) (CanLII)

File No.: 34623

2012: November 16

Coram: LeBel, Fish, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ.

BETWEEN:

D.J.W.  
Appellant

- and -

Her Majesty the Queen  
Respondent

JUDGMENT

The appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Numbers CA037623 and CA037983, 2011 BCCA 522, dated December 22, 2011, was heard this day and the following judgment was rendered orally:

LeBel J. — We all agree with Hinkson J.A., writing for a unanimous Court of Appeal, that all the elements of the charges against the appellant had been established. We will not comment on whether the charge of assault with a weapon should have been stayed, as this issue was not raised in this Court. Nor do we need, on the specific facts of this case, to rule definitively on whether a circumcision performed by a person without medical training can ever be considered reasonable and in the child's best interest. For these reasons, the appeal is dismissed.

J.S.C.C.

November 9, 2012

# INFORUM

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

*R. v. P.D.T.*

Neutral Citation: [2012 SCC 62](#) (CanLII)

File No.: 34780

2012: November 9

Coram: McLachlin C.J. and Fish, Abella, Rothstein, Moldaver, Karakatsanis and Wagner JJ.

BETWEEN:

P.D.T.

Appellant

- and -

Her Majesty the Queen

Respondent

JUDGMENT

The appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 1103-0048-A, 2012 ABCA 68, dated March 5, 2012, was heard this day and the following judgment was rendered orally:

The Chief Justice — This is an appeal as of right. The only issue is whether the verdict of guilt was unreasonable. We agree with the majority of the Court of Appeal that the verdict is not unreasonable. The appeal is dismissed and the conviction affirmed.

C.J.C.

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## **:: NOVA SCOTIA BILLS ::**

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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](mailto:nsbslib@nsbs.org) for further assistance with setting up RSS feeds.

# INFORUM

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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*:

***Interior Designers Act***, S.N.S. 2011, c. 18, s. 2  
NS Gaz Pt 2, [11/16/2012](#)  
NS Reg 205/2012

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.

# INFORUM

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## :: LIANS TIPS ::

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### **RISK AND PRACTICE MANAGEMENT TIP: Save time using pre-addressed email!**

If there are people to whom you often send email, you can easily create desktop shortcuts that will start MS Outlook and automatically address messages to your frequent email recipients with one click. Here's how:

- 1) Right-click on a blank area of the Windows desktop (the screen you get when you first start your computer) and select "New" from the pop-up menu;
- 2) Select "Shortcut" from the fly-out menu;
- 3) In the box underneath the line: "Type the location of the item:" type mailto: followed by an email address, without spaces. (mailto:sgerrard@lians.ca);
- 4) Click "Next" and type a name for the shortcut – such as Stacey Gerrard email;
- 5) Click "Finish" and your new shortcut will appear on your desktop.

Now click on that shortcut and an email dialogue box will open with a pre-addressed email message. Couldn't be easier!

*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: Inheritance scam from "Glen R. Moreno"**

An inheritance/beneficiary scam from "Glen R. Moreno" has been circulating since 2011, and has recently begun to target Nova Scotia lawyers. Read an excerpt below:

*Hello,*

*I know you will be surprise receiving my email, but feel free and letâ€™s work together. I am Mr. Glen R. Moreno, Senior Independent Director of Lloyd s Banking Group. I personally discovered a dormant account with a total sum of Â£25,800,000.00[TWENTY FIVE MILLION, EIGHT HUNDRED THOUSAND BRITISH POUNDS] during our Bankâ€™s Annual Year Account Auditing. Since the death of the deceased, nobody has operated in this account till date.*

Remember: legitimate estates and financial institutions do not solicit trustees or heirs by email and do not promise a percentage of the inheritance to carry out the transaction. Be vigilant with every request for services that you receive. Fraudulent requests for services can be made by email, paper mail and courier as well as by individuals who arrive in person to retain you and to use your trust account to receive and disburse funds. Be cautious with all cheques received, especially if they exceed the agreed upon amount.

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.

**For tips to avoid being victimized, read a [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.**

# INFORUM

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

## **NSLAP WELLNESS TIP: Wellness during the holiday season**

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

For most of us, the holiday season can be a fun and exciting time. But it can also be stressful, and overwhelming — especially when we're trying to do a lot in a short period of time. Many of us feel stress in December because we're unrealistic about how much we can accomplish in a limited amount of time. Whether we are visiting loved ones, shopping, attending holiday work functions, or running simple errands, there is a lot to do. If the holiday season is making you feel anxious, or exhausted, here are some hints to help manage overload:

- **Prioritize.** Make a list of all the things you need to do, and decide which ones are the most important. Do those first and get to the rest if you have time. Get the important things out of the way, first.
- **Stop striving for perfection.** We're often so wrapped up in buying the perfect gifts or cooking the perfect meals that we don't enjoy the holidays. Ask for help with errands or cooking, and find shortcuts. For example, if you don't have time to make cookies from scratch for the office potluck, buy them. People won't mind.
- **Learn to say "no."** With shopping and social events piled on top of busy jobs, parenting responsibilities, and everyday household responsibilities, we sometimes have to say "no" to people. It can be difficult, but if we don't, we can quickly find ourselves overscheduled and overwhelmed.
- **Don't neglect your health.** It's easy to skip the gym when you need to go to the mall, or grab fast food between all of your errands. But during busy, stressful times, it's even more important to eat well, exercise and get plenty of sleep. This will keep your energy levels up, elevate your mood, and help you maintain a strong immune system.
- **Find time to relax.** When at work, keep your lunch hour for yourself. Don't do chores or errands on your lunch break, and don't just continue working away. Also, try to relax for 10 or 15 minutes at home every night. For example, you could enjoy a good book or a hot bath.

### **Avoiding conflict**

The holiday season may force us to be with people we don't get along with, or who manage to irritate and upset us. If you find yourself in such a situation, try to avoid discussing subjects that are likely to cause conflict. Relatives who have always gotten on your nerves or made you feel bad probably won't change, so ignore their behaviour and concentrate on enjoying yourself.

Children can also act out during the holiday season. The decorations, activities, sugary treats and disruption to their normal schedules can affect them in different ways. Watch for signs that they're becoming overwhelmed and understand that any bad behaviour might be their way of expressing their stress. It helps to talk to children about what they can expect as the holidays get underway. Ask them if all the activity is making them feel anxious or sad.

You can help children maintain a sense of normalcy by including quiet family time in your plans, such as reading books together or taking leisurely walks as a family. This provides a "time out" from the excitement of the season.

### **Surviving the season**

The barrage of holiday music, images, television programs and traditions are sometimes impossible to escape, and it's easy for some of us to feel alienated. The hectic time of year may leave you feeling isolated, uninspired, or in need of support. If you're in such a situation, try the following:

- **Don't isolate yourself.** If you're feeling left out, find a way to join in. Even if it's just walking around the neighbourhood looking at the lights or going skating. There is always a lot to do during the holidays.
- **Consider volunteering.** There are plenty of opportunities to volunteer at shelters, places of worship, immigrant centres, hospitals, nursing homes, or through organizations that promote literacy or provide housing, meals and clothes to those in need.
- **Get emotional support.** If you're missing loved ones who have passed away or can't be there to celebrate in person, make sure you reach out to friends or other family members who can give you the emotional support you need. Additionally, contact your Employee and Family Assistance Program for further assistance.

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During the holiday season, it's important to maintain your sense of humour. Despite things going wrong and your patience being tested constantly, remember that it's the most wonderful time of year — so kick back and enjoy the festivities.

*For information, support, resources and counselling to deal with holiday 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 NSLAP number at **1-866-299-1299**, your call will be answered any time, day or night, 365 days per year.*

# INFORUM

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

## :: CLASSIFIEDS ::

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### **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](mailto:tsingleton@singleton.ns.ca) or telephone (902)492-7000.

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### **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](mailto:ewozniak@nsimmigration.ca).

# INFORUM

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

## :: CURRENT ISSUES IN LEGAL ETHICS ::

This is the latest in a series of articles that focus on lawyers' ethical duties under the *Code of Professional Conduct*, which came into force in January 2012.

### **Solicitor-client privilege: The Future Harm/Public Safety Exception to duties regarding confidential information**

Solicitor-client privilege is one of the most important principles of fundamental justice. This has been confirmed by the Supreme Court of Canada in a number of decisions, including the recent *Canada (Privacy Commissioner) v. Blood Tribe Department of Health*, [2008] 2 SCR 574. The Court's earlier decision in *Descôteaux et al. v. Mierzwinski*, [1982] 1 SCR. 860, provided the following description of the importance of privilege:

... a lawyer's client is entitled to have all communications made with a view to obtaining legal advice kept confidential. Whether communications are made to the lawyer himself or to employees, and whether they deal with matters of an administrative nature such as financial means or with the actual nature of the legal problem, all information which a person must provide in order to obtain legal advice and which is given in confidence for that purpose enjoys the privileges attached to confidentiality. This confidentiality attaches to all communications made within the framework of the solicitor-client relationship, which arises as soon as the potential client takes the first steps, and consequently even before the formal retainer is established.

One issue that has long been of concern for lawyers is the intersection of their obligations to maintain client confidentiality and privilege, the 'future harm' exception to maintaining confidentiality under the *Code of Professional Conduct* and the obligations created by the *Children and Family Services Act* (CFSA).

### **Code of Professional Conduct**

Rule 2.03(1) of the *Code* sets out a lawyer's obligations regarding confidential information:

#### **Confidential Information**

**2.03 (1)** A lawyer at all times must hold in strict confidence all information concerning the business and affairs of a client acquired in the course of the professional relationship and must not divulge any such information unless:

- (a) expressly or impliedly authorized by the client;
- (b) required by law or a court to do so;
- (c) required to deliver the information to the Society, or
- (d) otherwise permitted by this rule.

It also contains the following exception to the duty of confidentiality in circumstances where disclosure of confidential information is necessary to prevent "death or harm":

#### **Future Harm / Public Safety Exception**

**2.03(3)** A lawyer may disclose confidential information, but must not disclose more information than is required, when the lawyer believes on reasonable grounds that there is an imminent risk of death or serious bodily harm, and disclosure is necessary to prevent the death or harm.

It is not unusual for clients to make admissions to their lawyers about their intent to take action against themselves or a third party that may result in "death or serious bodily harm". In such circumstances, lawyers are encouraged to consider what they know of the client (for example: does this person have a known mental health history or has the person harmed someone/themselves in the past), whether the client has the means of doing what they have threatened and whether there are any support people in their lives. If the lawyer determines that there are "reasonable grounds" for believing that there is an 'imminent risk' the client may actually follow through with a threat to cause 'death or serious bodily harm', the lawyer is permitted to report their concerns to the appropriate person or body (police, family member, physician etc).

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The Commentary to Rule 2.03(3) provides some helpful guidance to assist lawyers in determining the appropriate course of action when considering the duty to report:

## Commentary

Confidentiality and loyalty are fundamental to the relationship between a lawyer and a client because legal advice cannot be given and justice cannot be done unless clients have a large measure of freedom to discuss their affairs with their lawyers. However, in some very exceptional situations identified in this subrule, disclosure without the client's permission might be warranted because the lawyer is satisfied that truly serious harm of the types identified is imminent and cannot otherwise be prevented. These situations will be extremely rare.

The Supreme Court of Canada has considered the meaning of the words "serious bodily harm" in certain contexts, which may inform a lawyer in assessing whether disclosure of confidential information is warranted. In *Smith v. Jones*, [1999] 1 S.C.R. 455 at paragraph 83, the Court observed that serious psychological harm may constitute serious bodily harm if it substantially interferes with the health or well-being of the individual.

In assessing whether disclosure of confidential information is justified to prevent death or serious bodily harm, a lawyer should consider a number of factors, including:

- (a) the likelihood that the potential injury will occur and its imminence;
- (b) the apparent absence of any other feasible way to prevent the potential injury; and
- (c) the circumstances under which the lawyer acquired the information of the client's intent or prospective course of action.

How and when disclosure should be made under this subrule will depend upon the circumstances. A lawyer who believes that disclosure may be warranted should contact the Society for ethical advice. When practicable and permitted, a judicial order may be sought for disclosure.

If confidential information is disclosed under Rule 2.03(3), the lawyer should prepare a written note as soon as possible, which should include:

- (a) the date and time of the communication in which the disclosure is made;
- (b) the grounds in support of the lawyer's decision to communicate the information, including the harm intended to be prevented, the identity of the person who prompted communication of the information as well as the identity of the person or group of persons exposed to the harm; and
- (c) the content of the communication, the method of communication used and the identity of the person to whom the communication was made.

This Rule is permissive rather than mandatory, but lawyers are encouraged to seriously consider any threats made by clients to do harm to themselves or others. While you are not required to report, it may be that reporting is the right thing to do in the circumstance. As noted in the Commentary, if you are unsure, call the Professional Responsibility to discuss or speak to a senior member of the Bar whose judgment you trust

## **Children and Family Services Act**

Lawyers should be aware of the reporting obligations under the *Children and Family Services Act* (CFSA). Sections 23(1), 24(2) and 25(2) of the CFSA require reporting by "every person":

### **Duty to report**

23 (1) Every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall forthwith report that information to an agency.

...

### **Duty of professionals and officials to report**

24 ...

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(2) Notwithstanding any other Act, every person who performs professional or official duties with respect to a child, including

- (a) a health care professional, including a physician, nurse, dentist, pharmacist or psychologist;
- (b) a teacher, school principal, social worker, family counsellor, member of the clergy, operator or employee of a day-care facility;
- (c) a peace officer or a medical examiner;
- (d) an operator or employee of a child-caring facility or child-care service;
- (e) a youth or recreation worker,

who, in the course of that person's professional or official duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information upon which it is based to an agency.

...

### **Duty to report third-party abuse**

25 ...

(2) Every person who has information, whether or not it is confidential or privileged, indicating that a child is or may be suffering or may have suffered abuse by a person other than a parent or guardian shall forthwith report the information to an agency.

...

Janice Beaton QC has written an article for the Society, which opines that the reporting provisions under the *Code of Professional Conduct* do not establish requirements that run afoul of the CFSA. Ms. Beaton states:

...the case law does not support a breach of solicitor-client privilege unless the information falls within the future harm exception referred to above [Rule 2.03(1)]. For the word "privileged" to include solicitor-client privilege, specific language would have to be used.

...

The decision in *Re Cameron*, (1976) 5 WWR 271 remains authoritative. "Any legislation intended to alter the solicitor-client privilege with reference to matters under the *Protection of Children Act* must do so in the clearest possible terms because of the ramifications of such an alteration" (para 14). The Court further stated at para 33: "Since solicitor-client privilege was not specifically referred to, and since there is ambiguity as described, there is strong doubt in my mind that the solicitor/client privilege is abrogated ...".

The Society, based on Ms. Beaton's opinion, advises that the provisions of the Nova Scotia *Children and Family Services Act*, SNS 1990, C5 do not abrogate solicitor-client privilege. The wording of the legislation does not require a lawyer to breach solicitor-client privilege; however, in accordance with Rule 2.03 of the *Code*, confidential information may be disclosed where the lawyer believes on reasonable grounds that there is an imminent risk of death or serious bodily harm to a child and disclosure is necessary to prevent the death or harm ("future harm exception").