

# INFORUM

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

## :: WHAT'S NEW ::

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### NSBS Continuing Professional Development

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

### COLUMNS

- Current Issues in Legal Ethics – [Requirements for lawyers holding funds and property for non-clients](#) *Latest column in a series on ethical responsibilities, by Elaine Cumming, Professional Responsibility Counsel*

### Library & Information Services

- [New service hours for Library & Information Services, effective January 2, 2013](#)
- [Supreme Court of Canada judgments since 1907 now online](#)
- [New books at the Library](#)
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### From LIANS

- [ABA TECHSHOW® – SuperPass discount for Nova Scotia lawyers](#)
- [Creating priority email folders in MS Outlook](#) – a new Risk and Practice Management Tip from the Risk and Practice Management Program, LIANS
- [Connecticut incident support from NSLAP and Homewood Human Solutions™](#) – a new Wellness Tip from NSLAP

### From the Courts

- [Provincial Court of Nova Scotia – new Rules and Forms](#)

### From the Province

- Reminder: [Province seeks feedback on Draft Ministerial Protocols for the Contaminated Sites Regulations](#)
- JUSTICE: Find all DOJ announcements at <http://www.gov.ns.ca/just/communications/>
  - New cases in Rewards for Major Unsolved Crimes:
    - Edward David Joseph Hannan (Dec. 21, 2012)
    - Terry Marriott Jr. (Dec. 11, 2012)
- SNSMR: Find all news releases at <http://www.gov.ns.ca/snsmr/>
  - Changes to *Assessment Act* allow property owners more flexibility in appeal process (Dec. 27, 2012)
  - Registry of Motor Vehicles advises Nova Scotians to be aware of purchasing possible flood-damaged vehicles from U.S. (Dec. 21, 2012)
- FINANCE: [Small business tax rate decreases for third year in a row](#) (Dec. 31, 2012)
- TREASURY BOARD: [Capital Plan includes \\$23 million for justice facility upgrades – Halifax Law Courts, Northeast Nova Scotia Correctional Facility and Truro Justice Centre](#) (Dec. 12, 2012)
- EDUCATION:

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- [Students encouraged to stop spread of cyberbullying through new public awareness campaign](#) (Dec. 13)
- [Education Minister directs South Shore Regional School Board to put teacher Peter Speight on administrative leave](#) (Dec. 12)
- HEALTH/WELLNESS—[Ten confirmed cases of E.coli 0157 in Nova Scotia](#) (Jan. 7, 2013)
- IMMIGRATION: [Nova Scotia nominates highest number of immigrants to date](#) (Dec. 31, 2012)
- LABOUR/ADVANCED EDUCATION: [Amendments to Pension Benefits Act](#) (Jan. 4, 2013)
- [Error & Omission notices](#)

## Other notices

- [Court Technology and the Private Sector: Bridging the Chasm](#) (announcement from the Canadian Centre for Court Technology)
- Reminder: [LISNS seeks input on pilot pro bono hub project](#)
- Missing wills: [Seeking will for Richard Paul Lewis of Dartmouth](#)

## Awards & appointments

- [Crown Attorney appointed in Kentville: Daniel Rideout](#)
- [Crown Attorney appointed in Halifax: Richard Deveau](#)
- [New Executive Director at the Canadian Centre for Ethics in Public Affairs](#)
- [Minister's Crime Prevention Award nominations open](#) (deadline: Feb. 10)

## Volunteer & Pro Bono Opportunities

- Reminder: [Call for volunteers for Law Day 2013](#)
- Application deadline extended to Jan. 15: [ALIS seeks two directors for its Board](#)

## Events of Interest

- [Cyberbullying and Open Courts: The A.B. v. Bragg Case and the Way Ahead](#) – January 10
- [Dalhousie Health Law and Policy Seminar Series: Next session](#) – January 18
- [Sessions@Schulich – Cross-Examination – Critical Thinking to Take You from Theory to Practice](#) – January 21
- [Upcoming events from CBA-NS](#)
  - [Mid-Winter Meeting, January 31 - February 1, 2013](#)
  - [Serious Personal Injury, May 10, 2013](#)
  - [Online CLE programs](#)
- [One Day Workshop: Human Rights in the Workplace](#) – January 23
- [Ambiguous Crossroads: Persons with Mental Health Problems and the Criminal Justice System](#), presented by the Canadian Institute for the Administration of Justice – February 1
- [36th Annual Horace E Read Memorial Lecture: Socio-Economic Rights in South Africa](#) – February 7
- [Sessions@Schulich – “Essential Procedural Knowledge for Litigation Involving the Federal Crown”](#) – February 20
- [The Omnibus Criminal Law Conference](#) – February 22
- [2nd Southeast Asia & Asia Pro Bono Conference/Workshop: Save the date](#) – October 11 & 12, 2013

## Career Opportunities

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

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## :: NOTICES ::

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### SOCIETY NEWS

#### **New Queen's Counsel appointments**

The Society congratulates the following 14 Nova Scotia lawyers on their new Queen's Counsel designations, announced recently by the Hon. Maurice Smith, Acting Minister of Justice:

- **Malcolm Boyle**, Halifax
- **Charles Broderick**, Sydney
- **Maj.-Gen. Blaise Cathcart**, Ottawa
- **Colin J. Clarke**, Halifax
- **Frank E. DeMont**, New Glasgow
- **Christene H. Hirschfeld**, Dartmouth
- **Kenzie MacKinnon**, Halifax
- **LeeAnne MacLeod-Archer**, Sydney
- **Noella Martin**, Halifax
- **Cameron S. McKinnon**, Bible Hill
- **Heather McNeill**, Halifax
- **Nancy Rubin**, Halifax
- **Ann Smith**, Halifax
- **Raymond F. Wagner**, Halifax

"I am pleased to recognize the new recipients of this important designation," Mr. Smith said in his [December 27 announcement](#). "They have made tremendous personal and professional contributions throughout their careers."

Recommendations are made to cabinet by an independent advisory committee. Criteria include a minimum of 15 years as a member of the Bar of Nova Scotia, demonstrated professional integrity, good character and outstanding contributions to the practice of law.

The next deadline for applications or nominations will be in September 2013. Details and forms will be available on the Society's website in the spring, on the [Queen's Counsel process](#) page.

#### **Call for Nominations: 2013 Distinguished Service Award**

The Nova Scotia Barristers' Society invites nominations for its 2013 Distinguished Service Award. Established in 1999, the award recognizes lawyers who have made significant contributions to the community, the legal profession and the Society.

Nominations are due by **April 15, 2013**. See <http://nsbs.org/distinguished-service-award> for the nomination form, criteria and a complete list of prior recipients. Nominations may be submitted by both lawyers and the public.

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

#### **New Trust Account Regulations now in effect**

Please note, the Society's new [Trust Account Regulations](#) came into effect on January 1, 2013. They are available for your reference in the Regulation area of the website, as Section 10 of the Society's current [Regulations](#) under the *Legal Profession Act*.

Council approved the new Trust Account Regulations on November 23, following a substantial period of work by the Trust Account Regulation Review Working Group, and consultation with the legal profession. In doing so, Council repealed the old Part 10 of the Regulations relating to trust accounts and replaced it with the new Regulations 10.1 to 10.7, which constitute the new Part 10. Council also amended Reg. 1.1.1(v), (bb), (cc) and (dd) and deleted Reg. 1.1.1(ff).

The fundamental principles of the Trust Account Regulations remain the same. It is a privilege and significant responsibility for lawyers to be permitted to hold client funds and property, and lawyers are held strictly accountable by the Society for properly dealing with all client funds and property held in trust, as part of its mandate to protect the public.

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Most of the revisions were designed to simplify the Regulations and provide further clarity and additional definitions. For more detailed background and analysis, see the Working Group's November 7, 2012 memo to Council, available on the [Council materials](#) webpage, in the "Documents" posted for the November 23 meeting.

Council also resolved that in 2013, lawyers and law firms with a fiscal year end for trust accounts other than December 31 may report to the Society on compliance with either the old or new Regulations, or a combination thereof.

## **Disposal of Undistributed Trust Funds – submissions due February 22, 2013**

The next application for disposal of undistributed trust funds has been set for **March 4, 2013**. Submissions should be received at the Society's offices no later than **February 22, 2013**.

The Society recently reviewed the application process due to issues regarding disclosure of confidential or privileged client information, which arose in previous applications.

If you wish to make an application for the disposal of undistributed trust funds, please refer to the revised [Procedure and Sample Documents](#) (also available on the [Trust accounts](#) and [Forms](#) pages of the Society's website), or contact Elaine Cumming, Professional Responsibility Counsel, at (902) 422 1491 or [ecumming@nsbs.org](mailto:ecumming@nsbs.org).

## **Consent to Reprimand: J. Gary Jewett**

On December 21, 2012, the Complaints Investigation Committee issued a Consent to Reprimand for J. Gary Jewett of Bedford. For details, see the [Decisions and dispositions](#) page of the Society's website.

## **Consent to Reprimand: Ronald A. Meagher**

On December 21, 2012, the Complaints Investigation Committee issued a Consent to Reprimand for Ronald A. Meagher of Halifax. For details, see the [Decisions and dispositions](#) page of the Society's website.

## **InForum – 2013 publication schedule available online**

The new *InForum* publication schedule for 2013 is now available on the website, at the top of the *InForum* page: <http://nsbs.org/inforum>.

For inclusion in the next edition **on Monday, January 21, 2013**, items must be submitted no later than noon **on Thursday, January 19, 2013**.

We draw your attention to several updates to the instructions for submitting contents (also available on the new publishing schedule):

- Send notices in a **plain text email** or **MS Word document** (*no graphics or PDF files please*).
- **News and notices** – email to [communications@nsbs.org](mailto:communications@nsbs.org)
- **Career opportunities** – post online with this form: <http://nsbs.org/node/add/job-posting>
- **CPD opportunities** for lawyers – post online with form: <http://nsbs.org/node/add/event>
- **Other events of interest** for lawyers – email to [publications@nsbs.org](mailto:publications@nsbs.org)

## **Changes in Category – December 11, 2012 to January 7, 2013**

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

*The following member has changed to the Practising Lawyer category:*  
Nicole Diane Arsenault

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*The Society welcomes the following new articulated clerks:*

Sarah Martina McGrath White

Daniel J. Wood

*The following members have changed to Non-Practising status:*

Donna Marie Boutilier

Nancy Mary Peers

Alexander MacBain Cameron

Leah Diane Rimmer

Sheena Rose McCarthy

*The following members have changed to Retired status:*

John Brian Charlton

James P. DiPersio

*The following member has changed to Suspended status:*

Blake Wright (effective Jan. 1, 2013, pursuant to Reg. 4.6.1 for failure to pay membership fees)

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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.

- **George Hubert “GH” MacNeill QC**, Amherst – December 8, 2012 [Obituary](#)

## 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/nsbarristerssociety/videos>

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

### Provincial Court of Nova Scotia – new Rules and Forms

The Provincial Court of Nova Scotia advises that, as of January 1, 2013, the following Provincial Court Rules and Forms (5 Rules and 3 Forms) will govern all applications made before the Provincial Court.

Find the [details, Rules and Forms](#) on the Courts of Nova Scotia website.

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### 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 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 Stratas 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.

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).

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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

## Notices to the Bar

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

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

- **Decisions of the Courts:** Receive Tweets when the Courts post new decisions on the website. The Tweet will link you directly to the decision itself. Choose to receive Tweets about decisions released by one or all of the Courts. [http://www.courts.ns.ca/decisions\\_recent/decisions\\_weekly\\_list.htm](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

### Province seeks feedback on Draft Ministerial Protocols for the Contaminated Sites Regulations

The Nova Scotia Environment Contaminated Sites Project Team is pleased to present the following:

- Contaminated Sites Regulations Draft Protocol Presentation,
- An overview of the Limited Remediation and Full Property Remediation Pathways, and
- Draft Ministerial Protocols made pursuant to the Contaminated Sites Regulations
  - Notification of Contamination,
  - Phase 1 Environmental Site Assessment,
  - Phase 2 Environmental Site Assessment,
  - Environmental Site Assessment for Limited Remediation,
  - Remediation Levels,
  - Remedial Action Plan, and
  - Confirmation of Remediation

It is recommended Internet Explorer (browser) be used to view the presentation.

Access to the presentation, and related documents, will be available through the following link until January 15, 2013: <http://www.gov.ns.ca/nse/contaminated-sites-regulations-draft-protocols>

We encourage feedback on the draft protocols and request comments be submitted on one, or both forms included in the above link. They are:

- CSP Comments Submission Form, and
- CSP Directed Questions Submission Form

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We request all submission forms be emailed to [CSP\\_Engagement@gov.ns.ca](mailto:CSP_Engagement@gov.ns.ca), **no later than January 15, 2013**.

If you have any questions regarding this correspondence, please also direct these to [CSP\\_Engagement@gov.ns.ca](mailto:CSP_Engagement@gov.ns.ca).

*Sincerely, Malcolm MacNeil  
Contaminated Sites Project Manager*

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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 Cumberland 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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## **AWARDS & APPOINTMENTS**

### **Crown Attorney appointed in Kentville: Daniel Rideout**

Daniel Rideout has been appointed a Crown attorney in the Kentville office of the Public Prosecution Service. The appointment was [announced today](#), January 7, by Martin Herschorn, Director of Public Prosecutions.

A native of Gander, N.L., Mr. Rideout graduated in 1999 from Queen's University with an honours Bachelor of Commerce and in 2003 from the University of New Brunswick School of Law. He articulated with Patterson Palmer in Charlottetown and, in 2004, was appointed an associate, practising general law with a focus in criminal defence and commercial litigation.

In 2006, Mr. Rideout joined the Yellowknife office of the Northwest Territories Legal Services Board mainly practicing criminal defence work. In 2010, he became a Crown attorney with the Public Prosecution Service of Canada in Yellowknife.

Mr. Rideout is a former board member for the not-for-profit organization governing a food bank and soup kitchen in Charlottetown. An avid runner, he ran the New York City marathon in 2005.

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### **Crown Attorney appointed in Halifax: Richard Deveau**

Richard Deveau has been appointed a Crown attorney in the Halifax office of the Public Prosecution Service. See the [January 2 announcement](#).

A native of Rogersville, N.B., Mr. Deveau graduated in 2006 from St. Thomas University in Fredericton, with a Bachelor of Arts in criminology and a Bachelor of Applied Arts in criminal justice. He graduated from the Université de Moncton Law School in 2010. In 2010, Mr. Deveau won the Sopinka Cup National Trial Advocacy Competition and the Sopinka Cup individual award for best closing argument.

Mr. Deveau articulated with the Newfoundland and Labrador Legal Aid Commission and was later appointed a staff solicitor. His practice included child protection and family law, but was concentrated in criminal law. As a student, Mr. Deveau was a pro bono researcher for the Association in Defense of the Wrongfully Convicted in Toronto and was a summer intern for a Saint John law firm. He has also taught English at a Paris high school and worked with mentally disabled adults at L'ARC Inc.

Mr. Deveau is a member of the Association des juristes d'expression français de la Nouvelle-Écosse and a former member of the Association des juristes d'expression française du Nouveau-Brunswick. He has also coached minor hockey.

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## **New Executive Director at the Canadian Centre for Ethics in Public Affairs**

The Canadian Centre for Ethics in Public Affairs (CCEPA) has named a new Executive Director. CCEPA Board Chair Valerie Payn is pleased to announce the appointment of Susan Letson, a leader in Executive Recruitment in the Atlantic region for over 15 years.

Having held senior positions with two national firms, KPMG and The Caldwell Partners International, the focus of Susan's practice was the recruitment of senior level candidates for public and private sector organizations, including universities, at both the executive and board levels. She is a past Chair of the Halifax YWCA, Symphony Nova Scotia and Debut Atlantic and a past Vice Chair of the United Way of Halifax. She is currently on the boards of the Resource Recovery Fund Board, The Greater Halifax Partnership and is Chair of the Lieutenant Governor of Nova Scotia Masterworks Arts Award Foundation.

Outgoing Executive Director Sheila Brown has held the position at CCEPA, a joint venture of the Atlantic School of Theology and Saint Mary's University, since 2009. Read more in the [announcement](#) at <http://ccepa.ca>.

## **JUSTICE: Minister's Crime Prevention Award nominations open (deadline: Feb. 10)**

Nova Scotians are encouraged to nominate deserving individuals for a Minister's Award for Leadership in Crime Prevention. Crime prevention can include developing partnerships and programs that address root causes of crime, providing leadership in a community, or supporting people in their efforts to prevent crime in their communities.

"Effective crime prevention is a result of communities, businesses, police and government agencies working together to provide necessary supports and services within a community," Justice Minister Ross Landry said in a [December 12 announcement](#). "Several communities and organizations across Nova Scotia are taking proactive and preventative approaches to crime prevention and these awards ensure they receive well-deserved recognition."

This is the fifth year for the Minister's Crime Prevention Awards. Leave Out Violence Nova Scotia (LOVE), an organization that offers leadership opportunities to youth connecting them to their community, was one of 13 recipients who received an award in 2012.

"We were very pleased to see LOVE recognized for its successful and innovative approach to working with young people," said Sarah MacLaren, executive director, Leave Out Violence Nova Scotia. "We are committed to making Nova Scotia a safer place by pioneering an approach that is long-term, youth-centered and credits young people with the abilities and knowledge to be part of the solution. The recognition helped validate our work."

The Department of Justice is accepting nominations in six categories, until February 10:

- Individual
- youth (21 and under)
- community Group or Organization
- policing
- media
- business community

For more information and nomination forms, visit [www.gov.ns.ca/just](http://www.gov.ns.ca/just)

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## **OTHER NOTICES**

### **Court Technology and the Private Sector: Bridging the Chasm**

*An announcement from Patrick Cormier, CEO of the CCCT-CCTJ*

Every day, Canadian courts and tribunals help resolve thousands of cases under the rule of law in a civilized, fair, impartial and independent manner. Technology has held, for decades, the promise of increased effectiveness and better efficiency. Ah ... The plain enjoyment of one's day at work when the right information is at your fingertips! If the

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technology objectives are simple and the outcomes easy to imagine, then why is it so difficult to rejuvenate courts and tribunals with better technology?

We strive for justice on demand that is simple from a litigant's point of view. For example, simple cases with minor implications from a social point of view should be accelerated by allowing remote appearances of all participants. The formality of physical paper should be dispensed with. Online resources for self-represented litigants should be sufficient to guide a litigant effectively through the administrative aspects of any proceedings. The list goes on!

We aim to promote the development of technology sophisticated courts that are a pleasure to work in for judges, judicial officers, court administrators, lawyers and other participants in court proceedings. Technology used at work should keep pace with social and technological trends, including the use of mobile devices and online connectivity. And yet court technology does not keep pace, for Canadian courts and tribunals, with a few exceptions.

This Fall in Montreal took place [Forum 2012](#), the most important court technology conference in Canada, currently held every second year. During that week, I conducted several interviews with private sector executives. They all voiced the same frustration: it is very difficult to approach courts and tribunals, and even more so than approach governments. They often see "a black wall", rooted in the independence of the Judiciary, effectively blocking them for making a pitch for their goods and services. Ah well... nothing new you might say... But hold on. Did you know that the frustration, although of a different nature, is equally shared on the other side of that wall?

Judges and court administrators experience the pleasure of sound and fun technology at home. An increasing number of them even bring their iPads at work (for example) after a learning period at home playing and experimenting with these devices. Quickly enough, they find themselves wanting to put them to work. Judicial work. And then they find themselves in a court in which Paper is King, E-Filing is an elusive mirage and court proceedings hopelessly appear to be antagonized against any technology evolution. These judges and court administrators want to leverage better technology. However, evolving technology in several courts and technology is a formidable task, as it requires the simultaneous consideration of many facets: legacy systems and technology, migration challenges, legislative and regulatory barriers, government procurement rules, technology obsolescence cycle... Not to mention, understanding fundamental technology trends, their manifestations and how to exploit them in a sustainable manner in a court context. How can these challenges be met without input from the implementation experts.... from the private sector?

Bridging the chasm defined: enable the public sector to convey a meaningful picture of its technology readiness, challenges and priorities, on one hand; and empower the private sector to meaningfully convey its services and products to courts and tribunals, on the other hand.

How can this chasm be ethically bridged, with due consideration and respect for the independence of the Judiciary and of courts and tribunals?

We at the Canadian Centre for Court Technology – Centre canadien de technologie judiciaire ([CCCT-CCTJ](#)) believe this can be achieved through the delivery of six programs:

- Court Technology Knowledge Base
- Court Technology Events (Biennial conference, regional workshops, etc.)
- Court Technology Learning Series
- Court Technology Research & Publications
- Court Technology Consultation Services
- Court Technology Turnkey Solutions

Considering that public sector funding is insufficient for the CCCT to deliver on these six programs, the CCCT seeks to develop permanent funding options that encompass private sector revenue streams. It is in that spirit that the CCCT Board of Directors authorized the issuance of a Sponsorship Request for Proposal (RFP) [published on MERX](#) last Friday. In the period 2013-2014, the CCCT aims to develop its operations in a way that builds clear value both to public and private sector. Some highlights of upcoming developments:

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- The creation of a Private Sector Advisory Board (PSAB). The PSAB will not be a governance body of the CCCT. It will be a two-way consultation and advice channel for the CCCT CEO and companies that have partnered with the CCCT by way of sponsorship (see RFP above)
- The creation of a Court Technology Newsletter
- The creation of a Court Technology Knowledge Base

2013 should be an exciting year for court technology in Canada!

(Mr. Cormier's statement is available at <http://ccct-cctj.ca/>; it's also cross-posted [here](#) on *Slaw.ca*.)

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## **Reminder: LISNS seeks input on pilot *Pro Bono* Hub Project**

LISNS is very excited to have received funding to develop a pilot *pro bono* hub project for Nova Scotia. We are seeking input from lawyers, as well as community organizations as we develop the model.

The Hub is being designed, not to duplicate any work already underway in Nova Scotia with organizations such as Dal Legal Aid, reachAbility or Nova Scotia Legal Aid, but rather to provide a central place for prospective *pro bono* clients to access services and add to the services already provided, by attempting to introduce *pro bono* in areas of law and geographic areas where it is not now being provided.

This is a three-year project: the hub will be rolled out first in HRM and the Valley, and later on in Sydney and beyond. Please see the [one-page overview](#) of the project, which will soon be available on the LISNS website at [legalinfo.org](http://legalinfo.org).

Your input is very valuable to us. Please take a couple of minutes to fill out this [online survey](#) (13 mostly multiple choice questions) and make your thoughts known.

Thank you, in advance, for providing your input on the Legal Information Society's *Pro Bono* Hub Project. If you have any questions on the project, the advisory committee or the model, please contact Gwen Atkinson at [development@legalinfo.org](mailto:development@legalinfo.org).

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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, 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.

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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).

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## MISSING WILLS

### Seeking will for Richard Paul Lewis of Dartmouth

Lawyers who can provide any details on the existence of a will for Richard Paul Lewis of Dartmouth, who passed away November 20 at age 70, are asked to please contact:

Iola Doucet  
Waterfront Law  
647 Bedford Highway, Suite 101  
PO Box 48115, RPO Mill Cove  
Bedford, NS B4A 3Z2

Tel.: +1-902-832-5126  
Fax: +1-902-835-5400  
[lola.doucet@ns.sympatico.ca](mailto:lola.doucet@ns.sympatico.ca)

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### 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

### Reminder: Seeking volunteers for Law Day 2013 – change is in the air!

This year's Law Day celebrations will be held on **Wednesday, April 17, 2013** – Law Day itself – and we are shifting the focus to *Engage the Next Generation*. We are planning mock trials at high schools across the province. Students will have the opportunity to learn about the law and what it takes to prepare and run a trial – then they'll get to do both!

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To help in this endeavour, we are calling for volunteers across Nova Scotia. We're looking for your advocacy skills, enthusiasm for law and passion for your community. Why not use all three for the benefit of our students?

Preparation will begin in February and the mock trials will be on Law Day – April 17, 2013. If you are interested in participating in either or both aspects, please let us know. We'll start the process of coordinating and matching volunteers with schools.

Please contact **Jennifer Taylor**, Nova Scotia Court of Appeal Law Clerk, at [jtaylor@judicom.ca](mailto:jtaylor@judicom.ca) with the following information:

- your contact details;
- your firm/workplace;
- whether you have a vehicle to travel to a school in your area;
- your availability: Please indicate whether you'll be available for several sessions at your local high school in the time leading up to Law Day and/or whether you'll be available for the full day of Law Day, Wednesday, April 17, 2013;
- any particular area of legal expertise/interest (but no formal trial experience is required!).

## **Deadline extended to January 15: ALIS seeks two directors for its Board**

The Artists' Legal Information Society (ALIS) is currently seeking two directors to sit on the Board of Directors. We have an active board where each director participates in chairing different committees within the Board. The Board of Directors meets monthly and meetings generally last one to two hours. The Directors would sit on the Board for a term of two years, namely January 1, 2013 – January 1, 2015.

If you are interested in applying to be a Director, please forward a cover letter to [info@nsalis.com](mailto:info@nsalis.com), which includes a short bio as well as answers the following questions:

1. Why do you want to join the ALIS Board?
2. What volunteering experience do you have?
3. What Board experience do you bring to the position?
4. What do you feel you will add to ALIS?
5. What discipline of art do you connect with the most? Why?

We will review all applications and will only contact those selected for a meeting. The first meeting of the full Board of Directors will take place in January 2013.

## **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.

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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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## **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>.

## **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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### 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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### Sessions@Schulich – Cross-Examination – Critical Thinking to Take You from Theory to Practice

**Monday, January 21, 2013, 5:30 - 7:00 pm, Schulich School of Law, Room #204**

*(Reception to follow in Faculty Lounge, Room #312)*

Sessions@Schulich is a new series to help you satisfy your mandatory CPD requirements and enjoy some social time too!

Join us to hear from **John M. Rosen, senior criminal defence lawyer**. Over the past 42 years, Mr. Rosen has represented a wide variety of clients, both individuals and corporations, in serious and complex criminal, quasi-criminal and discipline cases, and has appeared in all levels of court in Ontario and the Supreme Court of Canada. Mr. Rosen will briefly review the key principles of cross examination, with the session focusing on the critical thinking required to take the goals of cross examination from theory to practice. He will discuss how to deconstruct the Crown’s case and build your own case out of it.

The event will consist of 1.5 hours of engaging CPD content and Q&A, followed by a wine and cheese reception. To register, please contact Julie Harnish at [julie.harnish@dal.ca](mailto:julie.harnish@dal.ca), with **January Sessions@Schulich** in the subject line of your email.

**Interested in being a presenter?** Satisfy part of your own CPD requirements through the preparation and presentation of CPD to others – to find out more, contact Sarah Kirby, Assistant Dean Student Services at [skirby@dal.ca](mailto:skirby@dal.ca) or 494-7115.

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## **One Day Workshop: Human Rights in the Workplace**

*Presented by the Nova Scotia Human Rights Commission's Race Relations, Equity and Inclusion Division*

**Wednesday, January 23, 2013, 9:00 am to 4:00 pm**

**Nova Scotia Human Rights Commission, 1601 Lower Water Street, 6th Floor, Halifax**

*\*Please let us know if you are interested in attending by January 16, 2013. There are limited spaces available for this workshop.*

The objective of the Nova Scotia Human Rights Commission's human rights education workshop is to promote human rights in an employment setting. The day-long workshop provides an opportunity for individuals to explore issues of diversity and discrimination, and to better understand them within the context of the *Nova Scotia Human Rights Act*. The cost is \$150.00 per person per day, plus tax.

Sessions are planned to allow for flexibility, small group discussions and interaction among participants and facilitators. Experience, reflection, thinking and doing are part of each workshop as individuals apply their experiences to the day.

Acknowledging diversity in learning styles, the workshop incorporates a variety of activities to ensure inclusive participant engagement. The workshop offers group task development and acknowledgement of participants' life experiences as a method of engagement.

At the end of the day participants will have:

- an overview of the *Nova Scotia Human Rights Act*
- our perspective on discrimination and harassment in the workplace
- support in developing and evaluating effective human rights policies for their workplace
- an opportunity for personal reflection on issues such as; privilege, culture, harassment, and their impact in the workplace.

**Contact:** Melissa Brayley, Race Relations, Equity & Inclusion [brayleym@gov.ns.ca](mailto:brayleym@gov.ns.ca)

1601 Lower Water Street, 6th Floor, PO Box 2221, Halifax NS B3J 3C4. Tel. 902-424-4971 | Fax 902-424-0596.

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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)

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- **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:**

#### **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:**

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

*Presented by the Canadian Institute for the Administration of Justice*

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

**[Brochure and Registration](#)**

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

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## **36th Annual Horace E Read Memorial Lecture:**

**"Socio-Economic Rights in South Africa" w/ Justice Zak Yacoob, Constitutional Court of South Africa**

**Thursday, February 7, 2013 at 12:00pm**

**Room 104, Weldon Law Building, Schulich School of Law, 6061 University Avenue, Halifax NS**

All welcome!

The Read Lecture series was inaugurated to honour the memory of the late Horace E Read, OC, QC, who was Dean of Dalhousie Law School from 1950 until 1964, in recognition of his contribution to legal education and legal scholarship.

Dr. Read's areas of interest were broad: law reform, legislation and the legislative process, conflict of law, labour law and legal education, and this is well reflected in the diversity of the lectures.

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## **Sessions@Schulich – "Essential Procedural Knowledge for Litigation Involving the Federal Crown"**

**February 20, 2013, 4:00 – 5:30 p.m., Schulich School of Law, Room #207**

Sessions@Schulich is a new series to help you satisfy your mandatory CPD requirements.

Join us to hear from Kathleen McManus, senior counsel with the Civil Litigation and Advisory Group, Department of Justice Canada in Halifax and part-time Faculty member at Schulich, where she teaches Crown Law. Ms. McManus has presented several seminars and papers concerning aspects of litigation against the Crown and will provide you with a procedural roadmap to follow.

Topics will include:

- Notice periods – are they required?
- Application of Limitation Periods to the Federal Crown
- How to Correctly Name the Federal Crown as a Defendant
- Who you can and cannot sue
- Serving the Federal Crown
- Departures from the Rules of Court for the Federal Crown
- Choosing the Court – Federal Court or Provincial Superior Court
- Notable Federal Limitation Periods and Statutory Bars

The event will consist of 1 hour of engaging CPD content followed by a 30 minute Q&A. To register, please contact Julie Harnish at [julie.harnish@dal.ca](mailto:julie.harnish@dal.ca), with "February Sessions@Schulich" in the subject line of your email.

Interested in being a presenter? Satisfy part of your own CPD requirements through the preparation and presentation of CPD to others – to find out more, contact Sarah Kirby, Assistant Dean Student Services at [skirby@dal.ca](mailto:skirby@dal.ca) or 494-7115.

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## **The Omnibus Criminal Law Conference**

**February 22, 2013 | Halifax Marriott Harbourfront Hotel, 1919 Upper Water Street, Halifax**

*Presented by The Nova Scotia Criminal Lawyers' Association and the Nova Scotia Public Prosecution Service*

KEY NOTE ADDRESS: More than 28 Seconds with Special Guest Speaker: Michael Bryant

### **[Agenda information](#)**

Registration Fee: \$207.00 (\$180.00 + HST \$27.00 = \$207.00)

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## **2nd Southeast Asia & Asia Pro Bono Conference/Workshop: Save the date**

**11 & 12 October 2013**

**Ho Chi Minh City, Viet Nam**

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BABSEA CLE (Bridges Across Borders Southeast Asia Community Legal Education Initiative) & UEL (University of Economics and Law, Viet Nam) are pleased to announce the dates and place of the 2nd Southeast Asia & Asia Pro Bono Conference/Workshop

<http://www.babseacle.org/>

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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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## :: LIBRARY & INFORMATION SERVICES ::

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### **New service hours for Library & Information Services, effective January 2, 2013**

Please note that effective January 2, 2013, Library & Information Services hours of service are 9:00 am to 12:00 pm and 1:00 pm to 4:00 pm, Monday to Friday.

The Barristers' Library will continue to be staffed – and the collection available to users – from 8:30 am to 4:30 pm, Monday to Friday.

We regret that after-hours access to the Society's library collection is not possible at our temporary location at Summit Place, fifth floor.

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### **Supreme Court of Canada judgments since 1907 now online**

The Supreme Court of Canada and Lexum have announced that the [Court's decision website](#) now contains all decisions back to 1907.

PDF versions of decisions up to 2010 are identical to the official version available in the *Supreme Court Reports*.

This major content addition has been made possible thanks to the support of the Supreme Court of Canada.

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### **New books at the Library**

#### **APPELLATE PROCEDURE**

THE CONDUCT OF AN APPEAL / Sopinka, John; Gelowitz, Mark A -- 3d ed. -- Markham, Ont. LexisNexis Canada, 2012. [KB 191 S712 2012]

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#### **BUSINESS LAW**

SALE OF A BUSINESS / Babe, Jennifer E -- 9th ed. -- Markham, Ont. LexisNexis Canada, 2012. [KB 117 B113 2012]

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#### **CHARITIES**

THE LAW OF CHARITABLE AND NOT-FOR-PROFIT ORGANIZATIONS / Bourgeois, Donald J -- 4th ed. -- Markham, Ont. LexisNexis Canada, 2012. [KB 110 B772 2012]

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#### **COMMERCIAL CRIMES**

CORPORATE CRIME AND CIVIL LIABILITY / Kaiser, Gordon -- Markham, Ont. LexisNexis Canada, 2012. [KB 109 K13 2012]

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#### **CONTRACTS**

THE LAW OF CONTRACTS / McCamus, John D -- 2d ed. -- Toronto: Irwin Law, 2012. [KB 130 M121 2012]

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#### **CRIMINAL LAW**

CRIMINAL LAW / Roach, Kent -- 5th ed. -- Toronto: Irwin Law, 2012. [KB 90 R628 2012]

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#### **DEBTOR AND CREDITOR**

COMMERCIAL DEBT COLLECTION IN CANADA : A LEGAL HANDBOOK / Franklin, David -- Toronto: Carswell Thomson Reuters, 2012. [KB 120 F831 2012]

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#### **DIVORCE**

THE 2013 ANNOTATED DIVORCE ACT / MacDonald, James C; Wilton, Ann -- Toronto: Carswell Thomson Reuters,

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2012. [KB 138 M135 2012]

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## HISTORY OF LAW

THE AFRICAN CANADIAN LEGAL ODYSSEY : HISTORICAL ESSAYS / Walker, Barrington -- Toronto: University of Toronto Press, 2012. [KB 20 CAN W177 2012]

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## INHERITANCE AND TRANSFER TAX

DEATH OF A TAXPAYER / Hanson, Suzanne I. R; Bussey, Sandra A -- 10th ed. -- Toronto: CCH, 2012. [KB 84 .I6 H251 2012]

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## SENTENCES

CANADIAN SENTENCING DIGEST : QUANTUM SERVICE 2012 / Nadin-Davis, R. Paul; Sproule, Clarey B; Rice, Liz - Toronto: Carswell Thomson Reuters, 2012. [KB 92.S47 N136 2012]

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## STOCKHOLDERS

DRAFTING SHAREHOLDER AGREEMENTS / Ewasiuk, Rick W -- 2d ed. -- Toronto: Carswell Thomson Reuters, 2012. [KB 109 E94 2012]

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## TRUSTS

STRATEGIC USE OF TRUSTS IN TAX AND ESTATE PLANNING / Rhéaume, Caroline -- Toronto: CCH, 2012. [KB 84.I6 R469 2012]

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## ::: NEW DECISIONS :::

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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](#).

**ADMINISTRATIVE LAW** *Li v. Jean*, C.A. No. 370944, Bryson, J.A., December 14, 2012. [2012 NSCA 125](#)

**BANKRUPTCY** *Perry (Re)*, Court No. B-36566; Estate No. 51-1573473, Cregan, Registrar in Bankruptcy, December 20, 2012. [2012 NSSC 446](#)

**CONTRACTS** *Ashby v. L'Hereux*, Claim No. 406786, Slone, Adjudicator, October 25, 2012. [2012 NSSM 61](#)

**CREDITOR AND DEBTOR** *Giles v. Gillies*, Claim No. 405965, Slone, Adjudicator, October 17, 2012. [2012 NSSM 60](#)

**CRIMINAL LAW** *R. v. Sydney*, No. 2240954; 2240958, Tax, J.P.C., September 27, 2012. [2012 NSPC 93](#)

**CRIMINAL LAW** *R. v. Hutchinson*, C.A.C. No. 370497, MacDonald, M. C.J., January 3, 2013. 2013 NSCA 1

**CRIMINAL LAW** *R. v. Crawford*, No. 2450649, Atwood, J.P.C., November 8, 2012. [2012 NSPC 108](#)

**CRIMINAL LAW** *R. v. C. (J.J.)*, No. 2526398; 2526401; 2500908; 2500909; 2491530, Atwood, J.P.C., December 5, 2012. [2012 NSPC 110](#)

**CRIMINAL LAW** *R v. Thackery*, No. 2264913, Chisholm, J.P.C., December 17, 2012. [2012 NSPC 111](#)

**CRIMINAL LAW** *R. v. Upshaw*, No. 2388561 - 2388565, Derrick, J.P.C., September 20, 2012. [2012 NSPC 112](#)

**CRIMINAL LAW** *R. v. Noiles*, No. 2513398; 2513400, Scovil, J.P.C., December 19, 2012; November 21, 2012 (orally). [2012 NSPC 113](#)

**CRIMINAL LAW** *R. v. Delisle*, No. 2409566; 2409567; 2409568, Beach, J.P.C., March 30, 2012. 2012 NSPC 114

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- CRIMINAL LAW** *R. v. Chisholm*, C.R.A.T. No. 391779, Scaravelli, J., November 30, 2012. [2012 NSSC 414](#)
- DAMAGES** *Jacques Home Town Dry Cleaners v. Nova Scotia (Attorney General)*, C.A. No. 387839, Saunders, J.A., January 3, 2013. [2013 NSCA 4](#)
- DAMAGES** *Maritime Travel Inc. v. Boyle*, Hfx. No. 312635, MacAdam, J., December 11, 2012. [2012 NSSC 428](#)
- DAMAGES** *Shaikh v. Lumbermart Installations Ltd.*, Claim No. 405683, Slone, Adjudicator, October 17, 2012. [2012 NSSM 59](#)
- ELECTIONS** *Winsor et al. v. Kings (County of)*, Ken. No. 408859, Warner, J., December 21, 2012. [2012 NSSC 445](#)
- EXPROPRIATION** *Higgins v. Nova Scotia (Attorney General)*, Tru. No. 403759, Scanlan, J., December 10, 2012. [2012 NSSC 436](#)
- FAMILY LAW** *S. (S.M.) v. T. (M.D.)*, F.Y.M.C.A. No. 078638, Comeau, J.F.C., October 12, 2012. [2012 NSFC 18](#)
- FAMILY LAW** *Kedmi v. Korem*, C.A. No. 381259, Bryson, J.A., December 14, 2012. [2012 NSCA 124](#)
- FAMILY LAW** *Mi'kmaw Family and Children's Services v. I. (L.) and L. (B.)*, S.F.P.A.C.F.S.A. No. 065972, Legere-Sers, J., December 12, 2012. [2012 NSSC 412](#)
- FAMILY LAW** *Léveillé v. Léveillé*, No. 1201-064896; S.F.H.D. No. 072558, Legere-Sers, J., December 6, 2012. [2012 NSSC 422](#)
- FAMILY LAW** *Smith et al. v. Cross*, S.F.H.M.C.A. No. 068120, Legere-Sers, J., December 6, 2012. [2012 NSSC 423](#)
- FAMILY LAW** *MacRae v. MacRae*, S.F.P.A.M.C.A. No. 082842, O'Neil, A.C.J., December 7, 2012. [2012 NSSC 427](#)
- FAMILY LAW** *Wong v. Wong*, No. 1201-064846, O'Neil, A.C.J., December 11, 2012. [2012 NSSC 430](#)
- FAMILY LAW** *Smith v. Smith*, S.Y.M.P.A.Y. No. 080524, LeBlanc, J., December 12, 2012; June 7, 2012 (orally). [2012 NSSC 432](#)
- FAMILY LAW** *Bruno v. Keinick*, No. 1206-004799, Forgeron, J., December 21, 2012. [2012 NSSC 434](#)
- FAMILY LAW** *Larkin v. Larkin*, Yar. No. 1208-003002; S.Y.D. No.072789, MacAdam, J., December 18, 2012; October 17, 2012 (orally). [2012 NSSC 439](#)
- FAMILY LAW** *Thomas v. Thomas*, Yar. No. 1208-002766; S.Y.D. No. 061489, MacAdam, J., December 19, 2012; November 9, 2012 (orally). [2012 NSSC 440](#)
- FAMILY LAW** *Hatheway v. Duval*, S.F.H.M.C.A. No. 052074, MacDonald, B. J., December 19, 2012. [2012 NSSC 442](#)
- FISH AND GAME** *R. v. Fraser*, No. 2304907, Ross, J.P.C., February 7, 2012. [2012 NSPC 55](#)
- FISH AND GAME** *R. v. Coles*, No. 2278051; 2278052; 2278053; 2278054; 2278055, Ross, J.P.C., February 13, 2012. [2012 NSPC 116](#)
- INCOME TAX** *R. v. Martin*, No. 2276770 - 2276795, Atwood, J.P.C., December 31, 2012. [2012 NSPC 115](#)
- INSURANCE** *Visual Design Consultants Inc. v. Royal and Sun Alliance Insurance Co.*, Hfx. No. 259250, Wright, J., December 18, 2012. [2012 NSSC 387](#)

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**MAINTENANCE** *F. (C.F.) v. F. (M.R.)*, S.F.H.D. No. 077905; No. 1201-065693, Jollimore, J., December 17, 2012. [2012 NSSC 426](#)

**MAINTENANCE** *Parnell v. Hubley-Parnell*, S.F.H. M.C.A. No. 37750, Jollimore, J., December 17, 2012. [2012 NSSC 437](#)

**MORTGAGES** *iNova Credit Union v. Giamac Inc.*, Hfx. No. 382080, Wood, J., December 14, 2012; December 11, 2012 (orally). [2012 NSSC 431](#)

**MORTGAGES** *Canadian Imperial Bank of Commerce v. Fawson*, S.K. No. 285018, Coady, J., December 19, 2012. [2012 NSSC 444](#)

**MUNICIPAL LAW** *Delport Realty Ltd. v. Nova Scotia (Service and Municipal Relations)*, Hfx. No. 391405, Hood, J., December 13, 2012. [2012 NSSC 416](#)

**PRACTICE** *Lienaux v. Norbridge Management Ltd.*, C.A. No. 408479, Bryson, J.A., January 2, 2013. 2013 NSCA 3

**PRACTICE** *Howes v. Bank of Nova Scotia*, C.A. No. 389579, Hamilton, J.A., December 12, 2012. [2012 NSCA 122](#)

**PRACTICE** *Chase v. Northern Construction Enterprises Inc.*, C.A. No. 408526, Farrar, J.A., December 11, 2012. [2012 NSCA 123](#)

**PRACTICE** *Ocean Nutrition Canada Ltd. v. Matthews*, C.A. No. 391703, Hamilton, J.A., December 21, 2012. 2012 NSCA 127

**PRACTICE** *Sydney Steel Corporation v. MacQueen et al.*, C.A. No. 393200; C.A. No. 392560, Farrar, J.A., January 2, 2013. [2013 NSCA 5](#)

**PRACTICE** *Harris v. Keating Construction Company Ltd.*, S.N. No. 337036, Murray, J., November 21, 2012. [2012 NSSC 425](#)

**PRACTICE** *Fierro v. Sinclair*, Hfx. No. 375245, McDougall, J., December 20, 2012. [2012 NSSC 429](#)

**PRACTICE** *Landry v. Landry*, No. 233933, Scaravelli, J., December 19, 2012. [2012 NSSC 443](#)

**SALE OF LAND** *Hilchie v. Waterton Condominiums Inc.*, C.A. No. 377999, MacDonald, M. C.J., December 21, 2012. [2012 NSCA 126](#)

**STATUTES** *Jivalian v. Nova Scotia (Department of Community Services)*, C.A. No. 375179, Fichaud, J.A., January 3, 2013. 2013 NSCA 2

**WILLS AND ESTATES** *Lucas Estate (Re)*, S.N. No. 404928, Murray, J., November 7, 2012; August 29, 2012 (orally). [2012 NSSC 421](#)

**WILLS AND ESTATES** *Das Estate (Re)*, Hfx. No. 391994; Hfx. Probate No. 58523, LeBlanc, J., December 18, 2012. [2012 NSSC 441](#)

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## **SUPREME COURT of CANADA – recent decisions**

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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.

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December 21, 2012

*R. v. Davey*

Neutral Citation: [2012 SCC 75](#) (CanLII)

File No.: 34179.

2012: March 14 and 15; 2012: December 21.

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

On Appeal from the Court of Appeal for Ontario

*Criminal law — Jurors — Selection — Appellant convicted of first-degree murder for killing police officer — Prior to trial, Crown seeking personal opinions of local police officers as to the “suitability” of prospective jurors for use in exercise of peremptory challenges — Neither annotated jury panel lists setting out opinions of local police officers nor fact that inquiries had been made was disclosed to defence — Whether it was appropriate to seek such opinions — Whether there should have been disclosure of same — Whether there is a reasonable possibility that such conduct affected trial fairness or gave rise to an appearance of unfairness, such that a miscarriage of justice occurred — Criminal Code, R.S.C. 1985, c. C-46, s. 686(1)(a)(iii).*

D killed a police officer by slashing his throat. The only issue at trial was whether D had the requisite intent for murder, or whether he was guilty of manslaughter. D was convicted of first-degree murder.

Approximately three weeks before trial, the jury panel lists were provided to both the Crown and the defence. The Crown sought the personal opinions of police officers from local police services regarding the suitability of prospective jurors, including any potential partiality for or against the Crown, for the purpose of exercising peremptory challenges. It was understood that police databases would not be used to check the lists, and that the comments were to be based on the officers' knowledge of potential jurors in the community. One or two officers at each police service would review the lists and make general comments, such as “good”, “yes”, “ok” or “no”, or brief specific comments regarding relationships or roles in the community. The responses were compiled in a master list by an employee of the Crown office. Neither this list, nor the fact that inquiries had been made, was disclosed to the defence. Two of the jurors ultimately selected were noted as “good” and “ok” by the police services.

D appealed his conviction, alleging errors in the charge to the jury. While the appeal was pending, D requested and received the annotated jury panel lists. The Court of Appeal allowed the fresh evidence on the jury vetting issue, but ultimately dismissed the appeal, concluding that the police opinions were not “information” that was required to be disclosed; that the early release of the jury panel lists did not impact trial fairness; that the privacy rights of prospective jurors were not breached; and that the jury would not have been differently constituted if there had been disclosure of the police comments. Only the jury vetting issue has been appealed to this Court.

*Held:* The appeal should be dismissed.

December 21, 2012

*R. v. Emms*

Neutral Citation: [2012 SCC 74](#) (CanLII)

File No.: 34087.

2012: March 14 and 15; 2012: December 21.

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

On Appeal from the Court of Appeal for Ontario

*Criminal law — Jurors — Selection — Appellant convicted of fraud — Prior to jury selection, Crown requesting that police conduct criminal record checks of prospective jurors and also provide comments on whether any prospective jurors were*

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*“disreputable persons” — None of the information received in response by Crown disclosed to defence — Whether it was appropriate to seek such information — Whether there should have been disclosure of same — Whether there is a reasonable possibility that such conduct affected trial fairness or gave rise to an appearance of unfairness, such that a miscarriage of justice occurred.*

In 2008, following a trial in Barrie, Ontario, E was convicted of three counts of fraud. His appeal from conviction alleged as one of the grounds of appeal that there had been improper jury vetting by the Crown Attorney's office in conjunction with the police. Prior to the jury selection in E's trial, the Crown Attorney's office had requested that the police conduct inquiries as to whether potential jurors had a criminal record or whether they were otherwise “disreputable persons” who would be undesirable as jurors. Information obtained from these checks was provided to Crown counsel, who used it when exercising peremptory challenges. The information was not disclosed to the defence, despite a practice memorandum distributed to Crown offices in Ontario in 2006 directing that any jury vetting carried out by the police was to be restricted to criminal record checks and that any information obtained was to be disclosed to the defence. In dismissing E's appeal, the Court of Appeal found that the Crown had failed to meet its disclosure obligations, but concluded that there was no reasonable possibility that the non-disclosure had any impact on the partiality of the jury or on the verdict. The court was satisfied that the selection process had not compromised the overall fairness of the trial. It also held that the conduct of the Crown and the police did not impact on the appearance of fairness of the trial and therefore had not occasioned a miscarriage of justice.

*Held:* The appeal should be dismissed.

December 21, 2012

*R. v. Yumnu*

Neutral Citation: [2012 SCC 73](#) (CanLII)

File Nos.: 34090, 34091, 34340.

2012: March 14 and 15; 2012: December 21.

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

On Appeal from the Court of Appeal for Ontario

*Criminal law — Jurors — Selection — Appellants convicted of first degree murder and conspiracy to commit murder — Prior to jury selection, Crown requesting that police conduct criminal record checks of prospective jurors and also provide comments on whether any prospective jurors were “disreputable persons” — None of the information received in response by Crown disclosed to defence — Whether it was appropriate to seek such information — Whether there should have been disclosure of same — Whether there is a reasonable possibility that such conduct affected trial fairness or gave rise to an appearance of unfairness, such that a miscarriage of justice occurred.*

Following a trial in Barrie, Ontario, each of the appellants was convicted of two counts of first-degree murder and two counts of conspiracy to commit murder. They appealed from their convictions, raising grounds relating to the adequacy of the trial judge's charge to the jury. While the appeals were under reserve, the appellants became aware of a “jury vetting” practice in the Barrie area, consisting of inquiries conducted by the police, at the behest of the Crown Attorney's office, as to whether potential jurors had a criminal record or whether they were otherwise “disreputable persons” who would be undesirable as jurors. It was ascertained that in the present case, vetting of the jury lists by the police in response to the Crown's request netted information about ten individuals who remained in the pool of prospective jurors at the peremptory challenge stage of the proceedings. None of this information was shared with the defence. The appeals were reopened to consider evidence and arguments concerning the propriety of the vetting practice and its impact on the appellants' trial. The Court of Appeal dismissed all three appeals. With respect to the ground of appeal related to jury vetting, the Court of Appeal found that the Crown had failed to disclose information obtained from the jury vetting process that might have assisted the appellants in the exercise of their peremptory challenges, but it was not satisfied that the appellants suffered any prejudice from the Crown's failure to meet its disclosure obligations. The Court of Appeal held that there was no basis to conclude that the Crown's failure to disclose caused actual unfairness in the peremptory challenge process, or that the jury vetting practice created an appearance of unfairness.

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*Held:* The appeals should be dismissed.

December 20, 2012

[R. v. N.S.](#)

Neutral Citation: [2012 SCC 72](#) (CanLII)

File No.: 33989.

2011: December 8; 2012: December 20.

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

On Appeal from the Court of Appeal for Ontario

*Charter of Rights — Freedom of religion — Right to fair hearing — Right to make full answer and defence — Muslim witness at preliminary hearing in sexual assault trial wanting to testify with her face covered by niqab — Whether requiring witness to remove the niqab while testifying would interfere with her religious freedom — Whether permitting her to wear niqab while testifying would create a serious risk to trial fairness — Whether both rights could be accommodated to avoid conflict between them — If not, whether salutary effects of requiring the witness to remove niqab outweigh deleterious effects — Canadian Charter of Rights and Freedoms, ss. 2(a), 7 and 11(d).*

*Criminal law — Evidence — Cross-examination — Muslim witness at preliminary hearing in sexual assault trial wanting to testify with her face covered by niqab — Whether permitting her to wear niqab while testifying would create a serious risk to trial fairness.*

The accused, M---d S. and M---I S., stand charged with sexually assaulting N.S. N.S. was called by the Crown as a witness at the preliminary inquiry. N.S., who is a Muslim, indicated that for religious reasons she wished to testify wearing her niqab. The preliminary inquiry judge held a *voir dire*, concluded that N.S.'s religious belief was "not that strong," and ordered her to remove her niqab. On appeal, the Court of Appeal held that if the witness's freedom of religion and the accused's fair trial interests were both engaged on the facts and could not be reconciled, the witness may be ordered to remove the niqab, depending on the context. The Court of Appeal returned the matter to the preliminary inquiry judge. N.S. appealed.

*Held* (Abella J. dissenting): The appeal should be dismissed, and the matter remitted to the preliminary inquiry judge.

December 19, 2012

[Professional Institute of the Public Service of Canada v. Canada \(Attorney General\)](#)

Neutral Citation: [2012 SCC 71](#) (CanLII)

File No.: 33968.

2012: February 9; 2012: December 19.

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

On Appeal from the Court of Appeal for Ontario

*Pensions — Pension plans — Surplus — Public sector pension plans administered by government — Government amortizing actuarial surpluses in Superannuation Accounts — New legislation coming into force on April 1, 2000 amending Superannuation Acts — Government debiting over \$28 billion directly from Superannuation Accounts on basis of new legislation — Whether Superannuation Accounts contain assets — Whether government owes fiduciary duty to Plan members — Whether constructive trust should be imposed over balances in Superannuation Accounts as of March 31, 2000 — Whether new legislation authorizing government to debit actuarial surpluses in Superannuation Accounts — Public Service Superannuation Act, R.S.C. 1985, c. P-36 — Canadian Forces Superannuation Act, R.S.C. 1985 c. C-17*

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— *Royal Canadian Mounted Police Superannuation Act, R.S.C. 1985, c. R-11* — *Public Sector Pension Investment Board Act, S.C. 1999, c. 34.*

There are three pension plans involved in this appeal (the “Plans”). They were established by statute for each of three groups: substantially all those who are employed in the federal public service; the members of the RCMP; and the regular force of the Canadian Forces (the “Plan members”). Each Plan is administered by the Government of Canada, and each is a contributory, defined benefit plan. The statutes governing the Plans establish for each one a “Superannuation Account”, which records payments into and out of the Plan. In the 1990s, the credits to the Superannuation Accounts began to reflect actuarial surpluses (meaning that the credits exceeded the estimated cost of providing pension benefits). By March 1999, the total surpluses of the three Plans had reached approximately \$30.9 billion. There are two relevant time periods in this appeal. The first period is up to and including March 31, 2000. It precedes the coming into force of the *Public Sector Pension Investment Board Act, S.C. 1999, c. 34* (“Bill C-78”), legislation that amended the *Superannuation Acts (PSSA; CFSA and RCMP SA)* and, thus, the Plans. The second period begins on April 1, 2000, when Bill C-78 came into effect.

Beginning with the 1990-91 Public Accounts (Canada’s annual financial reports), the government began to “amortize” the actuarial surpluses in the Superannuation Accounts. The effect of this “amortization” was twofold: it reduced the government’s annual budget deficit (or increased the annual budget surplus) by reducing annual pension expenditures, and it brought the government’s net debt down by reducing the net pension liabilities to an amount closer to the actuarial estimates of the government’s future pension obligations.

In 1999, the government introduced Bill C-78, which came into force on April 1, 2000. It made significant changes to the *Superannuation Acts* and changed the way in which contributions to the Plans were collected, managed and distributed. It established a Pension Fund in each of the *Superannuation Acts* that replaced the Superannuation Accounts for post-March 31, 2000 service. Since April 1, 2000, employee and government contributions in respect of current service have been made to the Pension Funds. All benefits for pensionable service prior to April 1, 2000, when paid, are charged to the appropriate Superannuation Account. However, benefits paid for service thereafter are paid from the appropriate Pension Fund. Bill C-78 also required the Minister to debit from the Superannuation Account certain amounts in excess of specified actuarial surplus ceilings. Unlike the effect of the prior amortization practice, on the basis of Bill C-78, the government debited over \$28 billion directly from the Superannuation Accounts, thereby reducing the actuarial surplus in those accounts.

Various unions and associations filed suit, seeking relief that would require the government to return \$28 billion to the Plans. The trial judge dismissed the claims and the Ontario Court of Appeal upheld the decision. In their appeal in this Court, they seek a declaration that the Plan members have an equitable interest in the outstanding balance in the Superannuation Accounts as of March 31, 2000. They also seek a declaration that Bill C-78 does not authorize the reduction from the Superannuation Accounts of any amount in which Plan members have an equitable interest without compensation. They seek an order that the Superannuation Accounts be credited with all amounts that were removed following Bill C-78 in which the Plan members have an equitable interest, together with interest.

*Held:* The appeal should be dismissed.

December 14, 2012

[Sriskandarajah v. United States of America](#)

Neutral Citation: 2012 SCC 70 (CanLII)

File Nos.: 34009, 34013.

2012: June 11; 2012: December 14.

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

On Appeal from the Court of Appeal for Ontario

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*Constitutional law — Charter of Rights — Mobility rights — Extradition — Minister ordering surrender of Canadian citizens to U.S. authorities to be tried there on terrorism charges — Whether extradition violates right to remain in Canada even when foreign state's claim of jurisdiction is weak or when prosecution in Canada is feasible — Whether surrender decisions unreasonable on the evidence — Canadian Charter of Rights and Freedoms, s. 6(1); Extradition Act, S.C. 1999, c. 18.*

*Administrative law — Natural justice — Procedural fairness — Minister providing all materials considered in making decisions to surrender, except legal advice — Whether procedural fairness required minister to obtain and disclose Canadian prosecutorial authority's assessment of whether to prosecute in Canada.*

After the Ontario Superior Court of Justice found that there was sufficient evidence to commit S and N, who are Canadian citizens, for extradition to the United States to be tried there on charges related to their alleged support of a terrorist organization, the Minister of Justice ordered their surrender. Those decisions were subsequently upheld on appeal.

*Held:* The appeals should be dismissed.

December 14, 2012

[R. v. Khawaja](#)

Neutral Citation: [2012 SCC 69](#) (CanLII)

File No.: 34103.

2012: June 11; 2010: December 14.

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

On Appeal from the Court of Appeal for Ontario

*Constitutional law — Charter of Rights — Freedom of expression — Accused convicted of terrorism offences under Part II.1 of Criminal Code — Whether provisions, in purpose or effect, violate right to free expression — Canadian Charter of Rights and Freedoms, s. 2(b); Criminal Code, R.S.C. 1985, c. C-46, s. 83.01(1)(b)(i)(A).*

*Constitutional law — Charter of Rights — Fundamental justice — Overbreadth — Terrorism offences — Provision criminalizing participation in or contribution to activities of terrorist group — Whether provision broader than necessary to achieve purpose or whether provision's impact disproportionate — Whether provision contrary to principles of fundamental justice — Canadian Charter of Rights and Freedoms, s. 7; Criminal Code, R.S.C. 1985, c. C-46, s. 83.18.*

*Criminal law — Appeals — Terrorism offences — Trial fairness — Trial judge finding that clause defining terrorist activity as being for political, religious or ideological purpose unconstitutional — Court of Appeal overturning decision on constitutionality but upholding convictions — Whether Court of Appeal erred in applying curative proviso — Whether convictions unreasonable — Criminal Code, R.S.C. 1985, c. C-46, ss. 83.01(1)(b)(i)(A) and 686(1)(b)(iii).*

*National security — Terrorism — Sentencing — Totality principle — Accused guilty of terrorism offences sentenced by trial judge to 10 and a half years of imprisonment, with parole eligibility set at 5 years — Court of Appeal substituting sentence of life imprisonment coupled with 24 years of consecutive sentences, with parole eligibility set at 10 years — Whether Court of Appeal erred in overturning sentence.*

After becoming obsessed with Osama Bin Laden and his cause, K communicated with an American who eventually pled guilty to providing material support or resources to al-Qaeda and with the leader of a terrorist cell based in London, England, who was convicted along with several co-conspirators of a plot to bomb targets in the U.K. and elsewhere in Europe. K repeatedly offered them support, provided funds, designed a remote arming device and recruited a woman to facilitate transfers of money. He travelled to Pakistan and attended a small arms training camp, and proposed that a supporter of the terrorist cell be sent to Israel on a suicide mission.

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K was charged with seven offences under the Terrorism section of the *Criminal Code* (Part II.1). He brought a preliminary motion seeking a declaration that several provisions are unconstitutional. The motion judge held that s. 83.01(1)(b)(i)(A), which provides that a terrorist activity must be an act or omission committed in whole or in part “for a political, religious or ideological purpose, objective or cause” (the “motive clause”), was a *prima facie* infringement of ss. 2(a), (b) and (d) of the *Charter* that could not be justified under s. 1, and accordingly severed the clause from s. 83.01(1). At trial, since two of the offences — wanting to cause an explosion with specified consequences at the behest of a terrorist group and possessing an explosive substance with the intent of enabling a terrorist group to endanger others — required knowledge of the U.K. group’s bomb plot, which the Crown had failed to establish beyond a reasonable doubt, the trial judge found K guilty of lesser included offences (working on the development of a detonator and keeping an explosive substance). He also convicted K on five counts that engage ss. 83.03 (providing or making available property or services for terrorist purposes), 83.18 (participating in or contributing to the activity of a terrorist group), 83.19 (facilitating a terrorist activity) and 83.21 (instructing people to carry out an activity for a terrorist group). The judge sentenced K to 10 and a half years in a penitentiary, gave no credit for time served on the basis that that would be incompatible with a denunciatory sentence, and set parole eligibility at five years to reflect the absence of any evidence of remorse, willingness to make amends or commitment to future compliance with Canada’s laws and values. The Court of Appeal held that the motive clause was not unconstitutional and should not have been severed, but dismissed the conviction appeal, applying the curative proviso in s. 686(1)(b)(iii) of the *Criminal Code*. It dismissed K’s appeal from the sentences, but allowed the Crown’s cross-appeal and substituted a sentence of life imprisonment on the conviction for building a detonator to cause a deadly explosion. Emphasizing the seriousness of the conduct, it substituted a total of 24 years of consecutive sentences for the remaining counts, to be served concurrently with the life sentence, and set parole eligibility at 10 years instead of five.

*Held:* The appeal should be dismissed.

December 13, 2012

[Reference re Broadcasting Regulatory Policy CRTC 2010-167 and Broadcasting Order CRTC 2010-168](#)

Neutral Citation: [2012 SCC 68](#) (CanLII)

File No.: 34231.

2012: April 17; 2012: December 13.

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

On Appeal from the Federal Court of Appeal

*Communications law — Broadcasting — Canadian Radio-television and Telecommunications Commission (“CRTC”) adopting policy establishing market-based, value for signal regulatory regime — Policy empowering private local television stations (“broadcasters”) to negotiate direct compensation for retransmission of signals by cable and satellite companies (“broadcasting distribution undertakings” or “BDUs”), as well as right to prohibit BDUs from retransmitting those signals if negotiations unsuccessful — Whether CRTC having jurisdiction under Broadcasting Act, to implement proposed regime — Broadcasting Act, S.C. 1991, c. 11, ss. 2, 3, 5, 9, 10.*

*Legislation — Conflicting legislation — CRTC adopting policy establishing market-based, value for signal regulatory regime — Policy empowering broadcasters to negotiate direct compensation for retransmission of signals by BDUs, as well as right to prohibit BDUs from retransmitting those signals if negotiations unsuccessful — Whether proposed regime conflicting with Copyright Act — Whether Copyright Act limiting discretion of CRTC in exercising regulatory and licensing powers under Broadcasting Act — Broadcasting Act, S.C. 1991, c. 11, ss. 2, 3, 5, 9, 10 — Copyright Act, R.S.C. 1985, c. C-42, ss. 2, 21, 31, 89.*

Responding to recent changes to the broadcasting business environment, in 2010 the CRTC sought to introduce a market-based value for signal regulatory regime, whereby private local television stations could choose to negotiate direct compensation for the retransmission of their signals by BDUs, such as cable and satellite companies. The new regime would empower broadcasters to authorize or prohibit BDUs from retransmitting their programming services. The BDUs disputed the jurisdiction of the CRTC to implement such a regime on the basis that it conflicts with specific provisions in

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the *Copyright Act*. As a result, the CRTC referred the question of its jurisdiction to the Federal Court of Appeal, which held the proposed regime was within the statutory authority of the CRTC pursuant to its broad mandate under the *Broadcasting Act* to regulate and supervise all aspects of the Canadian broadcasting system, and that no conflict existed between the regime and the *Copyright Act*.

*Held* (Abella, Deschamps, Cromwell and Karakatsanis JJ. dissenting): The appeal should be allowed. The proposed regulatory regime is *ultra vires* the CRTC.

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## :: NOVA SCOTIA BILLS ::

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The House adjourned on Thursday, December 6, 2012.

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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*:

**Personal Health Information Act**, S.N.S. 2010, c. 41, s. 115

NS Gaz Pt 2, [12/14/2012](#)

NS Reg 216/2012

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

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

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

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- How to use the cloud effectively, and
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**Attend the conference on a full SuperPass** – with ten Nova Scotia registrations, each member will **pay only \$499.50 USD per person!** Simply notify Stacey Gerrard, LIANS Counsel, 902 423 1300 x 345 or [sgerrard@lians.ca](mailto:sgerrard@lians.ca) with your intent to attend, and she will coordinate payment with one cheque or credit card number for the registration fee (Code EP1320). **Early registration deadline is February 11, 2013.**

### **RISK AND PRACTICE MANAGEMENT TIP: Creating priority email folders in MS Outlook**

Folders created in Outlook are listed in alphabetical order. Here's how to create a new folder that shows up in alpha order, but forces the folder to appear at the top of the list.

Suppose you want to create a new folder to organize your emails regarding the mandatory CPD requirement. If you create that folder, it will be listed alphabetically under M for Mandatory, which forces you to scroll through your folders until you get to the Ms. If you want to have that folder appear near the top of the list, simply put in a special character before the M. All titles that begin with a special character will appear at the top of the list.

Here's how:

- Open Outlook Mail
- Put your cursor over **Inbox** on the left-hand side
- Right-click and choose **New Folder**
- In the box for the name of the folder, type in a special character (such as a period, or the @ symbol) and then Mandatory CPD
- Click **OK**

Now look at the list of folders on the left and you'll see the Mandatory CPD folder you just created, except it will be at the top of the list, making it easier for you to find and save your email correspondence!

*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.*

### **NSLAP WELLNESS TIP: Connecticut incident support from NSLAP and Homewood Human Solutions™**

*Our NSLAP provider has circulated the following support and resource notice:*

Homewood Human Solutions™ is there for parents, teachers, children and those affected in the aftermath of the tragic event on December 14 in Newtown, Connecticut. Counselling, resources and information are available 24/7 for lawyers, their staff and their families through the Nova Scotia Lawyers Assistance Program. This confidential, caring support can be accessed via telephone at **1 866 299 1299** (French: **1 866 398 9505**; TTY: **1 888 384 1152**).

Please review "[How to Help Children Cope with Traumatic Events](#)", which may be of assistance for those in need.

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Additional tips for talking to children are available at: <http://www.healthyworkplaces.info/broken-hearts-talking-to-children-traumatic-events>

An important note is to limit children's exposure to media coverage, particularly younger children. Also important is for parents and guardians to be able to talk to their children about the event, should questions and the need for reassurance arise.

*For information, support, resources and counselling to deal with traumatic events, 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.*

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## :: 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.

### Requirements for lawyers holding funds and property for non-clients

Lawyers hold a unique and trusted position in society. As a result, we are often called upon by family, friends, neighbours and others to serve in a number of capacities involving professionalism and trust, including as executors, guardians, advisors and trustees.

Uncertainty can arise when lawyers are dealing with the affairs of those who are not clients, and for whom the lawyer is providing no legal service, but rather is acting in one of the other many trusted capacities. In particular, ***what are a lawyer's duties and responsibilities under the trust account regulations when handling money or property of non-clients?***

Regulation 1.1.1(cc) defines ***trust money*** as:

- (i) money received in trust belonging in whole or in part to a client, or to be held on behalf of the client, or at the direction or order of a client or another,
- (ii) money advanced to a practising lawyer for fees for services not yet rendered or for disbursements not yet made, and
- (iii) **money which a practising lawyer may access without the need for a co-signer, whether or not another person may also access the money, with respect to the administration of an estate or a trust, as a guardian or under a power of attorney.**

[emphasis added]

Regulation 1.1.1 (dd) defines ***trust property*** as including:

- (i) any property of value belonging to a client, other than trust money, received by a practising lawyer in trust, or to be held on behalf of or at the direction or order of a client, or another person;
- (ii) **any property over which the practising lawyer may access, without the need for a co-signer, whether or not another person may also access the property with respect to the administration of an estate or a trust, as a guardian or under a power of attorney;**
- (iii) **money held by an investment dealer, brokerage house, or trustee as part of a larger portfolio held on behalf of a client or with respect to the administration of an estate or a trust, as a guardian or under a power of attorney; and**
- (iv) money held by a practising lawyer, belonging in whole or in part to a client or another person, which is held under escrow conditions.

[emphasis added]

Under these definitions, therefore, when a lawyer is entrusted with non-client money or property in the capacity of administrator of an estate or trust, as a guardian or under a power of attorney, without the need for a co-signer, then even where there is no provision of legal services, the lawyer has a duty to treat the money and/or property in the same manner as money or property held on behalf of a client.

To illustrate, consider the lawyer who is appointed as trustee for a testamentary trust established for a beneficiary under his parent's will. The beneficiary is in his early fifties and the trust is to continue until he is 60, at which time any remaining funds will be paid to him. Under the will, the lawyer has sole discretion for making appropriate disbursements to the

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beneficiary and for investment of the funds, in accordance with certain terms. The lawyer's fees as trustee and the fees for completion of any reports are to be paid from the trust. The lawyer deposits the funds in a margin account with a securities firm. The lawyer provides no legal services in relation to these funds.

**Regulation 10.2.3** requires that 'trust money' held by a lawyer is required to be deposited into a trust account.

**Regulation 10.2.4** provides that trust accounts be kept at a 'financial institution', which means a "chartered Canadian Schedule I bank, credit union or *Caisse Populaire* legally entitled to carry on business in the Province" as defined in Regulation 10.1.1(b).

If we return to our illustration:

- i) Is the securities firm 'an investment dealer, brokerage house' as specified in Regulation 1.1.1(dd)? Yes – the regulations should be interpreted in a purposive rather than a literal way and even though the words 'securities firm' are not used, it is clear that this type of deposit is intended to be covered.
- ii) Does the lawyer have sole signing authority or control of the money? Yes.
- iii) Is the lawyer acting in the capacity of an administrator of an estate or trust, as a guardian or under a power of attorney? Yes.
- iv) Must the lawyer therefore deposit the funds into a trust account? Yes.
- v) Has the lawyer done so? No. A securities firm does not satisfy the definition of 'financial institution' under Regulation 10.1.1.

In order to comply with the trust account regulations, what are the lawyer's options to rectify the situation?

1. The lawyer could apply to the Probate Court for the appointment of a co-administrator, thereby eliminating his role as sole signatory over the funds.
2. The lawyer could apply to the Probate Court for his removal as administrator of the trust.
3. The lawyer could move the funds out of the securities firm and into a qualified financial institution.

If the lawyer selects option three, then the non-client's funds must be maintained in full accordance with the trust account regulations, should likely be moved into a specific interest-bearing trust account given the amount of time the funds will be held, and all trust books, records and accounts must be maintained including preparation of monthly trust reconciliations and inclusion of the account in the annual Trust Account Report.

In situations where a lawyer holds funds or property and is not doing so in the capacity as an administrator of an estate or trust, as a guardian or under a power of attorney, such as where a lawyer collects funds from the sale of tickets in her community for a charitable lottery draw, then these funds must not be placed in a trust account, as they do not meet the definition of trust money under Regulation 1.1.1(cc), and therefore are not permitted to be deposited in trust under Regulation 10.2.3 and 10.2.6.

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## :: 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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