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## :: NOTICES ::

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### SOCIETY NEWS

#### **Reminder: 2009 June Bar Admission Ceremony**

**Friday June 12 at 10 am**

**Pier 21, 1055 Marginal Road, Halifax**

The Nova Scotia Barristers' Society is pleased to announce a new format for this year's Bar Admission Ceremony. For the first time, the event will be held at Pier 21, and all applicants for admission will be there to witness their colleagues being called to the Bar at the same time.

All are welcome. For further details, keep watching the website in the coming weeks:

[http://www.nsbs.org/news.php?news\\_id=73](http://www.nsbs.org/news.php?news_id=73)

Following the Ceremony, there is a special [luncheon](#) at the Westin Nova Scotian Hotel for members of the Bar, Bench and their invited guests. [Registration](#) deadline for the Admissions Luncheon is June 4.

#### **Council in the Community – Auburn Drive High School visit on May 22**

More than 100 students welcomed Council to Auburn Drive High School in Cole Harbour on Friday, for a "Law Day" conference examining timely issues relating to young people, law and the justice system. Council members travelled to and from the school on a schoolbus. It's the third such Council session in the community, after visits to North Preston and Membertou, Cape Breton in 2007 and 2008.

"It's a wonderful chance to break down some of the barriers and perceptions that youth may have regarding the legal profession," said the school's Vice Principal Karen Hudson.

For more details, see <http://www.nsbs.org/index.php>, or read the Chronicle Herald's [coverage](#) from Saturday's paper. CBC Radio's *Mainstreet* program, CBC-TV and Global Television also provided positive coverage of the event on Friday.

#### **Request for Expressions of Interest to provide legal services**

The Nova Scotia Barristers' Society is accepting expressions of interest from lawyers and law firms interested in providing legal services to the Society. Services that may be required include acting as a receiver or custodian, as well as investigation and prosecution for Professional Responsibility matters.

Please forward letters of interest to Executive Director Darrel Pink at [dpink@nsbs.org](mailto:dpink@nsbs.org), outlining your experience in the above-noted areas and in administrative law generally.

#### **NSBS changes to Articling Program for 2009-2010 articling year**

The NSBS will **not** be holding a 2009-4 Skills Course Session (March 2010). All Articled Clerks will be placed in one of the three sessions being held this year. In addition, there will be no Articling Orientation. The topics covered in the Orientation will be incorporated into the Skills Course. The revised Application to Enroll as an Articled Clerk and the Skills Course Schedule are on the NSBS website at [www.nsbs.org](http://www.nsbs.org) (see "Forms").

If you have any questions, please contact Karen Trites, Admissions Officer, at 422.1491 or [ktrites@nsbs.org](mailto:ktrites@nsbs.org).

### **Civil Procedure Rules Subcommittee**

The Civil Procedures Rules Subcommittee of the Administration of Justice Committee has been reconstituted. [Committee members...](#)

Members are invited to submit any comments or issues regarding the new Civil Procedure Rules to the subcommittee by addressing comments, concerns or issues to the Society's Executive Director, Darrel Pink at [dpink@nsbs.org](mailto:dpink@nsbs.org).

Since the Rules are new, it is important to be able to identify both what seems to be working well and, more importantly, what is not. As lawyers gain experience and the Court addresses matters for the first time, members are invited to share their experiences. The subcommittee will review concerns brought forward by members of the Bar about the Rules and consider whether and to what degree these concerns should be investigated and recommendations for reform made or other actions taken. The subcommittee meets regularly with the judges, who are on the Supreme Court Rules Committee, and through that mechanism has a consultative role regarding ongoing amendments to the Rules.

### **Twitter and Facebook with NSBS**

Follow the Society's news updates on Twitter: <http://twitter.com/NSBS>

And check out our Facebook page dedicated to our UnCommon Law initiative for youth: <http://www.facebook.com/pages/Uncommon-Law/55744851905>.

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## **IN MEMORIAM**

### **Tribute to the late Arthur G. H. Fordham QC**

*by Judge Bill MacDonald*

Arthur G. H. Fordham, QC, was highly respected by Premiers and other Members of the Legislative Assembly past and present. When he died suddenly on May 4 at age 72, he was Assistant Clerk of the House of Assembly.

Art graduated from Dalhousie Law School in 1961, and initially practiced with the law firm now known as Stewart McKelvey Stirling Scales. He was widely recognized for his expertise in his preferred area of practice; real property law. He was often consulted by lawyers and willingly gave advice. He wrote papers on real property law for the members of the law society.

After several years in private practice, Art joined the public service of the Province, first as a lawyer in the Department of the Attorney General. He was an advisor to the Provincial Tax Commission.

Art next moved to the Legislative Counsel Office where he participated in the preparation of legislation. For about twenty years he was involved in drafting Bills for the Government and Opposition Members to introduce in the House of Assembly. He also served as the legal advisor to committees of the House of Assembly including the Private and Local Bills Committee.

Art was completely non-partisan throughout his public service career. He believed politics was for politicians. So it was no surprise when he was appointed to be a part-time Assistant Chief Electoral Officer. While still serving as Legislative Counsel, he was also responsible for the administration of Provincial Elections.

More recently, Art served as Assistant Clerk of the House of Assembly. He provided procedural advice to the Speaker of the House and to individual members for more than a dozen years until the day he died. His official role was to sit on the floor of the House when it was in session, and to maintain the official record of proceedings. Art also wrote An Overview of the Procedures and Practices of the Nova Scotia Legislature.

He participated at the National level in the Uniform Law Conference of Canada, the Canadian Election Officers Conference and the Canadian Parliamentary Association, earning the respect of colleagues across the country.

Outside the law, Art enjoyed music. When he was working alone in his office there was often classical music playing in the background. He supported organizations which promote and provide music in our community. Recently Art was the Chair of the Board of Governors of the Maritime Conservatory. He also participated in the work of the Symphony Nova Scotia Foundation.

Art was a faithful member of the Cathedral Church of All Saints, and was a lay minister in the Church for more than 15 years. At dinners he could always be called upon to say grace on short notice.

The passing of Arthur G. H. Fordham, QC, is a great loss to the Province but it is a greater loss to his wife of 45 years, Pat. She is recovering from a knee operation. In a few weeks when she is more mobile, there will be a memorial service for Art.

*(Note from NSBS: Please keep watching this space in InForum for further details about the memorial service.)*

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## FROM THE COURTS

### Swearing-in ceremony set for June 12

The Honourable Justice Duncan R. Beveridge will be sworn in to the Nova Scotia Court of Appeal at a ceremony on Friday, June 12, 2009. The ceremony will be held in Courtroom 502 at the Law Courts in Halifax at 3:30 pm.

### Notice from The Family Division of the Supreme Court: Cases You Need Not Copy

The Family Division of the Nova Scotia Supreme Court sitting in Halifax has compiled a list of cases that need NOT be provided to the Court. This does not currently apply at the Family Division of the Supreme Court sitting in Sydney.

Click on this link to see or download the complete list: [<< Cases You Need Not Copy >>](#)

### Clarification to March 30 memo regarding media coverage of courts

Please review the [memo](#) from the Nova Scotia Judiciary, which clarifies the previous request to counsel across Nova Scotia in assisting media in news coverage of the courts.

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## FROM THE PROVINCE

### Call for applications and nominations – Queen’s Counsel Appointments 2009

The Legal Services Division of the Department of Justice wishes to advise members of the process for the next round of Queen’s Counsel appointments. In the fall of this year, the Advisory Committee on Queen’s Counsel Appointments, chaired by the Honourable Chief Justice J. Michael MacDonald, will consider candidates for the next QC designations.

The deadline for applications and nominations is **Wednesday, September 30, 2009 at 4 pm.**

Please see the following documents online at [www.nsbs.org/forms.php](http://www.nsbs.org/forms.php):

- a) the call for applications and outline of selection criteria signed by the Deputy Minister of Justice;
- b) the application or nomination form;
- c) the authorization for disclosure of information and release; and
- d) the information form relating to Queen’s Counsel appointments

## H1N1 (Human Swine Influenza) Update

Please see the [update from Dr. Robert Strang](#), Chief Public Health Officer for Nova Scotia, on the H1N1 (human swine influenza) situation. This information also includes preparations that should be taken for the normal flu season in the fall.

As of May 22, the total number of H1N1 cases reported in Nova Scotia was 70. All cases are mild and those affected are recovered or recovering.

Everyone is reminded that the best way to stay healthy is to take preventative action. That means washing hands thoroughly and often, coughing or sneezing into sleeves, and frequently cleaning and disinfecting common surfaces and items such as doorknobs and counters.

For more information on H1N1, you may visit [www.gov.ns.ca](http://www.gov.ns.ca).

## Errors & Omissions Notices

### Guysborough County Land Registration Office – re: documents incorrectly indexed

It has come to our attention that a discharge of judgment recorded on May 5th, 2009 was indexed incorrectly:

**Doc # 93293216** - the grantor was indexed as Barbara L. Langille and should have been Barbara L. Cooke.

ALSO, a partial release of judgment recorded on Feb. 10th, 2009 was indexed incorrectly:

**Doc # 92738252** - the grantor was indexed as Canada Revenue Agency and should have been Jogvan Friderik Kjolbro.

This error was discovered on Friday, May 15, 2009 and was fixed on May 15, 2009. Any questions should be directed to the Guysborough County Land Registration Office @ 1-902-533-2033.

### Shelburne County Land Registration Office – re: document incorrectly expired

It has come to our attention that partial release of judgments recorded on the dates noted below removed the judgments from the electronic GGI in error. The details of the incorrectly expired document are:

Judgment

Doc # 82620957 recorded Aug. 2, 2005

Grantors: Jonathan Wade Smith & Nicole Louise Smith;

Judgment

Doc #82620932 recorded Aug. 2, 2005

Grantors: Jonathan Wade Smith;

Judgment

Doc #75274499 recorded March 17, 2004

Grantor: Russell R. Acker;

Judgment

Doc #85765700 recorded August 1, 2006

Grantor: Russell R. Acker

Judgment

Doc #81052400 recorded December 10, 2004

Grantor: Russell R. Acker

This error for the first two judgments against Jonathan Smith and Nicole Smith and just Jonathan Smith was discovered on Tuesday, May 5th, 2009 and fixed on May 11th, 2009.

The error for the last three judgments against Russell R. Acker was discovered on May 6th, 2009 and fixed on May 20th, 2009. Any questions should be directed to the Shelburne County Land Registration Office @ 1-902-875-3409.

## **Lunenburg County Land Registration Office – re: Chester – Book 108 document numbers changed**

Book 108 Pages 183 to Page 352

This book was scanned on July 10, 2007. The document numbers were found to be incorrect and changed on October 24, 2007.

These pages are currently being re-scanned today. This was brought to our attention on April 30th, 2009 and arrangements were being made to put these pages back into the scanning queue.

Document Numbers were accurate on the GGI since October 24, 2007.

Any questions can be directed to the Lunenburg County Land Registration office 1-902-543-5095.

For a complete listing of errors and omissions regarding the *Land Registration Act & Registry Act*, please visit <http://www.gov.ns.ca/snsmr/property/default.asp?mn=282.46.1078.1032>.

## **Land Registration Act amendments now in effect – notice from Service Nova Scotia & Municipal Relations**

Please be advised that changes to the *Land Registration Act* and the Land Registration Administration Regulations came into effect on Monday, May 4, 2009. This results in some changes to the requirements and practice of authorized lawyers who work in the land titles system.

For a review of the major changes, please read the detailed Information Bulletin posted on the home page of Property Online, from Service Nova Scotia and Municipal Relations:  
<http://www.gov.ns.ca/snsmr/property/default.asp?mn=282.46.1064>

The regulations have been amended to address recent concerns, and as indicated at the recent information session. The updated regulations are available on the POL homepage under the \*NEW\* bullet, with a comment drawing attention to specific amendments to subsections 7(18) and 10(14) and Section 14. The website also provides links to all new prescribed forms.

## **RFP – Adult Protection Services, tender closes May 28**

The Department of Health, Continuing Care Branch would like to notify you of a current tender: **Standing Offer for Adult Protection Legal Services**, Tender number: 60137424 (Health). The tender document is now posted on the Nova Scotia Government Procurement Services website, and closes on May 28: <http://www.gov.ns.ca/tenders/>.

## FROM THE FEDERAL GOVERNMENT

### MINISTER OF JUSTICE MOVES TO MODERNIZE CRIMINAL LAW PROCEDURE IN CANADA

The Honourable Rob Nicholson, PC, QC, MP for Niagara Falls, Minister of Justice and Attorney General of Canada, introduced in the House of Commons on May 15 an *Act to Amend the Criminal Code* and other federal legislation, which will modernize criminal procedure and make the justice system more efficient and effective.

This information is available on the Internet, under News Releases at: <http://www.justice.gc.ca/eng/news-nouv/index.asp?tid=2>

### LE MINISTRE DE LA JUSTICE ENTREPREND DE MODERNISER LA PROCÉDURE DE DROIT PÉNAL AU CANADA

L'honorable Rob Nicholson, CP, cr, député de Niagara Falls, ministre de la Justice et procureur général du Canada, a déposé à la Chambre des communes un projet de loi modifiant le Code criminel et d'autres lois fédérales, en vue de moderniser la procédure pénale et d'accroître l'efficacité et l'efficience du système de justice.

Ces documents sont disponibles sur l'Internet, sous communiqués de presse à: <http://www.justice.gc.ca/fra/nouv-news/index.asp?tid=2>

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## MISCELLANEOUS NOTICES

### Office to share in Bedford

Bedford lawyer has office to share in professional building. Lawyer or other professional preferred. Cost depends on amenities required. Call Connie at 835.7615 or email [connierusk@ns.sympatico.ca](mailto:connierusk@ns.sympatico.ca).

### Relocation of DeMont Law in New Glasgow

Dear members:

Please take note that the physical address of DeMont Law will be relocating as of Monday, June 1, 2008, to the following address:

61 Provost Street, New Glasgow, Nova Scotia B2H 2P5

61 Provost Street is the former TD Bank building at the corner of George and Provost across the street from the Café Italia. We have entered into a space sharing arrangement with Margeson, Wilson and Veniot.

The phone, fax and email contacts will remain unchanged:

Telephone: (902)-755-9200 | Fax: (902)-752-7399 | Email: [frank@demonts.ca](mailto:frank@demonts.ca)

Please update your contact information. I remain,

Yours very truly, DEMONT LAW

### Fourth Annual Halifax Rock for Kids set for October 22, 2009

This coming October, lawyer-musicians will once again battle for the title of "Halifax's Best Band" and raise money for Nova Scotia children with physical disabilities. Over \$30,000 has been raised so far at this annual rocking event, for the March of Dimes Canada's Conductive Education Nova Scotia Program. The program helps children and adults in our province who have physical disabilities to improve their mobility and increase their self-confidence and motivation.

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

This year's Rock for Kids theme will celebrate the 40th anniversary of Woodstock, and the event is expanding to include other musical professionals such as doctors and accountants. There's a larger location as well – the Halifax Marriott Harbourfront Hotel. Organizers hope to attract five bands to compete – please contact Marc Belliveau at Stewart McKelvey (902-420-3343 or [mbelliveau@smss.com](mailto:mbelliveau@smss.com)) or David Graves at McInnes Cooper (902-444-8544 or [david.graves@mcinnescooper.com](mailto:david.graves@mcinnescooper.com)) for more information.

## **Nova Scotia Pro Bono Study**

The [Final Report of the Nova Scotia Pro Bono Study](#) is now available. The purpose of the study was to assess the legal community's current level of interest and engagement in pro bono work, identify gaps in existing legal services, examine how pro bono organizations work in other jurisdictions and gather feedback on a prospective provincial pro bono organization for Nova Scotia. The project received funding and support from the Law Foundation of Nova Scotia.

## **Canadian Centre for Ethics in Public Affairs – Research Fellowships in Applied Ethics 2009-10**

The Canadian Centre for Ethics in Public Affairs (CCEPA), a joint initiative of the Atlantic School of Theology and Saint Mary's University, invites applications for Research Fellowships for the 2009-10 academic year. It is expected that up to two fellowships will be awarded this year. Applicants should be scholars with a completed doctorate, who hold an academic appointment at a Canadian university and who are interested in pursuing research in Applied Ethics, in association with CCEPA. For full details, please visit: [www.ccepa.ca](http://www.ccepa.ca)

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## **EVENTS OF INTEREST**

### **Invitation to 3<sup>rd</sup> Annual St. Ives Cup Golf Scramble**

The Bar Societies of Antigonish and Pictou County invite all local Bar Societies and judges in Nova Scotia to the third annual St. Ives Cup Golf Scramble to be held at the Antigonish Golf Course on Saturday, June 6th, 2009 starting at 11:00 am.

St. Ives is the patron saint of lawyers and judges and others involved in the legal profession. The format will be 18 holes of Texas scramble with no handicaps used. The best score wins. The four member teams can be made up of lawyers or judges or any combination thereof representing a local bar society or area of the province. Judges only teams can be from anywhere in the province.

A steak barbeque will follow the play and the estimated cost for green fees and the meal along with some prizes will be \$85.00 per person.

Interested teams should contact Justice Douglas MacLellan at [dmaclellan@judicom.gc.ca](mailto:dmaclellan@judicom.gc.ca). Entries will be accepted up to June 1, 2009.

### **All Aboard “The Dreamscape” Cruise Line Celebrity Dreamscape, in Support of Phoenix Youth Programs Friday, June 5; 7:00 pm to midnight, The Cunard Centre**

Order Tickets at [www.CelebrityDreamscape.com](http://www.CelebrityDreamscape.com) or call 405-3078

Celebrity Dreamscape in support of Phoenix Youth Programs will celebrate its 10th year on June 5. Embark on a journey of fun and adventure that will sail back through the years and revisit the event's past voyages: Camelot to Woodstock, The Roaring 20s, Bollywood/Hollywood, Twilight on the Bayou, Opening Night at the Apollo, Una Noche en la Copa Cabana, Moonlight Dragon Festival, Midnight at the Oasis and A Midsummer Night's Dream.

The party begins with a reception – come dressed in glamorous formal attire or in a costume from Dreamscapes gone by. Next, enjoy the Captain's Ball in the grand first class dining salon, with dinner, dancing, live and silent auctions, a raffle for a trip for two anywhere Air Canada flies in North America (including Sun Destinations), engaging live performances and guest hosts.

Tickets: \$150 each; \$1500 for a table of 10; \$2,000 for an exclusive Dreamset Table; sponsorship opportunities available. Presented by Clearwater Seafoods and Micco Companies

## **Join the Ultimate Adventure – 7<sup>th</sup> Annual Event in support of Bryony House Saturday, June 6, Throughout HRM**

The Ultimate Adventure is a citywide scavenger hunt and car rally in support of Bryony House, a 24 bed shelter for abused women and children. Each year, teams of four adults use a passport full of clues, with just five hours to collect more than 100 scavenger hunt items and locate 10 pit stops hidden throughout HRM. Party and awards to follow at Oasis Pub and Eatery.

Registration fee of \$25 per team member plus a minimum pledge amount of \$100.00 per team member is required. **Final Registration date is June 1, 2009** on a first come, first serve basis. There are a maximum of 50 teams. If you raise \$125 and submit your pledges by June 3, 2009, the registration fee will be waived.

Registration forms and additional information available by contacting: 429-9001 or email [funddev@bryonyhouse.ca](mailto:funddev@bryonyhouse.ca). More details online: <http://bryonyhouse.ca/>

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## **PRO BONO AND VOLUNTEER OPPORTUNITIES**

### **Excalibur After School Society seeks volunteer lawyer**

Excalibur After School Society is seeking an attorney to check three application forms, as soon as possible. This is a volunteer position. Excalibur offers the Family School POP (Pre-school Over-activity Program) to parents of hyperactive children 3-6 years of age, and other caregivers. These courses are free of charge. The other caregivers receive a certificate for taking the course. Excalibur needs to be able to videotape the sessions and its application forms need to be legally binding on this issue. Also seeking someone to fill a vacancy on the board.

Please contact Maya Warnock at 461-1761 or [ex.info@excaliburafterschool.org](mailto:ex.info@excaliburafterschool.org). For more information on Excalibur please, visit [www.excaliburafterschool.org](http://www.excaliburafterschool.org). Excalibur is a registered charity.

### **Volunteer opportunity – Kidney Foundation seeking board members**

The Nova Scotia Branch of the Kidney Foundation of Canada is now in the process of recruiting volunteers for its Board of Directors. The Board sets organizational priorities and goals, develops policies related to attaining these goals, and monitors whether those policies and goals are being successfully met. The Board is also responsible for linking with the people of Nova Scotia to ensure their needs and expectations of the organization are considered within a national perspective. Board members use their expertise to enhance the Board's ability to make policies as a body, and commit to educating themselves on the issues before the Board.

Please contact:  
Doris Cameron, Executive Director, Nova Scotia Branch  
Kidney Foundation of Canada  
1.800.889.5557 Ext.3  
[dcameron@kidney.ns.ca](mailto:dcameron@kidney.ns.ca)

## FROM THE FEDERATION OF LAW SOCIETIES:

### Register soon for 2009 National Criminal Law Program

2009 National Criminal Law Program: Evidence  
presented by The Federation of Law Societies of Canada

Victoria Conference Centre  
Victoria, British Columbia  
July 6 to 10, 2009

For details and to register: <http://www.flsc.ca/en/lawSocieties/criminalLaw.asp>

This program offers comprehensive coverage of the law of Evidence - both in the presentations and in the printed materials written by faculty members specifically for this program. Faculty are chosen from the legal profession across the country to provide up-to-date information and a cross-section of points of view from the Crown, defence and the judiciary. This program is for all practitioners and judges involved in criminal law - it is a week full of instruction using panels, lectures, unique presentations and group workshops.

### CALL FOR PAPERS

#### National Family Law Program

July 12 – 15, 2010

Victoria Conference Centre  
Victoria, British Columbia

CALL FOR PAPERS: <http://www.flsc.ca/en/lawSocieties/familyLaw.asp>

#### Your proposal must be received no later than May 30, 2009

Please submit your Family Law proposal to:

Heather Walker, Program Co-ordinator  
P.O. Box 244, Woodville, ON K0M 2T0

e-mail: [nationalfamilylawprogram@sympatico.ca](mailto:nationalfamilylawprogram@sympatico.ca)

Note: Presenters will receive a contribution toward travel and accommodation expenses.

## Missing Wills

### ▸ Assistance requested in locating missing will for Joan Fredina Pelly of Dartmouth (late widow of William E. Pelly, or William Gordon Pelly)

A search is under way for a missing will for Joan Fredina Pelly, late widow of William E. Pelly (or William Gordon Pelly), who lived at 57 Louisburg Lane in Dartmouth, B2W 3A8. Mrs. Pelly's date of birth was 1923 in Chester, Nova Scotia, and her maiden name was Joan Mills. She passed away at age 85 on November 9, 2008. The original will was written in 1996, however it is believed that it was altered and updated or rewritten in the year 2005 or thereabouts.

Anyone with information is asked to contact Garry Monett at [garry\\_monett@live.ca](mailto:garry_monett@live.ca) or 404-8987 or 452-4486 (cell).

### ▸ Assistance requested in locating missing will in Halifax / Eastern Shore area

**Rotraud Vusten of Myers Point, Head Jeddore, NS**, passed away Friday, January 16 in Munich, Germany, following heart surgery. She has no family here in Canada and her friends have been trying to determine who should be attending to her affairs. Her financial power of attorney (until her death) in Germany is also asking for a contact person in Nova Scotia. Her friends are very sure she would have had a will (as she was aware of the risk of the surgery). If any lawyer knows of her executor, would you please advise any one of the following, as soon as possible:

- Pearl Akers 889-3440 ([akerspe@yahoo.ca](mailto:akerspe@yahoo.ca));
- Penny Bennett 889-3285 ([penelope.westjeddore@yahoo.ca](mailto:penelope.westjeddore@yahoo.ca));
- Gary Young 889-3002;
- or Paul Scott 889-2914

▸ **NOTICE: Assistance requested in locating missing will in Sydney/Glace Bay area**

Lawyers with any information regarding the last will and testament of Emma Theresa Currie are asked to please contact her niece Helen Currie in Dartmouth as soon as possible. Executors are unable to locate a copy of her will, and hope that a lawyer in the Sydney/Glace Bay area may have a copy on file.

Ms. Currie lived in MacKay's Corner, Glace Bay, all her life. She was an elementary school teacher and principal of MacKay Corner Memorial School. If you can provide any details, please contact Helen Currie at 902.469.1319 or [htcurrie@hotmail.com](mailto:htcurrie@hotmail.com).

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**Bookmark Professional Responsibility [BEST PRACTICES](#)** — an online ethics resource for Nova Scotia lawyers.

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**[Recent Decisions from Professional Responsibility](#)**

## :: CONFERENCES & SEMINARS ::

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### NSBS CONTINUING PROFESSIONAL DEVELOPMENT UPCOMING COURSES:

[Click here to visit the CPD page at NSBS.org](#)

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#### **2009 Nova Scotia Barristers' Society Admissions Luncheon – register soon**

*Celebrate: Vision, Leadership, Excellence - The Legal Profession in Nova Scotia*

**Friday, June 12, 2009 at 1:00 pm**

**Westin Nova Scotian Hotel, Commonwealth Room A**

Cost: \$50 plus tax

Featuring humourist Bill Carr

Joel E. Pink QC, President of the Nova Scotia Barristers' Society, cordially invites members of the Bar, Bench and their invited guests to attend the 2009 Admissions Luncheon, which will celebrate the new admittees to the Nova Scotia Bar. Join us in honouring the newest members of the Nova Scotia Bar in a celebration of the legal profession and a salute to its volunteers.

Registration deadline: end of day **Thursday, June 4**

[Details and registration](#)

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#### **Register today – CanLII Training Session & user meeting**

**Wednesday, May 27, 12:00 noon – 1:30 pm**

**CPD Center, Suite 408, 1645 Granville Street, Halifax**

You are invited to a catered Lunch & Law demonstration of SATAL, CanLII's new legislation publishing system.

Learn the main benefits of this new system:

- Discover versions of statutes and regulations reflecting real changes
- Discover version dates corresponding to legislative changes, such as entry into force, amendment or repeal
- Learn how to search a legislative text as it was legally binding on a particular date in the past
- Learn how to compare different versions of a document
- Learn how to note-up sections of statutes
- Increase your efficiency by learning how to use RSS feeds to inform you about legislative changes of a particular statute or database

**Fee: There is no cost to attend (*light lunch will be served*)**

Sponsored by CanLII

**New! Teleconference and Webinar feature now available!**

Due to the popularity of this program, we have added a Webinar/Teleconference Option.

**Registration is required:** visit <http://members.nsbs.org> to register.

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**Register soon for NSBS Annual Meeting**  
*“The Business of Law During Times of Uncertainty”*  
June 19 – 20, 2009  
Inverary Inn, Baddeck, Nova Scotia

Keynote speaker: Mr. Gerald McConnell, QC, Etruscan Resources Inc.  
Entertainment includes: a performance by Raylene Rankin  
[Details and registration](#)

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**Hold the Date – Red Robe | Black Tie: Testimonial Dinner**  
Friday, September 11, 2009  
The Lord Nelson Hotel & Suites, Halifax, NS

The Nova Scotia Barristers' Society will host a Testimonial Dinner to honour the appointment of The Honourable Justice Thomas Cromwell to the Supreme Court of Canada

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**Lunchtime Seminar Series Tickets**  
\$40 each or 10 for \$300 plus HST

Location: Continuing Professional Development Centre, 4th Floor, Centennial Building, Suite 408, Halifax, NS

CPD is now offering a booklet of ten seminar tickets for \$300, a discount of \$10 per session! Booklets may be purchased by individuals or firms and are transferable. Tickets may be redeemed for any single seminar offered by CPD that is less than 1.5 hours in length.

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## OUTSIDE CONFERENCES & SEMINARS

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**Fifth Annual Elisabeth Mann Borgese Ocean Lecture**  
*“Canada and the Circumpolar World: the Coming Blizzard”*

World Oceans Day – Monday, June 8; 7:00 PM  
Room 105 Weldon Law Building, 6061 University Avenue  
Dalhousie University

On World Oceans Day, the International Ocean Institute presents Dr Rob Huebert, Associate Professor, Political Science, Associate Director, Centre for Military and Strategic Studies, University of Calgary. He will address the following questions:

- 1) What are the challenges for Canada that are now developing in the Arctic?
- 2) What is Canada doing to meet these challenges and how successful have they been?
- 3) What will Canada's role be in the circumpolar world as these new realities develop?

Reception to follow. All are welcome. For more information, contact [ioi@dal.ca](mailto:ioi@dal.ca) or see <http://internationaloceaninstitute.dal.ca/emblecture.html>

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**The 20th Annual Maritime Security Conference**  
*“Interoperability: Achieving Maritime Security Under the North American Free Trade Agreement”*

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

**June 11 and 12, 2009**

**The Scotiabank Auditorium, Marian McCain Arts and Social Sciences Building  
6135 University Ave., Dalhousie University**

American, Canadian and Mexican perspectives on regional maritime security will be examined within these seven themes: Borders, Climate Change, Crime, Energy Security, Security Forces, Technology, and Transportation.

**Keynote Speaker:** Dr. Armand Peschard-Sverdrup, President and Chief Executive Officer, Peschard-Svedrup & Associates, Washington, D.C. & Mexico City. Author of *The Future of North American 2025: Outlook and Recommendations* (CSIS Press, 2008)

For a complete list of speakers and seminar details, please visit: <http://centreforforeignpolicystudies.dal.ca/>  
The event's registration form is also online: [http://cfps.dal.ca/pdf/msc2009/MSC\\_Registration.pdf](http://cfps.dal.ca/pdf/msc2009/MSC_Registration.pdf)

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## **THE BURDEN OF CLIMATE CHANGE ON WOMEN:**

***Where are Women's Rights and Economic Justice in the Solutions?***

**Monday June 15, 7pm - 9pm**

**Sobey School of Business, Room 255, Saint Mary's University**

Keynote speaker: Joanna Kerr, Director of Policy and Outreach, Oxfam Canada

A JUST IN TIME presentation by the Canadian Centre for Ethics in Public Affairs and Oxfam Canada

**FREE ADMISSION - RECEPTION TO FOLLOW**

For more info: [www.ccepa.ca](http://www.ccepa.ca) or [www.oxfam.ca](http://www.oxfam.ca)

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## **Former US President Bill Clinton – presentation in Halifax May 28**

"The Honourable William Jefferson Clinton on The Global Economy," talk will be followed by a question & answer session with Frank McKenna, Deputy Chair of TD Bank Financial Group. Event presenters, The Power Within Inc., are pleased to invite members of the bar to attend this event at Halifax's Cunard Centre, on **Thursday, May 28 from 3:30 – 5:30 pm**.

For complete details, please visit [http://www.powerwithin.com/pdf/Clinton\\_Halifax\\_2009\\_PH.pdf](http://www.powerwithin.com/pdf/Clinton_Halifax_2009_PH.pdf)  
To purchase tickets, call toll-free: 1-866-883-5198

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## **Canadian Association of Law Libraries in Halifax, May 24-27**

**CALL/ACBD - "Revisit, Renew, Reflect"**  
**Westin Nova Scotia, Halifax, NS**

The 2009 annual meeting of the Canadian Association of Law Libraries / Association Canadienne des Bibliothèques de Droit is being held in Halifax in May 2009. This conference will provide an opportunity for those working in the legal information field to participate in sessions featuring such speakers as the Honorable Jason Kenney, Bernard Hibberts, Jocelyn Downie and Thomas P. Donovan, to name a few. Participants are invited to attend all or some of the events.

Some topics being presented:

- Canada's immigration and refugee policy
- Talmudic and Shariah law
- going green in the legal environment
- e-discovery

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

- legal issues in palliative and end-of-life care
- the technology of law

Review the full program and registration information: <http://www.callacbd.ca/conferences/2009/>

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## **2009 Conference for the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education**

**May 25-29, 2009**

**Marriott Harbourfront Hotel, Halifax, NS**

A group of Maritime universities is hosting a national conference which will cover a wide range of topics including harassment and conflict resolution, mental health issues, accommodation and the promotion of a respectful and inclusive working and learning environment. Along the way, more than 30 speakers will share their insights and expertise. Together, they will look at current research, explore innovative ideas in the field and engage in dialogue and skill-building.

Features of the 2009 Conference include:

- Keynote address by Lawrence Hill, best-selling author of *The Book of Negroes*, which won the Commonwealth Writers' Prize for Overall Best Book and was recently announced as winner of CBC's 2009 Canada Reads competition.
- The Conflict Resolution Toolbox: a half-day workshop with Gary Furlong, one of Canada's top mediators and author of *The Conflict Resolution Toolbox*
- The CAPDHHE Banquet, featuring a performance by DRUMPOWER!

To register, or for more detailed program information: [www.capdhhe.org](http://www.capdhhe.org)

Or contact Conference Coordinator Marlo Shinyei at (902)494-6735 or [Marlo.Shinyei@dal.ca](mailto:Marlo.Shinyei@dal.ca)

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## **5th World Congress on Family Law and Children's Rights**

Halifax is hosting the 5th World Congress on Family Law and Children's Rights, from **August 23 - 26, 2009**. The theme of the Congress is "Children Caught in Conflict" and there will be a wide variety of topics and a wide array of international presenters with different views, backgrounds and experiences. This Congress will appeal to many, including judges, lawyers, legislators, policymakers, mental health professionals and social workers. It is a forum not only for education and learning, but for discussion and resolutions that will hopefully lead to action to address the many problems facing children caught in conflict throughout our world. Lend your voice to the debate!

For details and to register: [www.lawrights.asn.au](http://www.lawrights.asn.au) .

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## **National conference for Administrative Tribunals – May 31 to June 2**

The Canadian Council of Administrative Tribunals' 25th annual conference will be held at the **Halifax Marriott Harbourfront May 31- June 2, 2009**.

CCAT is a national, non-profit organization, created in 1986, promoting excellence in administrative justice. It holds annual national conferences to bring together CCAT members, adjudicators and staff of tribunals, and others from the legal community across Canada and abroad. This is the first time the conference has been held east of Montreal, so this is a great opportunity for members of the administrative law community in Atlantic Canada to benefit from the conference.

The theme of the 2009 conference is “**The Modern Canadian Tribunal: 25 Years in the Making.**” The workshops will explore topics of relevance to the creation, support, training and development of administrative tribunals, members, and those who provide support to the tribunals. Roundtable discussion forums will provide opportunities for interactive exchange of ideas about emerging issues in administrative law. Speakers are subject matter experts, including academics, practitioners, and the judiciary from across the country as well as from the US. There will also be a training day in connection with the conference (June 3rd) on the topic of using plain language in the work of a tribunal from intake to decision writing and beyond.

For detailed program and registration information, please visit CCAT's website at [www.ccat-ctac.org](http://www.ccat-ctac.org).

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## **1st Annual Symposium on HIV, Law and Human Rights**

The Canadian HIV/AIDS Legal Network invites you to its first Annual Symposium on HIV, Law and Human Rights: “From Evidence and Principle to Policy and Practice.”

**June 12–13, 2009, Toronto, Ontario**

This day-long symposium launches with an evening reception at Convocation Hall, Osgoode Hall, featuring a public lecture by Justice Edwin Cameron, human rights advocate and author openly living with HIV. Justice Cameron, who was recently appointed to the Constitutional Court of South Africa, will address the growing trend, in Canada and internationally, of criminalizing HIV transmission and exposure.

Please join us — register at [www.aidslaw.ca/symposium](http://www.aidslaw.ca/symposium)

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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 your computer during the program.

There is also a broad selection of self-paced online programs, canvassing all areas of a litigation practice.

To learn more about upcoming programs or the list of available self-paced seminars, visit APTLA's SeminarWeb Live! page at [www.seminarweblive.com/ap](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.aptla.ca](http://www.aptla.ca).

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**: : CLASSIFIEDS : :****Office space available on Quinpool Road**

Two offices are available for rent on Quinpool Road in Halifax: one large office measuring approximately 12 by 18 feet, and a second of approximately 10 by 12 feet, which would be suitable for an assistant.

The cost would vary based upon whether you are interested in only the larger office or both offices. The telephone system, facsimile, internet and central printer and copier are also available should you wish to share those costs. There is sufficient room in the two offices to operate a stand-alone practice.

Our office currently has two sole practitioners and an administrative assistant. Contact Fergus Ford at 454-0921 or [fford@ns.sympatico.ca](mailto:fford@ns.sympatico.ca).

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## : : NEW FROM LIBRARY & INFORMATION SERVICES: :

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### More Supreme Court of Canada decisions now available

All Supreme Court of Canada decisions published in the *Supreme Court Reports* from 1948 to the present are now available on the [SCC Judgments Web site](#).

In addition, all published judgments since 1876 from cases appealed to the SCC from the British Columbia Court of Appeal have been added to the database, courtesy of CanLII and the Law Foundation of BC. Appeals from the Ontario Court of Appeal since 1876 were added to the SCC database last year.

Making freely available on the Web Supreme Court of Canada decisions from 1948 is one way the Supreme Court of Canada is celebrating the 60th anniversary of Canada's full judicial independence from the United Kingdom.

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### Laudable Legal Links

Library & Information Services assess and select publicly-available, law-related web sites for inclusion in our [Legal Links](#) database. Search or browse this collection of vetted web resources by clicking on [Legal Links](#) on the [Library Search](#) page of the Society's website.

Recently added or updated web sites:

#### E-discovery Canada

<http://www.lexum.umontreal.ca/e-discovery>

A Canadian e-discovery portal hosted by LeXUM providing access to the Sedona Canada Principles, e-discovery case law digests, and links to guidelines, resources and precedents.

#### Electronic Discovery - A Reading List

[http://www.practicepro.ca/practice/eDiscovery\\_Rlist.asp](http://www.practicepro.ca/practice/eDiscovery_Rlist.asp)

An extensive, linked list of readings and resources related to electronic discovery and information management, compiled by Peg Duncan, a director in the Information Management Branch of the Federal Department of Justice and hosted by PracticePRO. Canadian and newly added sources are identified in red.

#### FindLaw's Interactive Guide to Electronic Discovery

<http://technology.findlaw.com/electronic-discovery/electronic-discovery-guide>

A US resource based on the Electronic Discovery Reference Model outlining best practices and procedures in records management, identification, preservation and collection, processing, review and analysis, production, and presentation.

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### Borrowing, renewals, and holds 101

Looking for a book? Check our online [Textbooks/Treatises Catalogue](#) to see if we have it in the library. Call or email us to discover if it's available for loan. You may place a hold on an item if another member already has it out, and we'll contact you when the item is returned. If the item is available, we'll set it aside for you on our hold shelf, or for members outside the Halifax metro area, we'll courier it to you at our cost.

InForum is an electronic newsletter published approximately twice a month. To receive a free subscription, please contact the Society at [info@nsbs.org](mailto:info@nsbs.org).

Members are responsible for returning items by the due date, and for any costs incurred to mail or courier items back to the library.

Members in the HRM may borrow library materials available for loan – textbooks, treatises, bound journals, looseleaves, CPD binders – for 2 weeks. If no one else has placed a hold on the item, members may renew the item for up to 2 additional 2-week loan periods.

Members outside of the HRM may borrow library materials for 4 weeks. If no one else has placed a hold on the item, members may renew the item for 1 additional 4-week loan period.

To renew items, call us toll-free at 1-866-219-1202 or 425-BOOK, or email us at [nsbslib@nsbs.org](mailto:nsbslib@nsbs.org).

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## New books at the library

### ADMINISTRATIVE PROCEDURE

CONDUCTING ADMINISTRATIVE OVERSIGHT AND OMBUDSMAN INVESTIGATIONS / Jones, Gareth -- Aurora, Ont. Canada Law Book, 2009. **[KB 36.P76 J77 2009]**

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### ALTERNATIVE DISPUTE RESOLUTION

DOING JUSTICE: DISPUTE RESOLUTION IN THE COURTS AND BEYOND 2007 RÈGLEMENT DES CONFLITS: LA JUSTICE N'APPARTIENT-ELLE QU'AUX TRIBUNAUX? 2007 / Murphy, Ronald; Molinari, Patrick A; Canadian Institute for the Administration of Justice -- Montréal: The Institute, 2009. **[KB 125 .A7 M978 2009]**

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### BANKRUPTCY

BANKRUPTCY AND INSOLVENCY LAW OF CANADA / Houlden, Lloyd W -- 4th ed. -- Toronto: Carswell Thomson Reuters, 2009. **[KB 113 H838 2009]**

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### COMMERCIAL LEASES

INSURANCE AND RISK MANAGEMENT IN COMMERCIAL LEASING / Michaeloff, Dawn -- Aurora, Ont. Canada Law Book, 2009. **[KB 175 M621 2009]**

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### CONFLICT OF LAWS

PRIVATE INTERNATIONAL LAW / Manitoba. Law Reform Commission -- Winnipeg, Man. The Commission, 2009. **[KB 128.T6 M266 2009 no.119]**

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### CONTRACTS

CANADIAN CONTRACT LAW / Swan, Angela; Swan, John -- 2d ed. -- Markham, Ont. LexisNexis Butterworths, 2009. **[KB 130 S972 2009]**

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### DAMAGES

PERSONAL INJURY DAMAGES : 2008/2009 EDITION / Carlson, John R; Carlson, Karen D.P -- 2008/2009 ed. - Markham, Ont. LexisNexis Butterworths, 2009. **[KB 183.D3 C278 2009]**

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### EXPERT EVIDENCE

EXPERT EVIDENCE / Anderson, Glenn R -- 2d ed. -- Markham, Ont. LexisNexis Butterworths, 2009. **[KB 192 A546E 2009]**

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### INHERITANCE AND SUCCESSION

POSTHUMOUSLY CONCEIVED CHILDREN: INTESTATE SUCCESSION AND DEPENDANTS RELIEF : THE INTESTATE SUCCESSION ACT : SECTIONS 1(3), 6(1), 4(5), 4(6) AND 5 / Manitoba. Law Reform Commission

-- Winnipeg, Man. The Commission, 2008. **[KB 153 M266 2008 no.118]**

## INSURANCE

INSURANCE BAD FAITH / Hilliker, Gordon -- 2d ed. -- Markham, Ont. LexisNexis Butterworths, 2009. **[KB 140 H654 2009]**

## LAND REGISTRATION ACT

BILL 156 AND BEYOND / Nova Scotia Barristers' Society. Continuing Professional Development -- Halifax, N.S. The Society, 2009. **[KB 170 N935B 2009]** Available soon in [Secondary Sources](#)

## LAWYERS

PRO BONO IN NOVA SCOTIA : CURRENT PRACTICE AND FUTURE OPPORTUNITIES / Halpern, Emma; Kennan, Hilary; Nijhawan, Nasha -- Halifax, N.S. Law Foundation of Nova Scotia, 2009. **[KB 261 H195 2009]** [Available on NSBS Web site](#)

## PERSONAL INJURIES

THE OATLEY-MCLEISH GUIDE TO ANATOMY AND IMPAIRMENT / McLeish, John A; Oatley, Roger G; Law Society of Upper Canada -- Markham, Ont. LexisNexis Butterworths, 2009. **[KB 181 M163O 2009]**

## POWER OF ATTORNEY

ENDURING POWERS OF ATTORNEY: AREAS FOR REFORM / Manitoba. Law Reform Commission -- Winnipeg, Man. The Commission, 2008. **[KB 103 .P8 M266 2008 no.117]**

## SENTENCES

THE SENTENCING CODE OF CANADA : PRINCIPLES AND OBJECTIVES / Renaud, Gilles -- Markham, Ont. LexisNexis Butterworths, 2009. **[KB 92.S47 R395 2009]**

## SMALL CLAIMS COURTS

EVALUATION OF THE NOVA SCOTIA SMALL CLAIMS COURT : FINAL REPORT TO THE NOVA SCOTIA LAW REFORM COMMISSION / Patry, Marc W; Stinson, Veronica; Smith, Steven M -- Halifax, N.S. Saint Mary's University. Faculty of Graduate Studies and Research, 2009. **[KB 85 P314 2009]**

## VENDORS AND PURCHASERS

CONTRACTS FOR THE SALE AND PURCHASE OF LAND: PURCHASERS' REMEDIES / Alberta. Law Reform Institute -- Edmonton, Alta. The Institute, 2009. **[KB 172 A333 2009 no.21]**

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## Real Property Case Commentators needed for *Nova Scotia Law News*

Are you interested in sharing your views on recent, significant decisions from the Nova Scotia courts? Would you like to see your work published in *Nova Scotia Law News* and Secondary Sources, Library & Information Services' online article database?

Library & Information Services is looking for experienced **Real Property** practitioners to write case comments for the *Nova Scotia Law News*. For more information, please contact Barbara Campbell, Director of Library & Information Services, by telephoning 425-2665 (BOOK), toll-free at 1-866-219-1202, or by sending an e-mail to [bcampbel@nsbs.org](mailto:bcampbel@nsbs.org).

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## Borrowing books, online help, reference questions – call us toll-free

For all information requests, members may contact Library & Information Services by telephone at **1-866-219-1202 (toll-free)** or 902-425-BOOK (2665), by fax at 902-422-1697, or by e-mail at [nsbslib@nsbs.org](mailto:nsbslib@nsbs.org).



## :: NEW DECISIONS ::

*Library & Information Services - Keeping you informed*

### **NEW DECISIONS** for the week ending May 22, 2009

*Fader v. Misner*, No. 1201-54724, Legere-Sers, J., May 20, 2009. 2009 NSSC 159; [S592/8](#)

*R. v. Baker*, No. 1663634; 1663635, Batiot, J.P.C., October 31, 2008; October 14, 2008 (orally). 2008 NSPC 64; [M19](#)

*R. v. Boudreau et al.*, No. 1873299; 1873300; 1873302; 1873304; 1873301; 1873303; 1873296; 1873297, Batiot, J.P.C., October 8, 2008. 2008 NSPC 69; [M19](#)

*R. v. Elliott, C.* No. 1634089; 1634090; 1642769; 1642770, Batiot, J.P.C., January 28, 2009. 2009 NSPC 5; [M19](#)

*R. v. Clarke*, No. 1771901; 1771902; 1771903, Batiot, J.P.C., January 8, 2009. 2009 NSPC 24; [M19](#)

**ADMINISTRATIVE LAW – Boards and tribunals - appeal, jurisdiction of Marketing Council** *Nova Scotia Turkey Producer's Marketing Board v. Nova Scotia (Attorney General) et al.*, C.A. No. 298746, Fichaud, J.A., May 15, 2009. 2009 NSCA 49; [S593/1](#)

**ADMINISTRATIVE LAW – Freedom of information - list of electricians** *B. (A.) et al. v. Griffiths et al.*, C.A. No. 296736, Oland, J.A., May 14, 2009. 2009 NSCA 48; [S588/31](#)

**BARRISTERS AND SOLICITORS – Fees - taxation** *Reierson Schurman v. MacKay*, S.C.C.H. No. 303762, Richardson, Adjudicator, May 5, 2009. 2009 NSSM 13; [SmCI12/29](#)

A law firm sued for payment of an outstanding account. The firm claimed a former client owed \$8,229 in fees/disbursements and \$8,898.12 in interest (24 per cent per annum for four and a half years). The firm had written off the debt as of December 31, 2004, for tax purposes, but continued to seek payment from the client. The only account filed by the firm showed a total of \$702 in fees, plus an outstanding account of \$7,526.98. There were no documents tendered to show an accounting of how/when any pre-payments were used (including the original \$2,000 retainer and a \$1,000 payment). The lawyer testified those pre-payments were used to satisfy fees billed earlier. Held, claim allowed in the amount of \$5,229 (fees/disbursements minus the \$2,000 retainer and a \$1,000 payment, which were credited against the total amount claimed). This was essentially a taxation by the court, given that a firm can only sue for collection of reasonable and lawful accounts (s. 66 Legal Profession Act). As for interest, while the retainer agreement provided for interest of two per cent monthly, the court was only prepared to allow interest for one year at that rate. A claimant who claims interest must take reasonable steps to enforce the debt upon which it is based. This is especially so in the case of a debt in respect of a lawyer's account, which cannot be precisely quantified until it is taxed by a court. Had the firm moved more quickly/forcefully, it could have enforced the debt within a year - allowing six months for negotiating and six months to get to a hearing.

**CRIMINAL LAW – Cruelty to animals - abuse of process** *R. v. Bailey et al.*, No. 1845756; 1845758; 1845760; 1842487; 1842580; 1845755; 1845757; 1845759, Batiot, J.P.C., January 29, 2009. 2009 NSPC 3; [M19](#)

**CRIMINAL LAW – Impaired driving - appeal** *R. v. Spinney*, Yar. No. 292741, LeBlanc, J., April 17, 2009. 2009 NSSC

127; [S592/7](#)

**CRIMINAL LAW – Sentence - appeal, joint recommendation accepted** *R. v. McCabe*, C.A.C. No. 304329, Bateman, J.A., May 19, 2009. 2009 NSCA 50; [S593/2](#)

**FAMILY LAW – Custody - shared parenting schedule** *Baker-Warren v. Denault*, No. 10830, Forgeron, J., May 12, 2009. 2009 NSSC 59; [S592/5](#)

**FAMILY LAW – Custody - status quo** *D. (T.) v. D. (E.)*, F.L.B.M.C.A. No. 015514, Dyer, J.F.C., March 1, 2005. 2005 NSFC 32; [FC37](#)

At issue were parenting arrangements for the parties' then eight-year-old son. The father, who lived in Chester, proposed a shared parenting arrangement on a week-on/week-off basis. The mother, who lived in Bridgewater near the child's French school, wanted to retain primary care and continue the parties' liberal access arrangement (which saw the son living with the father every weekend). On weekdays, the father worked 11-12 hrs/day and proposed to have his mother provide childcare. He also spent a great deal of time sleeping over at his girlfriend's home in Dartmouth. The mother was unemployed and did not require child care. The father had concerns about her common-law partner (RW) and did not want the son left in RW's care. The mother had no concerns about the father's girlfriend, but did not want the son sleeping over on school nights given the distance to his school. There was a long history of hostility and distrust between the parents. Held, child will live primarily with his mother, exercise access with his father every weekend, and won't be left with RW (unsupervised). The court spent some time considering shared custody situations and found it would be unsuitable/unhealthy to impose a shared parenting regime since: the parents were so angry with each other (causing the court to question whether their joint custody arrangement could continue to prove workable); they did not live near each other; and there was no independent, collateral evidence to support a change. The status quo had proven workable/practical, and the mother was more than willing to facilitate liberal access for the father, provided it did not interfere with the child's school attendance. The father failed to establish that a change would advance the child's interests.

**INCOME TAX – Tax evasion - appeal of judge's decision to acquit rather than order new trial** *R. v. MacNeil*, C.A.C. No. 303681, Hamilton, J.A., May 12, 2009. 2009 NSCA 46; [S588/29](#)

**MAINTENANCE – Child support - calculation of father's income, corporate net income** *Bembridge v. Bembridge*, No. 1202-001365; S.A.M.D. No. 028095, MacDonald, B. J., May 15, 2009. 2009 NSSC 158; [S592/6](#)

**MAINTENANCE – Spousal support - variation, change in circumstances** *Gildart v. Gildart*, No. 1201-058154; S.F.H.D. No. 028448, Ferguson, A.C.J., April 29, 2009. 2009 NSSC 134; [S592/4](#)

The parties agreed the wife was entitled to ongoing spousal support in the amount provided for in the corollary relief judgement (CRJ). She was receiving treatment for cancer. The husband was the only one supporting the adult children in their educational endeavours (despite the CRJ providing for a sharing of costs). He sought to vary (lower) payments solely based on a reduction in his income. His new wife worked but contributed minimally to household expenses, and his statement of expenses showed a monthly deficit of \$8,000 (excluding his spousal support obligation). While the wife did not dispute the husband's reduction in income, she claimed he still had an ability to pay, pointing to: (1) his self-employment, which allowed him deductions and the ability to avoid expenses of salaried employees earning a similar income; (2) his having acquired new property, which should be considered in determining his ability to pay; (3) the fact his child support obligation was soon ending; and (4) his spouses' ability to shoulder more of the financial burden. Held, application to vary granted; spousal support payments lowered from \$3,300 to \$1,800 per month. Even acknowledging that his new spouse should be contributing more to the household finances, and taking into account his ability to claim self-employment expenses, the husband's drastic reduction in income warranted a reduction of spousal support. Looking at the Spousal Support Advisory Guidelines, the parties' incomes and the husband's current child support obligations - he should be required to provide between \$1,266 and \$1,692. There was no comment as to whether spousal support can be varied when the husband's child support obligation comes to an end.

**PRACTICE – Statement of claim - striking out where no justifiable issue** *Cape Breton (Regional Municipality) v. Nova Scotia (Attorney General)*, C.A. No. 296232, MacDonald, M. C.J., May 8, 2009. 2009 NSCA 44; [S588/28](#)

The municipality appealed the trial court's decision to summarily strike their claim against the province, pursuant to R14.25 of the Civil Procedure Rules (1972). At trial, the municipality argued s. 36 of the Constitution Act compels the province to take appropriate steps to alleviate regional disparities. Arguing this is an enforceable obligation that was breached by the province, the municipality sought a declaration from the court to that effect. The municipality's arguments on appeal focused on the justiciability of s. 36. The province concentrated on the fact the judge had dismissed based on deficiencies in the pleadings, calling the municipality's claim too vague to succeed. Held, appeal dismissed. The effective standard of review is correctness - whether the judge erred in law by striking the claim. The appeal court carefully framed the issues, and examined s. 36 (its' intent, and application). R14.25 is a drastic remedy, and the trial judge was aware the province had a high threshold to meet in order to have the claim struck. While s. 36 might be justiciable, it does not provide an enforceable right to municipalities. Rather, it embodies an agreement among federal and provincial governments, and only those parties who were privy to the agreement can act to have it enforced. On this basis, the municipality's claim had no chance of success and the trial judge was correct to dismiss it.

**PRACTICE – Summary judgment - appeal allowed, error in law resulting in injustice** *Young v. Meery*, C.A. No. 301038, Saunders, J.A., May 13, 2009. 2009 NSCA 47; [S588/30](#)

## SUPREME COURT of CANADA — recent decisions

*Library & Information Services - Keeping you informed*

### Recent Decisions from the Supreme Court of Canada

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.

May 22, 2009

#### [R. v. Middleton](#)

Neutral citation: [2009 SCC 21 \(CanLII\)](#), 2009 SCC 21

File No.: 32138

2009: January 20; 2009: May 22.

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

On appeal from the Court of Appeal for Ontario

*Criminal law — Sentencing — Conditional Sentences — Intermittent sentences — Accused convicted of assault causing bodily harm, uttering a death threat and pointing a firearm and receiving 90-day sentence of imprisonment to be served intermittently plus two concurrent 18-month conditional sentences to be served in community plus probation — Whether imposition of conditional sentence of more than 90 days renders intermittent sentence illegal — Whether intermittent sentence must be served on consecutive days — Whether conditional sentence is “sentence of imprisonment” within meaning of s. 732(1) of Criminal Code — Criminal Code, R.S.C. 1985, c. C-46, s. 732(1), (3) — Corrections and Conditional Release Act, S.C. 1992, c. 20, s. 139.*

The accused was sentenced to 90 days' imprisonment, to be served intermittently, for an assault causing bodily harm committed in September 2004. At the same hearing, he was immediately thereafter sentenced to two concurrent 18-month conditional sentences for uttering a death threat and pointing a firearm in February 2005. The trial judge also ordered three years' probation. The Court of Appeal held that the imposition of the conditional sentences in addition to the intermittent sentence did not render the intermittent sentence unlawful in virtue of s. 732(1) of the *Criminal Code*. It held also that because the intermittent sentence preceded the conditional sentences, and the trial judge did not order

otherwise, s. 732(3) of the *Code* required the accused to serve the 90-day sentence on consecutive days. The balance of the sentence remained unchanged.

*Held* (Cromwell J. dissenting in part): The appeal should be allowed and the sentences imposed by the trial judge affirmed.

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The House dissolved May 5, 2009.

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