

# NOVA VOICE



Volume 33, No. 3, Spring 2015

The Voice of the Legal Profession in Nova Scotia

**ABS and  
A2J**

**Going it  
Alone**

**IWD:  
We Made  
it Happen**

**A Toast  
to Spring!**



# PRESIDENT'S REPORT



By **DAVID CAMERON**  
Burchells LLP

February marked the 25th anniversary of what may be the most important legal initiative undertaken in Nova Scotia within this time frame, the Indigenous Black & Mi'kmaq Initiative, established in 1989. The Initiative resulted from efforts of the African Nova Scotian communities and Mi'kmaq First Nations to obtain access to legal education and the legal profession. To date, more than 150 black and aboriginal students have graduated and have proceeded to carry on the practice of law among private law firms, aboriginal organizations, and governments.

On March 6, 2015, our Branch joined over 300 people at the Westin Hotel for the Initiative's 25th Anniversary Gala Dinner, an event that followed a well attended and thoughtful symposium, "Reflections on the Donald Marshall Jr. Inquiry – and the Next 25 Years of Justice for Our Communities". On behalf of our Branch, I extend our congratulations both to those who have held leadership roles in the Initiative and those who have benefited from its establishment. We extend also our best wishes for continued success of the Initiative over the next 25 years.

The IB&M celebrations followed the CBA's Mid-Winter meeting held in Ottawa from February 20 – 22, 2015. Those of us from Nova Scotia in attendance, were able to congratulate Mick Ryan on his receipt of the CBA's 2015 Louis St. Laurent Award of Excellence. In the less than 25 years since the award has been in existence, Nova Scotians now have received it four times, beginning with Justice Cromwell (1992), followed by Jack Innes (2000), Dan MacRury (2012) and now Mick. (We do punch above our weight at the National level!). At the dinner at which Mick accepted the award, he spoke appreciatively, enthusiastically, and thoughtfully about the benefits and highlights of his 42 years as a CBA member. By the conclusion of his remarks, he left no doubt in anyone's mind as to why the selection committee had chosen him to receive this distinguished award.

Last, and for those members who live in the Cape Breton Regional Municipality, I am pleased to advise that our Executive intends to meet in your area and host a reception following the 2015 National Aboriginal Law Conference being held in Membertou from June 10 – 12, 2015. Keep an eye out for further details – and our Executive looks forward to seeing you there!

## Editorial Board

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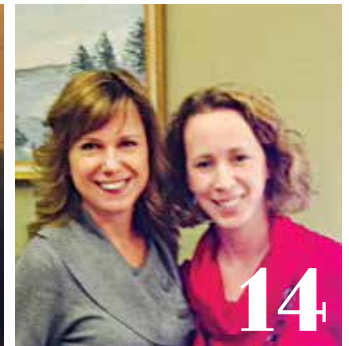
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# Get Your Toolbox Out! Time to Hang Out Your Own Shingle

By **TARA MILLER**

On February 19, the WLF gathered to hear from, and celebrate, three female lawyers who created their own legal practices. Corinne Boudreau of Two Certainties Law, Kate Seaman of Nathanson Seaman Watts and Elizabeth Wozniak of Elizabeth Wozniak Inc. – Canadian Immigration Lawyers shared their experience and advice in opening their own firms. With over 40 years of experience between the three panelists, WLF members left with many valuable and practical tips for success, and a musical serenade to boot!

All three panelists addressed many similar themes through their discussions which included the following tips:

## Getting Started:

- Start with “Why?” – Simon Sinek’s *“Start with Why”* will help you identify the purpose, cause or belief which inspires you to do what you do. While you may find your current practice model unenjoyable and a little “soul-sucking”, find out what you are passionate about and pursue that.
- Think like an Entrepreneur – Use available resources like the Centre for Entrepreneurship Education and Development (CEED) and Centre for Women and Business in Nova Scotia to help you think like an entrepreneur. There are more women creating businesses than men and many resources to help create one’s own law practice.
- Do a Business Plan – Creating and running your own law practice can be a lot like riding a roller coaster. Develop a business plan and do financial projections with a focus on targeting your market. Marketing efforts can include a monthly newsletter such as “Death & Taxes” which are the two life certainties Corrine’s firm is built on.

## Setting Up How Your Firm Operates:

- Use Technology – Do research on what technology works best for your firm needs. There are many helpful products such as PCLaw. Accounting can be done online or by hiring an accounting firm that sends a bookkeeper once a month. Software like Dragon Dictates and/or virtual assistants can also help streamline staff needs. Follow legal websites and blogs (such as Lawyerist) which focus on technology products for law firms to see what has worked for others.
- Consider Alternate Billing Models – Firms can operate

without the traditional billable hour model. The future of law will be changing with possible deregulation and firms need to respond to this proactively by responding to client needs. Flat rate fees are very attractive for clients and work well. Liz’s immigration clients are billed solely on a flat rate basis with all lawyers in her office collaborating on every file.

- Research Government Grants – There are many opportunities to access government funding for staff starting out.
- What Your Day Looks Like – Owning and running your own legal firm will mean your day is not filled with solely practicing law. HR issues, accounting, paperwork and succession planning are all issues that may take up a lot of your time.

## The Space, The Staff and The Clients!

- Minimize Overhead – Stay away from fancy overhead which will result in increased costs. Shared space, virtual offices, etc. allow new firms to keep costs down and not compromise the quality of legal service you provide.
- Consider Staff Carefully – When starting out and working in a small firm, it is crucial that those you work with work well with you. “Hire slow, fire fast.”
- Focus on Service – Providing quality service to clients by doing meaningful work will ensure you are always rewarded professionally.
- Marketing – While marketing should form part of your business plan, it will happen naturally through word of mouth from clients. The quality of your work and the service you provide will be reflected in referrals from existing or past clients. Other lawyers will also refer clients to you if you specialize in a specific area. Kate often receives referrals for family law clients from lawyers in her community who do not practice in this area.

With women continuing to leave the practice of law, it was inspiring to hear the experiences of those who created a way to practice and own their own business at the same time. These women found their “Why”, created business plans and used their entrepreneurial spirit to build successful rewarding firms where they are their own bosses.

*Sections Spotlight is a recurring feature focusing on a recent meeting or initiative of a CBA-NS section.*

# Innovative Legal Services Delivery – The Opportunities in Nova Scotia



By **DARREL PINK**

Nova Scotia  
Barristers' Society

As part of the Nova Scotia Barristers' Society strategic direction to transform legal regulation in the province, we have been working with the CBA-NS to discuss where the CBA's Futures Report and our work are aligned. There is a significant symbiosis between the two initiatives that has been the subject of a series of discussions at both the

Professional Development Day and a series of workshops co-hosted by the Branch and the Society.

Space does not allow for an exhaustive list of the changes that have caused the Society to undertake this work. They include the rapid growth of technology, the changing demographics of the Bar in Nova Scotia (aging and concentrated in urban centres), global issues relating to both the nature of work and the nature of clients, the growth of in-house counsel and legal services delivery, the changing expectations of clients (for unbundled and specialized services) and the access to justice imperative.

When an analysis of our regulatory model, which was designed in a very different era, was undertaken the Society concluded that a fresh look at what we do and how we do it is necessary.

Council has approved new Regulatory Objectives that are driving our plan. They are:

1. Protect those who use legal services.
2. Promote the rule of law and the public interest in the justice system.
3. Promote access to legal services and the justice system.
4. Establish required standards for professional responsibility and competence in the delivery of legal services.
5. Promote diversity, inclusion, substantive

equality and freedom from discrimination in the delivery of legal services and the justice system.

6. Regulate in a manner that is proactive, principled and proportionate.

The final objective is most relevant to our innovation work. It refers to regulation that is proactive as opposed to reactive; principled rather than purely rules based; and proportionate, so that regulation can be tailored to the various types of practice in which lawyers are engaged, based on the risks involved. We plan to dramatically change how we operate.

It is this approach that is allowing for a discussion about how lawyers can innovate in the delivery of legal services, and whether there are changes in the regulatory model that would enable greater innovation. Innovation has been described as doing new things; doing things differently; experimenting, testing, validating; increasing access to legal services without compromising core values of the profession.

The issues being raised include matters such as fee sharing, so that lawyers and other professionals might enter into a joint retainer with a client; multidisciplinary practices; enhanced use of technology to reduce overheads and allow for more virtual or cloud-based practice; an expansion of the corporate models that would allow lawyers to organize their businesses differently; and generally thinking outside of the box.

It is in the best interest of the public and the profession if lawyers are able to consider and develop new methods of legal services delivery. The Society's goal is to enable new opportunities in Nova Scotia and we will continue to engage with the profession to achieve this result. All ideas are welcome; nothing is too radical to be considered. Follow our work and join the conversations at [nsbs.org/transform-regulation](http://nsbs.org/transform-regulation).

*Trending is a recurring feature focusing on a new development in the law.*

# Proposed Legislation To End Parole for Certain Offences

*\*The views expressed herein are my own and not those of Nova Scotia Legal Aid*



By **ROB GREGAN**

Nova Scotia Legal Aid

**Man, when perfected is the best of animals, but when separated from law and justice he is the worst of all.**  
– *Aristotle*

It appears that in recent proposed legislation, the federal government is trying very hard to reduce people who have been convicted of certain criminal offences to seem like animals of the worst kind.

Legislation passed in 2011 took away the “faint hope” that those who have committed the most serious of offences may be rehabilitated and permitted to ask for the opportunity to apply for parole after 15 years instead of the mandatory 25 years.

The new legislation is aimed at preventing parole for these types of matters **full stop**.

The logic of this tough on crime approach not only ignores but contradicts several important facts:

1. Statistics show that violent crime is at its lowest level in decades.
2. It assumes that lawyers, judges, and juries are incapable of exercising good judgment.
3. Ignores the human and financial cost that longer sentences have upon the prison system.

To analyze the ramifications of the proposed legislation one only has to look at the decision to eliminate the faint hope provisions.

The reasons cited for eliminating the right to apply after 2011 was that too many applications were being brought forward by inmates that were without merit thus causing the family of victims to endure frivolous proceedings.

This assumption is however completely incorrect. Statistics show that in excess of 80% of faint hope applications are actually successful. The reason for this? All applications for Faint Hope must be pre-screened by a judge, and the applicant must convince the court that there is a reasonable likelihood of success.

In addition, if the court allows the application to succeed, a jury is empaneled to hear the matter, and it must unanimously conclude that early parole should be granted. The stakes are also high for the inmate making the application. If the jury denies the application, it can recommend that the offender not be able to make another application.

Having been involved in a faint hope application, the elimination of the process has dealt a very serious blow to the offender, but has also deprived all Canadian communities of the right to judicial oversight

within their community.

As mentioned, a faint hope application must be heard by a jury. It also must be held in the community where the murder occurred. It also mandates the right of the victim’s family to be heard. Unlike at the original trial where in many instances the court did not hear from the accused, to be successful at this application the offender will have to face the jury (community) to explain what she or he did and what changes they have made in their 15 years that would warrant a positive finding by the jury.

It also bears repeating, that what is being asked by the offender, is not to be released, but only the opportunity to apply to a parole board to be released and to be monitored for the rest of their life. Contrary to popular belief, a life sentence in Canada means supervision for life, and the consequences and limits that are imposed with it.

It also is important to note that once an accused is convicted of 1st degree murder, the judge imposing the sentence must impose a sentence of 25 years regardless of the circumstances of the accused. If for instance the accused person was mentally ill but criminally responsible or suffering from PTSD or other mitigating circumstances, the sentencing judge cannot take this into account.

I am sure that the public is probably not aware that for those still eligible for faint hope (those who committed a murder before December of 2011) the legislation eliminating faint hope also is aimed at deterring potential applicants. Those eligible after having served 15 years, must apply within 90 days of being eligible, or else forfeit their right to apply for 5 years.

It is with this background that I now turn to the proposed legislation.

As stated, the proposed legislation would eliminate the right to apply for parole for certain offences full stop. As with the 3 strike rule in states such as California and Texas, it would mean a life sentence without Parole. While many would applaud such a step, what would be the cost in human and financial terms?

On the human side, one only has to look back to the late 1960’s and early 1970’s to recall the plethora of prison riots that occurred in Canada and the United States. Taking away the hope that someone might someday be released is a step back towards that era. As are the minimum sentencing provisions which give judges who are presumed to know the law no discretion.

On the topic of the U.S. it is noteworthy that states like Texas (and others) have done an about face on tough on crime legislation and placed the emphasis instead on rehabilitation. Not because they have gone soft on crime, but for one very simple reason, finances. They simply cannot afford to warehouse people, when instead, for a minimal cost they can

*Continued on next page*

# The Valley: Doorway to Bounty



By **DARREN MACLEOD**

I have practiced law as a legal aid lawyer in the Town of Annapolis Royal and surrounding area for more than 20 years. The experience has been very satisfying from a variety of perspectives; I have been very fortunate to work and live in this part of the province, and I am sure that many rural practitioners feel the same.

The working relationship between lawyers practicing in the western part of the Annapolis Valley is invariably cordial and civil. Though by no means unique to this area, one's word is one's bond and professional relationships of trust and goodwill are preserved and fostered. These professional relationships take on the form of many enduring friendships and associations.

Lawyers' relationships with their clients and others in a rural area also take on special characteristics. It is a small world. I often run into people from my "working life", like Court clerks, judges, lawyers, sheriffs, police officers, and most importantly of all, clients while "out and about" in the community outside of employment hours. One has to try to always remain cordial, respectful and professional to all within this small world.

Places like Annapolis Royal and Digby are rich in history. That said, special challenges are currently facing all of rural Nova Scotia, which have been described in the Ray Ivany Report. There is an out-migration of people (many go to western Canada or more urban areas to work), and there are serious concerns about having a viable, sustainable economy that will allow families to remain in this area. Some of the economic problems and lack of opportunities for young people here manifest themselves in social and legal problems that lawyers practicing in this area confront regularly.

Despite some difficulties for many who live and work in the western Annapolis Valley, life is rewarding and gratifying. It is a great place for families to live and for parents to raise children. It is also a great place to retire. There are no lengthy commutes, traffic jams or line-ups, and beyond the usual professional stresses of being a lawyer, daily life does not seem to have many of the complications and anxieties of an urban existence.

There still is plenty of interesting work for lawyers in this part of Nova Scotia and I would assume it is the same in other rural areas and small towns. As stated these areas are great areas to raise children and to retire.

Given some of the challenges young lawyers face with the declining numbers of "hire-backs", many may be well served exploring a life in rural Nova Scotia. An aging population of lawyers in these areas is hoping to attract young lawyers to begin and hopefully continue practices which have been around for many years. There is a great opportunity for young lawyers to be mentored in these areas and to work with individuals who have practiced with civility in this cordial environment for decades.

To other more senior members of the Bar who may be retiring within the next few years, there is an opportunity to spend their last years of practice and then retire in the beautiful Annapolis Valley or somewhere similar. Many of these small communities offer some of the luxuries of a more urban environment such as fine dining and a vibrant art scene, but in a relaxing rural environment.

Western Annapolis Valley and similar regions of the Province offer many benefits, professionally and personally, for those who have chosen to make a life in such a location. You should consider it, if you haven't already.

*Nova Voices features the viewpoints of lawyers around Nova Scotia.*

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## VIEWPOINT *Continued from previous page*

expand existing programs, and have offenders in the community giving back rather than building and occupying more cages.

At a trial a few years back, a guard working at Federal Institution described walking the corridors of his institution as some of the most dangerous corridors in the country.

Since then as part of my practice, I regularly go into federal institutions to assist inmates with matters.

The number of offenders who face segregation

(time in the hole) for sometimes days if not weeks on end, is staggering as is the number of persons being transferred involuntarily to other institutions with higher security. Both of which stop and recede any progress that has been made for rehabilitation and possible release.

All of which make those corridors more foreboding for those who walk them be they inmates or their keepers.

Mahatma Gandhi once said; "The law an eye

for an eye makes the whole world go blind".

Will Canada with its current tough on crime agenda and proposed legislation remain blind or perhaps turn its eyes towards the US who is taking a long hard look?

Not only because it makes economic sense but also because it is the right thing to do.

***Viewpoint is a recurring feature giving our members the opportunity to share their thoughts and opinions on legislation, decisions, and legal issues making headlines.***

# The Pros and Cons of Mixing Law and Politics



By JENNIFER TAYLOR

Stewart McKelvey

Law and politics would seem to go hand in hand. After all, lawyers study and apply the law, and politicians make the law. So why are lawyers not entering politics at the same rate as they used to?

This was one of many questions on the table at a CBA panel discussion with current and former politicians from all three levels of

government—Megan Leslie, MP for Halifax; Graham Steele, former Nova Scotia MLA and Cabinet Minister; and Charles Cox, former Deputy Mayor for Truro—held at the Schulich School of Law at Dalhousie on March 5, 2015.

All three have used their legal backgrounds in various ways as elected officials. And their insightful comments had a recurring theme: That having a legal background can both help *and* hinder a political career. Here's how.

- **The power of persuasion:** The persuasive advocacy skills you have developed as a lawyer can lend credence to the views you promote as a politician – but a common cultural distrust of lawyers might make your political colleagues wary of you, and reluctant to come on board with what you're proposing.
- **Networking...or not:** For Charles Cox, his approximately 15-year involvement in municipal politics was an invaluable networking opportunity because he was constantly getting his name out and meeting new members of the community. But at the municipal level, he was able to maintain a legal practice while still being an elected town official. This is not the case at the provincial and federal levels, as Graham Steele and Megan Leslie both pointed out – MLAs and MPs are supposed to be full-time elected officials.
- **Conflicts cropping up:** Again, conflicts of interest are much likelier to occur if you're practicing law and politicking at the same time. For this reason, Charles Cox steered clear of planning and development committee work when he was councillor and deputy mayor; there was too much potential for conflicts with his current clients. In addition to ethical minefields, there are also reputational risks to political life –

which could make it difficult to resume a legal practice after you've left politics.

- **Legislative insight:** A legal background certainly helps with the legislative process: You know what a statute is and how to read it, and you can make sound arguments about whether proposed amendments make sense or not. But these days, most nitty-gritty legislative drafting is done by civil servants. Combined with the pressures of constituency work, there may not be much occasion for lawyer-politicians to do hands-on policy development.
- **Job insecurity:** Graham Steele emphasized that there is “zero job security” in politics; shifting tides at the next election could take away what you thought was a whole new career and put you back on the job market. Furthermore, it can be difficult for lawyers leaving provincial and federal politics to rebuild their legal careers after a lengthy absence from practice. Mr Steele advised lawyers to consider making concrete arrangements with their firms or employers about transitioning back if they do not get elected or re-elected.
- **Skills development:** On a related note, lawyers who have been in politics for a lengthy period may find that the legal landscape has changed a lot if they eventually try to re-enter practice. This, Mr Steele suggested, is a big reason why many lawyers don't return to the practice of law when their political career is over. These lawyers are advised to keep future career options in mind, and recognize that they may need to brush up on their legal training if they have been ‘out of the game’ for a long time.

These considerations may seem daunting, but all three panellists were careful not to discourage interested lawyers from entering politics as long as they go in with “eyes wide open.” And there's more than elected office available. Lawyers can also be involved in partisan politics as volunteers; fundraisers; organizers; and registered agents, and can be valuable assets in those roles.

And for those cynical about political involvement of any sort, Graham Steele's words are worth remembering: “Politics matters.”

*Career Compass is a recurring feature focusing on a lifestyle issue of interest to CBA members.*

### Vino!

White, red or blush, there are many who enjoy a nice glass of wine. We are fortunate in Nova Scotia to have access to so many great local wineries, as well as access to a great international airport that can transport us to some of the world's most famous wine-making areas. Aficionado or novice, wine can be a great way to enjoy time with friends, complement the perfect meal and literally enjoy the fruits of your labour, if you are making it yourself. So, grab a glass, take a sip and Santé!



**Nicole LaFosse & Ian Parker, Lafosse MacLeod:**

Many of those that are reading this will not be surprised to learn that we have been asked to talk about our love of wine. We're not sure if this is a good or a bad thing... nevertheless, we're proud to say that our dabbling in wine has become a great hobby and has been of great benefit to us during

this long Cape Breton winter! While we still consider ourselves "wine-rookies," we have been slowly expanding our collection as well as our pallets over recent years. After too many regular trips to the NSLC to purchase individual bottles of wine, we decided to start making our own. In this new venture we have had an opportunity to try many different types of wine, and we have now built up quite a collection. A glass of wine has become a staple in our evening routine and has proven to be an excellent way to unwind after a long day at the office. Although we've had some success with our homemade experiments, our favourite wine remains Nova Scotia's own "Nova 7." To push the boundaries of our hobby, we are travelling to California in May to visit Napa Valley. We look forward to tasting a variety of new-to-us wines while taking in some of the lovely scenery. We certainly expect to reach our customs liquids quota on our return trip!



**Anne McFarlane, Associate Lawyer, McGinty Doucet Walker:**

Honestly, my love affair with wine had a rocky start. I was too much of a goody-goody to try a sip of the bottle passed around on my high school trip to France. Needless to say, wine was not my biggest fan for a while. But once my undergrad roommate-turned-life-long-friend started bringing cheap bottles of pinot grigio into our tiny apartment, I was hooked. In all seriousness, there's no better way to relax after a long week at the office than to crack open a bottle of Nova 7 (my current favourite) with a great group of friends.

**Gregory Englehutt, Associate Lawyer, Parkland Law:** I love the way that wine brings people together. There is no better way to spend time with friends than to share some wine and delicious food. My passion for wine led me to begin making my own wine, which so far has been an enjoyable and rewarding experience. My cheap wine hook-up has also made me a pretty popular guy!

*Outside the Office is a recurring feature focusing on a lifestyle issue of interest to CBA members.*



# Graduate to Opportunity



By **BILLY J. SPARKS**

Getting through law school is only half the battle for today's budding lawyers. Those reading this will likely remember the tremendous amount of stress brought on by searching for articling positions, those that don't remember, you can consider yourself fortunate.

Today's law student faces the daunting prospect of finishing law school with a student debt upwards of \$100k. For some, this debt load is not the only problem. With law schools graduating an increasing amount of students, articling positions are getting harder to find.

You may think articling students are only for the large firms, when in fact, small firms account for 50 percent of articling placements. Regardless, there is still an increasing need for more placements.

It's not all bad news though for prospective articling students. It is becoming easier to become a principal for an articling student: principals must be in good standing and have been practicing for at least five years. Many lawyers may not be aware that although the Society recommends that an Articled Clerk be familiar with both a solicitor's and a barrister's practice, exposure to both is no longer a requirement. In other words, no more "checklist."

Even better news is that there are funding resources out there to assist with paying the salary of an articling clerk. One such resource is the recently implemented Graduate to Opportunity program [GTO]. GTO offers a salary rebate of 25 percent to companies hiring new graduates. Another such initiative is the Work Smarts program, this initiative also provides salary rebates. These programs can help offset the financial impact a firm may experience when hiring an Articled Clerk.

The NSBS, CBANS and the Career Development Office - at the Schulich School of Law are also excellent resources for assisting lawyers willing to help today's students. They can assist with developing education plans, recruitment, and many other issues relating to articling.

Developing an articling program not only benefits the student. A successful program can stimulate the growth of your firm, facilitate succession planning, and reduce workloads. If you have not been a principle to an articling student in the past, now is the perfect opportunity.



THE CANADIAN  
BAR ASSOCIATION

## CBA LEGAL CONFERENCE CALGARY, AB

AUGUST 14-16, 2015



There's no doubt: we could all be better.  
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Join us in Calgary, August 14 to 16, to  
hone the three most vital dimensions of  
your career: the practice, the profession,  
and the personal.

Register today:  
[cbalegalconference.org](http://cbalegalconference.org)

## UPCOMING AWARDS

### Cecilia I. Johnstone Award

<http://www.cba.org/CBA/Awards/women/default.aspx>

The Cecilia I. Johnstone Award recognizes women who have achieved professional excellence in their field and influenced women to pursue legal careers, supported women in career advancement or opened doors for women lawyers in a variety of job settings that historically were closed to them. The next award will be presented bi-annually starting at the WLF Leadership Conference in Vancouver, B.C. (November 20-21, 2015). The application deadline is **April 30, 2015**.

## Spread the Word: April and May are "Bring-A-Buddy" Months

In April and May 2015 consider bringing a non-member buddy to a Section Meeting. Sections provide opportunities for lawyers to further their professional education and to keep ahead of current developments within the profession. The Nova Scotia Branch wants to show non-members what they're missing!! Your buddy must register and pay the registration fee as well. Please help spread the word!

## L&LR Supreme Court decision a win for CBA

The highlight for CBA's advocacy efforts so far this year was the Supreme Court of Canada decision in *Attorney General of Canada v. Federation of Law Societies of Canada*, handed down on Feb. 13, which upheld solicitor-client privilege. The CBA has been fighting the inclusion of lawyers in the Proceeds of Crime (Money Laundering) regime since 1999, and most recently Craig Ferris and Laura Bevan of Lawson Lundell LLP appeared before the high court for the CBA on a pro bono basis to argue that the government's most recent attempt to include lawyers was unconstitutional. Go to [http://www.cba.org/CBA/advocacy/proceeds\\_crime/default.aspx](http://www.cba.org/CBA/advocacy/proceeds_crime/default.aspx) for a history of the CBA's efforts on this file, and links to the various factums on the case.

## Got an opinion and want to share?

Call for writers for the viewpoint column. Viewpoint is a recurring feature giving our members the opportunity to share their thoughts and opinions on legislation, decisions, and legal issues making headlines.

Interested? Contact Tina Tucker, Executive Director, via e-mail: [tina.tucker@cbans.ca](mailto:tina.tucker@cbans.ca)

## CBA International Initiatives 25th Anniversary

CBA International Initiatives kicked off its 25th anniversary year with a celebration of the Chinese New Year and Vietnamese Tet at Mid-Winter. CBA International Initiatives has developed into a core component of the CBA's vision, mission and values, of which CBA members are justifiably proud.

<http://www.cba.org/CBA/newsletters-enevs/2015-articles/international.aspx>

# A Legal Fiction<sup>i</sup>



By ROBERT PATZELT, Q.C.

One day I was trying to explain to my Oma (German for grandmother – pick one from your own background – Nana, Nona, Babushka, etc.) what I did for a living. Like many lawyers, I came from an immigrant family. Many a professional went into accounting, medicine or law, to name a few, to escape the long hours (ha!)

and stress (double ha!) of working in the family business. Before law school I worked in our restaurant. It was open every day but Christmas and my mother's birthday. Everyone in the family from the time you could hold a potato peeler worked in the family business. Again, not a unique circumstance for this is a shared experience with many of my classmates. One of my study group members lived in a small room under the stairs. His parents were potters.<sup>ii</sup>

I did well in law school and articulated with the boutique firm Lerner, Chernin, Winning and More.<sup>iii</sup> It was a great experience but I wanted to have my own shop. Notwithstanding the long hours, I must have had imbedded into me the desire to control one's own future. That is, own your own business. Times were tough but I opened up a kiosk on Barrington Street outside the Misty Moon. Using my legal training combined with my family background I sold small torts. I got some publicity in Frank Magazine for my hand painted sign that said "ARE YOU HUNG JURY?". The money was not big but my overhead was low and billings were steady. Late one night, business was frantic (I recall it being a full moon) and I had just sold out and was getting ready to pack it in. A fight broke out on the sidewalk just after closing. Fists were clenched, punches were thrown, hair was pulled and cuffs were clasped. As a result I picked up a few cases. Everyone knows that in the baking biz the product always tastes better with a pinch of assault. My kiosk was next to the sausage vendor called Pavlov's Dogs. Not only was his bell rung as he took the wurst of the beatings but his stand was seriously damaged and product went missing. Hundreds of dogs were missing and the police said they had no leads. I had to represent him against his insurer who denied payment because they said there was no evidence supporting the quantum of the loss. Again, a solid education, great training and good fortune were a factor and I was successful. I relished the moment. Ivan got his stand operating again and he was happy. The publicity was good for him as he was now the top dog and justice was served. If I can be frank, when the system works everyone is a wiener.

I was able to split from my street vendor business when I got my first divorce case. It was a ground-breaking matrimonial matter. I

represented a husband whose wife claimed that he just did not have the goods to satisfy her. The success of my case rested on the legal maxim *De minimus non curat lex*.<sup>iv</sup> It was an all-round success. We won, I got paid and made a name for myself. Business was booming. I finally could afford a real office with doors, carpet, windows (8) and everything.

Life was good. I bought a house. It is great to have one's own legal pad. I eventually got married and I was as prolific in the family way as I was in my work. We now have three children: Scout,<sup>v</sup> Sue and Lexis. Lexis is being particularly difficult as I am writing this article as she won't nap. In brief, she is resisting a rest. I resort to the old standby – let her watch a movie. Our children love the Disney classics: Beauty and the Beast, Cinderella and Lion King but naturally their favorite is Finding Nemo Dat.

Lexis is now asleep and Oma I are finally having a chat. She tells me I am a good boy but why can't I be more like my brother. She tells me how he comes by now and then to wash her car. I remind her that I bought her that car. She goes on and on about some recent legal decisions she has read about in the paper and declares that she would have been a good judge. I explain that since justice is blind and due to her cataracts she is qualified in at least one way. She says to me that she does not have a cataract, she drives a Lexus. She is a smart lady and I can never tell if she is messing with me or not.

She smiles at me the way only a grandmother can and she says "I am very proud of you. No one knows what lawyers do but it must be important because there are so many of you." You take the compliments when you can get them. You have to respect her. She has seen it all. Escaped war from the old country, made a new life in Canada. With my grandfather started the restaurant and during Prohibition even made whiskey. I love her still. I thank her and tell her I have to go. She says "By the way, the garage scratched the side of my Lexus, would you be a dear and get that fixed. Plus you can also change the oil." I told her that I would take care of it. Not only because I love her but if you do these things they turn out for everyone. After all "oils well that ends well."

**Robert Patzelt is a long-standing CBA member and regular contributor to Nova Voce. Ex Animo means "From the Heart."**

<sup>i</sup>Everything in this story is made up except that I came from an immigrant family, went to law school and Gail is my friend. The genesis for this story came to me in the airport. Most Mondays I now get up at 4:30am to commute to my main office in Montreal. I have another in Newfoundland. One pun led to another and then I could not get them out of my head so I wrote it down so I could share the pain with you. The pun is considered by some to be the lowest form of humour – thus it is the foundation of all.

<sup>ii</sup>Reference to the Harry Potter books by J.K Rowling.

<sup>iii</sup>Homage to my very good friend Gail Rudderham-Chernin.

<sup>iv</sup>The law does not concern itself with small things (trifles).

<sup>v</sup>Homage to To Kill a Mockingbird by Harper Lee. Scout is the daughter of the great jurist Atticus Finch in the story.

# Community Service – it’s not just for celebrity convicts anymore!



By JOHN UNDERHILL

In January, I was honoured to receive this year’s CBA-NS Community Service Award. Recently, I was asked to share with you my thoughts about volunteering.

I’m probably a lot like most of you. I have a busy litigation practice, a wife, two teenaged children, and not enough hours in the week. So I

wasn’t looking for more to do. But somehow, slowly but surely, I was drawn into a number of small commitments, one task at a time.

First came the Naval Reserve. As a naval officer before law school, two nights a week and a weekend a month seemed a small price to pay to maintain my connections. A few years in, I saw a photo of some National Guard soldiers in Iraq, holding a sign which read “Two weekends a month, my a\*\*!” That’s me, I thought! In 2003, I took nine months off to serve as the Executive Officer (second in command) of a coastal defence vessel. Returning home, my wife said, “That’s it, you’re done. You’re never going to sea again, right?” Thinking ahead to the next step, I asked, “What if I qualify for command?” When she replied, “You can ask your next wife,” I knew it was time to get out!

Not wanting to leave my son alone at Beavers for the first time, I hung around, and was quickly “voluntold” into reading a story. Weeks later I was a leader, then a Cub and Scout leader, and ten years later I’m still with the Group as Registrar.

Next was the community band, where I played the trumpet for a few relaxing hours each week. When the music school went bankrupt, some suggested we form a society, so of course I pitched in to draft the incorporation documents and signed the MOA as a director. Six years later, I am still the President!

The trumpet also drew me into both my local church choir (one Easter twenty years ago turned into a regular Sunday gig) and Terminal Road, the Department of Justice entry in Rock For Dimes, an annual “Battle of the Bands” charity fundraiser.

Then five years on the Board of the Legal Information Society, because, well, getting basic legal information into the hands of Nova Scotians is a worthy, necessary cause, and one in which I believe very strongly.

Finally, there was hockey, where both my children’s teams needed assistant coaches. I’m at the rink already, right?

Winston Churchill once said, “We make a living by what we get, but we make a life by what we give.” More recently, Tom Brokaw said, “It’s easy to make a buck. It’s a lot tougher to make a difference.” Wonderful, inspiring words, but where to find the time? Well, we’ve all heard “Do what you love, and the money will follow.” I say, get out there, take care of yourself by making the time for something you love, be it a hobby, sport, or other pastime. Then, look for a way to give back to it. It won’t be hard to find, and you’ll never regret it.

***Giving Back is a recurring feature highlighting the community service of Nova Scotia Lawyers.***

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# Michelle Chan

**Called to the bar:** British Columbia-2013, Nova Scotia-2014

**Firm:** Pink Larkin

**Area of Practice:** Labour & Employment law, Administrative law with some Aboriginal and Criminal law work.

**Describe your professional experience to date:** During law school, I spent a summer in the Yukon Territory working at the territorial Department of Justice in the areas of environmental and aboriginal law. I also worked as a research assistant for two administrative law professors during the academic year.

Upon graduating, I clerked for the Honourable Justice Phelan of the Federal Court in Ottawa. I then completed the remainder of my articles in BC with a firm practicing aboriginal law.

In 2014, I moved to Nova Scotia and joined Pink Larkin where I have been practicing since.

**Describe your current practice:** I assist senior lawyers in providing legal and strategic advice to clients and representing clients before courts and various labour and administrative tribunals, grievance arbitrators and professional regulatory bodies. I have worked on matters involving unfair labour practice complaints, complaints against unions, interest arbitrations, union certification applications as well as human rights and discrimination cases.

**Describe the unique qualities you bring to your practice:** I think I have a diverse background and varied experiences which enable me to bring different perspectives to an issue as well as providing context for understanding new problems.

While I grew up in Toronto, I have studied or worked in New York, London, New Zealand, Ghana and briefly, India. I also obtained a Masters degree in international development before attending law school and have worked in a variety of positions from farm hand in rural New Zealand to research assistant at the United Nations University in Ghana.

**Describe your past and present involvement with the CBA:** To date, I have been attending the meetings and functions of several CBA sections to get a sense of the different groups.

Although I am new to the province and to the Nova Scotia Bar, I would like to become more actively involved with the CBA in the future, particularly with respect to equality initiatives and bringing more diversity to the profession.

**What other activities and volunteer pursuits occupy your time?** When not working, I volunteer as a tutor with an adult literacy and ESL organization at the Halifax Public Libraries.

I also love spending time outdoors and have been exploring the



parks, campsites and hiking trails of this beautiful (but snowy!) province.

**Why did you decide to practice law? What brought you to a practice in Nova Scotia?** I have always wanted to pursue a career where I would have the opportunity to contribute to creating a more equal and just society and I think practicing law is one way to make both the everyday and systemic changes that I view as valuable.

Beyond this, I like the fact that practicing law means that I am constantly challenged to learn new things and explore different ideas.

As for moving to Nova Scotia, my partner and I both wanted to live near the ocean and to have the time for, and access to, the outdoor activities we love. We already had a couple of friends living in Halifax so when I heard about an opportunity with Pink Larkin, we packed our belongings and moved from one side of the country to the other.

**What words of wisdom do you have for new lawyers?** I think it is really important to have good mentors when starting in any profession but especially in law, where many key skills are learned “on the job.” Finding good mentors can make a significant difference in the first few years of practice both in terms of the skills you learn and also your sense of satisfaction in practice.



By JENNIFER K. REID

# Making it Happen

In recognition of International Women's Day, the WLF of the CBA-NS invited those in the legal community and beyond to join in the 3rd Annual International Women's Day Collection Drive for women's shelters and transition homes across the province. On March 5, 2015, law offices throughout Nova Scotia generously acted as drop-off centres, and together collected donations from lawyers and many other professionals of over \$6,500 in gift cards, cash and cheques, as well as many donations of specific items that are in high demand at the shelters.

The theme for International Women's Day this year was "Make it Happen" and it was all about encouraging effective action for advancing and recognizing women.

Women and children fleeing from domestic violence might leave the house with nothing but the clothes on their back. These organizations do more than provide a roof; they provide support and many services, from counseling, to self-defence, to longer term housing, to life skills leading to empowerment and independence. These organizations rely greatly on charitable donations to assist women and children and carry out equality seeking prevention initiatives.

Representatives of local women's shelters were in attendance at the collection sites to receive the donations and answer questions. At Casey Rodgers I had the privilege of meeting representatives from Adsum House, Alice Housing and Bryony House. I was struck by stories of the impact of the donations, like the joy on someone's face when they receive a grocery store gift card and can go and buy food for themselves and their children. The stories I heard from the women I met were moving, and I know similar words and expressions of gratitude were heard across the province.

Plans are already under way for a 4th Annual International Women's Day with hope to continue expanding this event. For this year, our sincere appreciation goes out to the following lawyers, firms and organizations who, without hesitation, opened their doors and promoted this project:



## Collecting on behalf of Adsum House, Alice Housing and Bryony House:

- Boyne Clarke LLP – Rebecca Hiltz LeBlanc
- Casey Rodgers Chisholm Penny Duggan LLP
- Gillis & Associates – Barbara Darby
- NS Public Prosecution Service Offices- Halifax, Amherst, Bridgewater and Yarmouth - Susan MacKay, Janet Jury, Anneka Lawless, Patricia Ann Rankin, Sally Balcom and Lori Adams
- Stewart McKelvey – Tyana Caplan
- Schulich School of Law – Sarah Kirby

## Collecting on behalf of Tearman House:

- MacIntosh MacDonnell MacDonald - Sarah MacIntosh

## Collecting on behalf of Juniper House:

- Muise Law Inc. - Lynette Muise
- NS Public Prosecution Service Offices- Halifax, Amherst, Bridgewater and Yarmouth - Susan MacKay, Janet Jury, Anneka Lawless, Patricia Ann Rankin, Sally Balcom and Lori Adams

## Collecting on behalf of Naomi Society, Cape Breton Transition House and Waycobah Centre:

- NS Legal Aid offices in Port Hawkesbury, Antigonish and Sydney - Tracy Sturme, Cindy Murray and Annmarie MacInnes
- Sampson McDougall - Jessica Drohan

## Collecting on behalf of Harbour House:

- NS Public Prosecution Service Crown Attorneys' Offices- Halifax, Amherst, Bridgewater and Yarmouth - Susan MacKay, Janet Jury, Anneka Lawless, Patricia Ann Rankin, Sally Balcom and Lori Adams

## Collecting on behalf of Mi'kmaw Family Healing Centre and Third Place:

- Patterson Law - Ann Levangie and Denise Miller

## Collecting on behalf of Chrysalis House:

- Waterbury Newton - Trinda L. Ernst, Q.C.

# Where Have All the Women Lawyers Gone? This One's Gone Skiing

By GAIL GATCHALIAN

Pink Larkin

Too many women leave the private practice of law. Women leave at a higher rate than men. This is a long-standing problem (see Justice Bertha Wilson's 1993 report for the CBA on gender equality in the legal profession) and an international one (see the Law Council of Australia's 2013 National Attrition and Re-Engagement Study Report).

It is a problem we are experiencing here in Nova Scotia: only 38.4% of practicing lawyers are women, and only 23% of partners are women: Nova Scotia Barristers' Society Statistical Snapshot, Autumn 2014. There are 352 partners who are men, and only 105 are women. For every female partner in Nova Scotia, there are over 3 male partners!

This underrepresentation of women in law firms is a problem for many reasons. For one, the loss of women from private practice represents a tremendous cost for firms in lost talent, promise and investment.

The exodus of women from private practice is driven by many factors, only one of which is work-life balance, but also includes job dissatisfaction and law firm economics.

My plan for this article was to review all of the recent literature on the attrition of women lawyers in private practice – and there is no shortage, for example: Professor Fiona Kay's 2013 report to the Law Society of Upper Canada, *Leaving Law and Barriers to Re-entry: A Study of Departures from and Re-entries to Private Practice*.

But I have a problem. The only time I have left to do the reading and prepare the article before the deadline is Friday of this week, and I promised my 10-year old daughter that I would take her skiing on Friday. So I cancelled on her. Just kidding! I am going to take the day off, and write something more informed on the retention of women lawyers for the next issue. For now, I am going to make a decision that enhances the retention of this particular lawyer in private practice.

## Do you self-ID?

### Diversity means everybody

With guidance from the Equality Committee, the CBA has instituted self-identification questions to all members on annual membership renewals, which will afford us a much better understanding of the association's demographic make-up.

So if you thought that we didn't want to hear from members who are not from historically under-represented groups, think again.

Knowing the composition of our current membership will help ensure that we remain relevant to all of our members. Over time, the data will also allow us to measure the success of our efforts at diversity and inclusion. With similar initiatives occurring across the country at various law societies, we will be able to compare our membership to that of the legal profession as a whole.

To self-identify, go to <http://www.cbamembership.org/> and select the Update Profile tab

## Joanne Dormody, Office Administrator



Joanne is the newest member of The Canadian Bar Association – Nova Scotia Branch. Her Administrative/Bookkeeping background and expertise with a variety of software packages allows Joanne to handle a myriad of responsibilities ranging from Account Reconciliations, Payroll, and Accounts Payable/Accounts Receivable, to support for Council, Sections and Conferences.

In her spare time she enjoys knitting, baking and spending quality time with her husband Ed, and American Cocker Spaniel "Casey".

# Welcome New and Returning Members of the Canadian Bar Association – Nova Scotia

NAME	FIRM/ORG.	CITY	NAME	FIRM/ORG.	CITY
Damien P. Barry	Sampson McDougall	Sydney	Anne E. McFarlane, J.D.	McGinty Doucette Walker	Halifax
Angele Bilodeau	Crowe Dillon Robinson	Halifax	Robert E. Moores	Nova Scotia Legal	Truro
Michael Brine, J.D.	Zareski Law Inc.	Musquodoboit Harbour	Michelle P. Morgan-Coole	MMC Legal Services	New Minas
Madeleine Carter	Wagners	Halifax	Elizabeth Ann Newton	Harris Newton Law	Bedford
Lara Green	Elizabeth Wozniak Inc.	Halifax	Clyde A. Paul	Clyde A. Paul & Associates	Halifax
Robert Gregan	Nova Scotia Legal Aid	Amherst	George P. Smith	Casey Rodgers Chisholm Penny	Dartmouth
Duncan Harvie, J.D.	McInnes Cooper	Halifax	Jennifer L. Young	Waterbury Newton	Berwick

## STUDENT MEMBERS

Debra Active	Chika Chiekwe	Ria Guidone	Sydney Logan	Graeme Melcher	Heather Raymond	Taylor Starrett
Harpreet Ahuja	Judith Coady	Jessica Habet	Daniela Loggia	Tim Mens	Mohammad Ali Raza	Craig Stewart
Rebecca Alleyne	David Constantine	Laura Hanusiak	Daniel Lowe	Vinayak Mishra	Richard Robertson	Kimberly Sweeney
Daniel Arnot	Allison Conway	Taschira Haye-Ashmeade	Melissa Lowe	Joseph Moise	Mary Rolf	Kathleen Tanner
David Astephen	Jennifer Crosmann	Kevin Hong	Samantha Lush	Thomas Morehouse	Ben Roper	Charlotte Teal
Arisa Babluk	Brandon d'Eon	Thomas Hunter	Grace MacCormick	Ora Morison	Andrew Roy	Brittany Therrien
Sarah Baddeley	Lisa Delaney	Kelsey Ivory	William McLennan	Stephanie Morton	Hannah Rubenstein	Vinidhra Vaitheeswaran
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Monica Cameron	Kevin Galway	Allison Large	Justin McCarthy	Sarah Pinsent	Stephanie Smolensky	
Ben Campbell	Gordon Gear	Matthew Lee	Michael McDonald	Caitlin Plummer	John Snow	
Jarod Cedar	Amanda Geiger	Danielle Levesque	Dean McPhadden	Vivian Poon	Jinwon Song	
Avineet Cheema	Katherine Giacomantonio	Jacob Lewin	Raelynn Mechelse	Alyssa Rahey	Barton Soroka	

## CALL FOR NOMINATIONS - LAW DAY AWARD

The CBA – Nova Scotia Law Day Award is to honour, recognize and celebrate the contribution of organizations who:

- Foster greater public understanding of the Canadian justice system and the role of the Charter of Rights and Freedoms within that system;
- Encourage and promote access to justice;
- Inform and educate the public about the courts, law enforcement agencies, the justice system and the legal profession;
- Act as advocates on behalf of citizens in the Canadian justice system.

**Eligibility** - Any organization that meets any or all of the objectives set out above is eligible and may be nominated or may enter by submitting an official entry to the Nominating Committee. Organizations which may be eligible include:

- County Bar Associations;
- Other law related organizations, including para-legal and law enforcement organizations;
- Non-legal organizations, including schools, libraries and churches;
- Advocacy organizations and special interest groups active in the legal and justice system.

**Criteria** - Judging will be based on: public response to the program; overall effort; innovation; creativity; and, informational value/educational merit. To assist in the judging, applicants or nominators are asked to submit materials for judging which may include, but which are not limited to:

- Publications and other materials produced for or distributed by the organization nominated;
- News releases, feature stories and editorials written about the organization;
- Written summaries of the organization's mandate, activities and target group.

**Deadline - April 13, 2015**

**Presentation** - The Award is presented annually during Law Day events held in April each year or some other venue determined by the Executive Committee in consultation with the Law Day Committee. Candidates are responsible for their travel expenses to attend the presentation.

**Selection Process** - All entries must be received on or before the deadline set by the Law Day Committee each year. All entries will be reviewed by the Law Day Committee. The final decision as to the recipient of the Law Day Award will be made by the Executive Committee on the recommendation of the Nominating Committee.

### Past Recipients:

Law Foundation of Nova Scotia (1989)	Dalhousie Legal Aid Service (2005)
Nova Scotia Dial-A-Law Foundation (1990)	Legal Information Society of Nova Scotia (2006)
Ecology Action Centre (1991)	Law Reform Commission of Nova Scotia (2007)
Youth Alternative Society (1992)	L'Association des Juristes D'Expression Francaise de la Nouvelle-Ecosse (2008)
Ken Langille, Teacher (1993)	Nova Scotia Criminal Justice Association (2009)
Community Legal Issues Facilitators Demonstration Project (1994)	The Canadian Superior Court Judges Association for the Development of Try Judging™ (2010)
Val Armstrong, Teacher (1995)	Voice of Youth in Care Newsletter Project (2011)
Dalhousie Legal Aid (1996)	Nova Scotia Family Law Information Center (FLIC), now called Family Law Nova Scotia as of May 31, 2012
Coverdale Courtwork Services (1997)	ECELAW (East Coast Environmental Law) (2012)
Mi'kmaq Justice Institute (1998)	IDEALaw Organizing Committee (2013)
Island Alternative Measures Society (1999)	
Elizabeth Fry Society of Mainland Nova Scotia (2000)	
REACH Nova Scotia (2001)	
Library Services, Nova Scotia Barristers' Society (2002)	
Cumberland County Barristers' Association (2003)	
Pro Bono Students Canada [Dalhousie] (2004)	

Please send nominations to Tina Tucker, Executive Director.  
Or for additional information, contact:

**Canadian Bar Association - Nova Scotia**  
5991 Spring Garden Road, Suite 1050, Halifax, Nova Scotia, Canada B3H 1Y6  
Tel: (902) 422-1905 • Fax: (902) 423-0475 • E-mail: cbainfo@cbans.ca