

# NOVA VOICE



Volume 33, No. 2, Winter 2015

The Voice of the Legal Profession in Nova Scotia



2015  
Mid-Winter  
Conference

# PRESIDENT'S REPORT



By **DAVID CAMERON**  
Burchells LLP

As reported in our last issue, our Branch has experienced its highest membership in 2014, surpassing 1300 members. Such numbers are meaningless, however, without meaningful activity of and by our members. Here, too, our branch is blessed with volunteer and membership commitment.

Beginning in 2013, our executive under the leadership of our Executive Director, Tina Tucker, and her Professional Development and Sections Co-ordinator, Jill Thomson, decided to prepare and publish semi-annually a Sections Handbook. This publication is intended to enable our section chairs and vice-chairs to both plan and publicize to our members forthcoming section activity. Once published, it is circulated with Nova Voce. Now in its second year, we are pleased to report on the success of this initiative. Both the numbers of and attendees at section meetings are up. As of January 31, 2015, 74 section meetings were held since September 1, 2014, up from 59 the previous year. In the mid-November to January 31, 2015 time frame alone, 46 section meetings were held with 866 registrants participating! Both section chairs and vice-chairs and members are to be commended for their leadership and attendance. I know of no venue other than a section event where a person can advance both professional development and personal professional relationships with colleagues and at a lower cost of both time and money.

On January 29, 2015 our Branch hosted its third Bench and Bar

dinner, an event held in conjunction with our mid-winter professional development conference, also celebrating its third year. Our dinner was a sellout, with 320 attendees. We extend our thanks and appreciation to those who attended and those who participated, including our master of ceremonies, Jim Rossiter, our Chief Justice of Nova Scotia, Michael MacDonald, and our keynote speaker, Ian Hanomansing.

Our Mid-Winter Conference also continues to attract and gain registrants, with 285 participants this year. Its program, which we understand from comments gathered, was generally well received. This conference, too, was the result of the hard work and dedication of volunteers, including 10 organizers and, most importantly, 58 volunteer presenters. We are committed to – and believe – our Branch is able through this conference to deliver both the minimum 12 hours CPD required by the regulator, and a professional program that draws on the vast reservoir knowledge held by our participating members, at the most economical price in the marketplace.

Last, an active Branch also means that from time to time it is most appropriate to recognize and honour those who volunteer. At the recent Bench and Bar dinner and Mid-Winter Conference, we honoured Past President and Judge, Dan McRury, QC, with our 2014 Distinguished Service Award, and John Underhill, of the Department of Justice, with our 2014 Community Service Award. Dan Wallace, McInnes Cooper, was selected as our Young Lawyer of the year, and Nova Scotia Legal Aid received our Excellence in Equity and Diversity Award. All have demonstrated commitment to volunteer service of the highest form. Congratulations to all!

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# Live Law and Prosper

## *Legal and Life Lessons from Star Trek*



By **ROBERT PATZELT, Q.C.**

During the Christmas break one of the channels on TV played all 6 “original” Star Trek movies back to back. Before you pooh pooh Star Trek consider these facts. It made its debut on TV in 1966 and was cancelled after 3 seasons. The franchise is approaching 50 years. There were 4 spin offs on television, 6 original films and 4 new generation films and it was nominated for 15

Academy Awards. One estimate is that the franchise was worth \$4 billion to Paramount. Paramount offered to sell it back to Gene Roddenberry for \$150,000 in 1970. He didn’t have the cash.

Gene Roddenberry stated that it was loosely based in part on Gulliver’s Travels with each episode being a suspenseful adventure story with a built in morality tale. In fact, he regularly duped the network “suits” by including disguised messages that were anti-war and dealt with such issues of imperialism, racism, technology, etc. The network opposed his concept of a racially diverse crew for reasons of “marketability” nevertheless he persisted including having the first “scripted” inter-racial kiss on television (the first kiss was actually a peck on the cheek between Nancy Sinatra and Sammy Davis Jr.).

So what can we learn from this immensely successful series:

**To boldly go where no one has gone before** – this is the best way to travel through life, learning, and love. We all have a built in “Prime Directive”. For those who don’t know, the *Prime Directive* was a rule that the Enterprise could not interfere in the internal development of other civilizations. We all have internal ones and it is called our “comfort zone”. We abhor leaving the safety of the known, familiar and supposedly secure. Every one of us has broken it at some point in our lives by going to law school, getting married, snowboarding, trying a new recipe, etc. If you are not living on the edge, you are taking up too much space. Enjoy what the world has to offer.

**Humans are highly illogical** - this goes without saying. As you recall Spock (being half Vulcan) often found that human behavior was anything but logical. As a people we are often irrational, illogical, amusing and perplexing. Just observe people driving at rush hour, any sports event, electorate behavior or men laughing at duct tape jokes from the Red Green Show, to name a few. Combine the “frailties of the human condition” with high stress situations and the complexity of the legal system it is little wonder that (my apologies to Cool Hand Luke) “*what we have here is a*

*failure to communicate*”. I am not just talking about clients but with other lawyers, making your case understood, working together, etc. We need to communicate clearly, build rapport and constantly work on the relationship you are presently in and this is only really accomplished by understanding the situation. You don’t know the “tribbles” they have seen (no apologies for this one). Have you ever been given really good directions on how to get to a certain place? It was simple and clear. It made it look easy. No use of jargon, no reference to street names you did not know. Information was anchored to landmarks you could easily spot. That’s what I strive for when I communicate because deep down the person is flustered by being embarrassed, lost, and late. They are only “half” listening, that is, they are being illogical (or human) and if you can get through then you are indeed a “master” communicator.

**Keep your phaser set on stun** – we are provided with a remarkable number of gifts and tools and it is important to care and nurture them but it is also an imperative to use them wisely. We are granted a monopoly and thus we must not only use this for its intended purposes but to give back. Trust and respect for the legal profession is earned every day by how we behave and how we interact especially in front of the public. We must work even harder in this Hobbesian age of instantaneous communication. The modern media and the Internet are indeed “nasty and brutish”. As technology moves forward erasing boundaries and even access to information and processes, civility may be one of the last elements that distinguishes us from others. Which brings me to a corollary to the above rule, taken from William Shatner’s staccato method of speech and overacting – **when you don’t know what to say, pause**. A lesson I am trying really hard to learn and failing at with incredible success.

**There is no such thing as a Vulcan Death Grip** – for the Star Trek uneducated, this obscure reference is about Spock using a so-called “Vulcan death grip” on Captain Kirk to fool the very hostile Romulans into believing he was dead. After their escape, the ship’s nurse commented “*But there’s no such thing as a Vulcan death grip*” and Kirk replied but the Romulans did not know that. As a profession we sometimes use (or overuse) jargon. Nobody likes being deceived or talked down to. We should not “confound the credulous” but help them understand on terms so they are engaged and are in fact feel as a part of the process. After all, they are the client. Study after study shows that being treated with respect is always amongst the highest of our client’s expectations. We may think that our fancy-schmancy talk is impressive but like the Vulcan death grip, in reality, it does not exist.

*Continued on page 6*

## Bar and Grill



By **TERESA M. GRAHAM**

**Wickwire Holm**

“There is no love sincerer than the love of food.” - *George Bernard Shaw*

Love to cook? Terrified to try? No matter what end of the spectrum you gravitate toward, we have gathered advice on cooking from “foodie” lawyers for your amusement and education. So, whether you are a wholesome Jamie Oliver, a barking Gordon Ramsay, or have no idea who either of those people are, read on, and enjoy some pro bono culinary advice!

**Theresa Graham - Wickwire Holm** There is something about broths that put me in mind of family. Perhaps it is memories from my childhood: the excitement of finding a carton of ice cream forgotten in the back of the freezer, only to be disappointed to discover a frozen broth. Perhaps it is the fact that broths are typically made from left over roasts, meals too big to be enjoyed alone. Apparently my love of broth has spilled over to the next generation: my son is fascinated with cooking and insists on stirring the stock. Stocks are simple to make and bring lots of flavour to any dish. Aside from producing great homemade soup, they can be used in mashed potatoes, curry, or in any savoury dish in place of water. Here are some tips I’ve gathered over the years:

- **Produce:** You can use plenty of the “bits you wouldn’t cook with” for your broth. Left over onion, carrot peelings, celery leaves; all good candidates for a broth. Freeze the leftovers from vegetables as you prepare other meals until you are ready to make a broth. Don’t use vegetables that are past their prime. I also recommend against broccoli or cauliflower – they overpower any broth.
- **Spices:** Whatever you spice the roast with works well for the broth. Don’t worry too much about salt – it often seeps into the vegetables as the broth boils and then is tossed out. Salt your broth when you use it for better effect. Bay leaves are essential for poultry broths. If you are broth-savvy and like curries, try a curry-spiced broth next time. It makes for a great curry chicken soup!
- **Skimming:** When you’ve strained the bones and vegetables from the broth, pop it in a bowl and refrigerate it overnight. The next morning, it will have formed a crust on top. You can use a spoon to remove as much of it as you can. This makes for a clearer broth.
- **Freezing:** Broths freeze very well and will keep for months. One trick I love is to occasionally freeze your broth in an ice cube tray, so that you have smaller portions of stock for cooking. Once they are frozen, you can pop them all into a ziplock bag (so they don’t accidentally end up in your next gin and tonic)!



**Michael Blades - McInnes Cooper:** Vertical Integration: An arrangement by which one’s supply chain is controlled by one’s self. An unlikely start for my thoughts about food, but “eat what you kill” may either ruffle some feathers (pun intended) or misrepresent this article as dealing with law firm compensation models.

I have many passions. One is hunting, and most specifically bird hunting. This passion developed early in my life growing up on Cape Sable Island, where it is simply called gunnin’.

Another passion, which developed later in life for me, is fitness. I quickly learned that nutrition (i.e. how you fuel your body) is paramount, and that lasting success meant actually enjoying that diet. Ensuring the right type and amount of fuel required at-home meal preparation, and enjoying those meals required at least some degree of culinary competence. Thus, I began spending a fair bit of time in the kitchen.

Wild game is notoriously healthier than its mass

produced counterparts and that newfound benefit quickly appealed to me. It is free of chemicals, medications or hormones, and the animals’ natural diets typically create leaner proteins having a better ratio of anti-inflammatory versus inflammatory fatty acids. Consider a 12 ounce venison steak’s 8 grams of fat (3 saturated) versus a 12 ounce sirloin beef steak which can approach 50 grams of fat (roughly 40% saturated).

Wild game is better on paper, but it can also be a new and rewarding challenge in the kitchen. I am still honing my skills, but I can tell you that virtually anything chicken can do, pheasant or partridge can do better; that a day on a salmon river is not complete without a shore lunch of moose jerky, smoked goose breast or venison chili; and that Thanksgiving absolutely requires a “Cape Island sea duck stew”.

If you’ve never tried it, or you’re looking for a new experience, give wild game a shot. Your taste buds may be pleasantly surprised, and your body will thank you.

*Continued on next page*

# Women on Corporate Boards



By HEIDI SCHEDLER

Nova Scotia Securities  
Commission

New securities rules recently came into effect that revolve around public companies and gender diversity, to put it in very basic terms. A number of studies have been published in recent years, noting that, generally speaking, there are many more men on corporate boards than there are women. These statistics piqued the interest of the Ontario government in particular, and

in turn securities commissions across the country.

On December 31, 2014, amendments to *National Instrument 58-101 Disclosure of Corporate Governance Practices* came into effect in nine jurisdictions across Canada: Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Québec and Saskatchewan.

Non-venture issuers who are reporting in one of the participating jurisdictions must provide annual disclosure on the following:

- director term limits and other mechanisms of renewal of the board of directors,
- policies regarding the representation of women on the board,
- the board's or nominating committee's consideration of the representation of women in the director identification and selection process,
- the issuer's consideration of the representation of women in executive officer positions when making executive officer appointments,
- targets regarding the representation of women on the board and in executive officer positions, and

- the number of women on the board and in executive officer positions.

The catalyst for these new rules was a request by the Ontario provincial government for the Ontario Securities Commission to undertake a public consultation process regarding potential disclosure requirements for gender diversity. In keeping with the ongoing efforts to harmonize securities laws across Canada as much as possible, eight other jurisdictions in Canada engaged similar consultation processes.

Significant feedback was received from across Canada, the majority of which was very positive and supportive.

It is important to note that the new rules DO NOT require or stipulate gender quotas, nor do they prescribe how public companies should consider or address gender diversity. These new rules simply ask for disclosure on how public companies are considering or addressing gender diversity; what policies are in place and how this issue is being considered, if at all.

The rules are intended to increase transparency and provide investors with more information on how public companies consider gender when filling board and executive positions. Having the ability to make informed investment and voting decisions is not only of utmost importance to investors, but it is key to promoting our capital markets as ones which operate fairly and efficiently and, in turn, deserve further investment.

More detailed information regarding the new rules, as well as the feedback received during the consultation process, can be found on the Nova Scotia Securities Commission website: [nssc.novascotia.ca](http://nssc.novascotia.ca)

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

OUTSIDE THE OFFICE *Continued from previous page*



**Carrie Ricker- Carpenters Ricker:** At least a few of you reading this will be surprised, perhaps confused, as to why I am writing an article about cooking. It's true, I can admit, I am domestically challenged. Few things appeal to me less when getting home from the office than trying to perfect a roux or chopping vegetables. Why get out the cooking sherry when you could just open a nice bottle of red and have a drink instead? My culinary ambivalence causes some consternation for my family. My grandmother's

brisket rivals Michelin-starred restaurants and shared "granny treats" of varied confections are desired by many friends and colleagues. My mother dedicates her time to perfecting dishes from tikka masala to turkey soup, each one seemingly better than the last. To leave her table

anything but sickeningly stuffed takes significant willpower. Even my father prides himself on his grilling skills, having not one but two BBQs that he uses simultaneously. I believe Kraft dinner is a perfectly acceptable meal option, particularly the very sophisticated white cheddar version (for which I recommend using more butter and less milk than suggested in the instructions).

Even if I lack the time and interest to develop Food Channel worthy skills, I appreciate cooking as one of life's great joys. It brings people together, provides comfort, and frequently entertains. It is possible to love and enjoy cooking, but as a spectator sport.

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

## Law Students Section



By **JOHNNY MASKINE**

As Chair of the CBA Law Students Section, I am very pleased with the growth in membership and involvement these past two years. In my opinion, the increase in membership is largely due to a growing desire among law students to connect with legal practitioners and learn about changes and advancements occurring in the profession.

A major goal of the Law Students Section has been to attract Dal's diverse students and familiarize them with the CBA, its benefits, and its national reach. CBA membership lets students connect with professionals, join specific sections, and keep up with changes in the law.

The last few years have been particularly thought-provoking and exciting for the legal profession. Legal disputes regarding the accreditation of Trinity Western University, the SCC's position on euthanasia, and the constitutionality of criminal prohibitions on sex work have sparked debates across Canada and within the law school. Law students have turned to social media to express their opinions and concerns, to learn from and engage with legal scholars, and to keep up-to-date. Twitter, Facebook and email have helped keep students in communication with CBA practitioners involved in such debates. A great example of this is the series of

Twitter updates on the Trinity Western accreditation posted by Amy Sakalauskas, a leading CBA advocate in the matter.

The CBA's Futures Initiative has been widely promoted through the Students Section and within the law school. CBA representatives, such as past CBA president Fred Headon and current President Michele Hollins, visited Dalhousie's Law Hour to speak about Futures and the importance of student involvement in the CBA.

Through CBA-sponsored Health Breaks, the Students Section works to support students during exam periods by providing snacks, drinks, and school supplies to keep them energized and prepared.

The Students Section hopes to continue its momentum at the law school and further engage students in the CBA, by encouraging students to attend more CBA section events and take a proactive role. We also welcome further participation from CBA members at the law school. Ryan Brothers, co-chair of the Young Lawyers Section, recently attended a well-received lecture on finding a job outside the OCI process. Further cooperation between the Students Section and other sections will highlight the benefits of joining the CBA and demonstrate the support that practitioners have for the students.

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

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*EXAMINO Continued from page 3*

**When logic fails, trust a hunch** – as we observed regularly Captain Kirk trusted his instincts and always made a decision. That's what leaders have to do. The operational reality is that we will always have circumstances where we do not have all the data. Know when "enough" is enough to prove the theory of your case and communicate it in a clear and concise way. The same is true for any decision in law or life. Most importantly, believe in yourself and your decision. When the head and the heart are lined up – you know what to do. Just like the USS Enterprise which was charged to "explore strange new worlds" you now have in your hands the power to proceed. Knowledge coupled with mission sends you down the path (with the ever present butterflies in the pit of your stomach which BTW is normal) and you are then able to "boldly go where no one has gone before".

**The needs of the many outweigh the needs of the few – or the one** – there are many interpretations here but the one I choose (since it is my column) is that life is a team sport. We need each other. The Rule of Law is a collective construct and essential to

our legal system (and our lives). We also need our workmates, friends and families. Spock, Bones, Scotty, Uhura, Chekov and Sulu were not only the officers serving Captain Kirk, they were much more. They always managed to escape peril and defeat their enemies. They were friends too. The more value you bring to any relationship the more you are provided in return. With partners you can accomplish anything. And here is where I get to express my gratitude to the people who have helped me over the years. THANK YOU!

I must now conclude, not that I am out of space but in reality, I have to peel potatoes for the Sunday family dinner. Even a captain of free enterprise has to swab the deck (get it, I am a CEO of a company and the vessel on Star Trek was called the USS Enterprise (NCC-1701)). I wish you all the best for 2015 and to quote Spock, "I have been, and always shall be, your friend." Robert

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



## 2015 MID-WINTER CONFERENCE AWARDS



*Recipient of the Excellence in Equity and Diversity Award: Nova Scotia Legal Aid. L to R: Equity Committee Chair, Gail Gatchalian (Pink Larkin); Karen Hudson, QC, Nova Scotia Legal Aid, Executive Director; National 1st Vice-President Janet Fuhrer, Ridout Maybee LLP; Cathy Benton, Nova Scotia Legal Aid; President David Cameron, Burchells LLP.*



*Recipient of the Distinguished Service Award: Honourable Daniel MacRury, Provincial Court of Nova Scotia. L to R: Honourable J. Michael MacDonald, Chief Justice of Nova Scotia and the Honourable Daniel MacRury.*



*Recipient of the Community Service Award: John Underhill, Department of Justice. Recipient of the Z e Odei Young Lawyers Award: Daniel Wallace, McInnes Cooper. L to R: President David Cameron; Vice-President Amy Sakalauskas, Department of Justice; John Underhill, Department of Justice; Daniel Wallace, McInnes Cooper; Treasurer Dennis James, QC, Patterson Law*





# 2015 MID-WINTER CONFERENCE









### OFFICIAL NOTICE

#### Call for nominations for national standing committees

<http://www.cba.org/CBA/groups/committees/getinvolved.aspx>

The CBA is currently seeking candidates for its National Standing Committees for 2015-2016. All CBA members are eligible to apply for positions on the following committees:

- Access to Justice
- Awards
- Communications
- Equality
- Ethics and Professional Responsibility
- International Initiatives
- Judicial Compensation & Benefits
- Legal Aid Liaison
- Legislation and Law Reform
- Professional Development
- Resolutions, Constitution and Bylaws
- Supreme Court of Canada Liaison

Go online for further details on the mandate and time commitment for each committee, as well as information and an application form. You may also contact your local Branch. The deadline for applications is April 15, 2015.

### Julia Cornish QC nominated for Nova Scotia Barristers' Society Second Vice-President 2015-2016

The Governance and Nominating Committee has announced its nomination of Dartmouth lawyer Julia Cornish QC for Second Vice-President of the Nova Scotia Barristers' Society for the 2015-2016 Council year. Nationally recognized as an innovator and educator in the area of family law, Ms. Cornish has been a member of the Society's Professional Standards (Family Law) Committee since its inception. She serves on the Matrimonial Property Act Advisory Group for the Law Reform Commission of Nova Scotia, and was a member of the federal Department of Justice Advisory Working Group in Family Law Issues, which assisted in the creation of Canada's Spousal Support Advisory Guidelines.

A Past President of the Canadian Bar Association - Nova Scotia (CBA NS), she served as Chair of the CBA Family Law sections both provincially and nationally, and was a member of the CBA's national committee on Ethics and Professional Responsibility from 2011 to 2013.

A founding partner of Sealy Cornish Coulthard, Ms. Cornish is well attuned to the issues and concerns of small firms and private practitioners. She is recognized in Best Lawyers in Canada and the Canadian Legal Lexpert Directory in the area of family law.

### Call for "Nova Voices"!

A recurring feature of **Nova Voce**, we rely on contributions from CBA-NS members to present viewpoints specific to your town, region, practice area, and life style. Check out Damien Berry's "Nova Voices" article on page 11 of this issue. To share a little about yourself, please contact Communications and Public Relations Committee Chair, Heidi Schedler, via email: [Heidi.schedler@novascotia.ca](mailto:Heidi.schedler@novascotia.ca)

### Call For Law Day Volunteers From Across Nova Scotia

It's that time again – we're looking for Law Day volunteers!

Continuing our successful efforts from the past two years, we will be sending volunteer lawyers into high schools across the province to give presentations on the law and/or to run mock criminal trials.

Law Day itself will be held on Thursday April 16, 2015, but we expect school visits to begin in early March and continue through the end of April. All materials will be provided by the CBA-NS, and there will be flexibility for volunteers to work out date(s) for their school visits with the Law 12 teachers.

If you are interested, please contact Law Day 2015 co-chair Jonathan Hooper at [jhooper@coadyfilliter.com](mailto:jhooper@coadyfilliter.com) by **February 25, 2015**, so we can begin the process of matching up volunteers with schools.

Please include the following details in your email:

- Your contact details, and firm/workplace
- Whether you are able to travel to a school outside your area (e.g. If you live in Halifax, are you willing to go to Truro?)
- Details of any past involvement with Law Day
- Your availability: Please indicate whether you'll be available for several sessions at your local high school throughout March and April (required for the schools that have chosen the mock trial option; exact dates can be determined with the teachers)

### CBA 2015 Second Vice-President Elections

Two candidates from British Columbia are vying for the position of CBA Second Vice-President for 2015-2016. The candidates are:

- Catherine Sas, Q.C.
- Kerry Simmons, Q.C.

CBA National Council Members will vote from February 24 at 8:00 a.m. (ET) to March 26 at 8 p.m. (ET). The winner will be announced on March 27 following a tally of the votes.



Pictured: Catherine Sas (left) and Kerry Simmons (right)



## Damien Berry

Damien Berry is used to being asked how he came to practice law in Sydney, Cape Breton. It only takes a few moments of speaking with him to realize his accent isn't that of Whitney Pier or Glace Bay but of far off Ireland. So, how did Mr. Berry from the town of Ennis in the County of Clare end up practicing law in Sydney? The story entails a decade long journey around the globe.

Damien had a keen interest in law since graduating in 1995 from St. Flannan's College, an all-boys Catholic school in Ireland. However, he ultimately pursued a degree in education; graduating from Mary Immaculate College of Education in 1998. From there, he began working as a teacher. Damien travelled to all parts of the world meeting his partner, Amy Pino, a fellow wanderlust teacher originally from Cape Breton, while living and working in North Carolina. They spent the next nine years living and working wherever the wind took them including the U.S., England and Hong Kong, and travelling all over Europe and Asia.

Damien completed his LLB while continuing to work as a full time teacher, graduating from the National University of Ireland Galway in 2006; flying from England to Ireland in his final year to attend classes and write his exams. He continued working in education, moving to an administrative role as Head of Year at Discovery College, a private international school in Hong Kong.

He and Amy married and grew their family to include two children: Ella Lynn (6) and Dylen (3). In 2009 they purchased a summer home in Sydney, which coincidentally introduced Damien to Sampson McDougall. Damien struck up a conversation with his property lawyer, Harvey McPhee, a partner at the Sydney firm, about the prospect of living in Cape Breton year round. Damien stayed in touch and a couple of years later in 2011, he spent a few days "shadowing" at the firm.

After that, Damien returned to Hong Kong and began the long process of migrating to Canada and qualifying for admission to the NSBS articling program. He and his family moved to Cape Breton in 2013, and after a year of articling, Damien was called to the NS Bar in June 2014. He joined Sampson McDougall as an associate and is currently practicing in family, immigration and labour and employment.

*"Living in Cape Breton allows me to enjoy a work/life balance that bigger cities can't offer. Having lived in Charlotte, London and Hong Kong, Amy and I were keen to put some roots down and raise our children in Canada. From a professional point of view, there is a good market in Sydney and lots of opportunities for younger lawyers here. Having already worked in another career,*



*I felt comfortable taking on my own clients from an early stage. Working in a smaller market certainly exposes you to a wide range of opportunities and experiences much sooner in your career."*

Damien is already well-known within the Cape Breton legal community and has had several court appearances in the Halifax and Truro courts. He credits the opportunities available to him practicing in a non-urban centre as part of the reason for his accelerated achievements. "Being able to transfer some of the skills I have gained from working as a teacher around the globe for 15 years has certainly allowed me to hit the ground running in establishing a law practice in Cape Breton. The chance to work across a wide range of legal areas certainly ensures that life is never boring and you never know what the next day is going to bring!"

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

# Ryan Brothers

**Called to the bar:** 2010

**Firm:** Nova Scotia Department of Justice

**Area of practice:** Civil Litigation

**Describe your professional experiences to date:** Following my first year at Dalhousie Law School, I provided research on restorative justice models for the Nova Scotia Restorative Justice-Community University Research Alliance. Following my second year, I completed a summer term, and then articulated with the Nova Scotia Department of Justice. I have remained practicing at the DOJ ever since.

**Describe your current practice:** I practice civil litigation, focusing on contractual and tort issues faced by the Department of Energy and the Department of Transportation and Infrastructure Renewal. I appear before the Nova Scotia Court of Appeal, the Supreme Court of Nova Scotia, and a variety of administrative and regulatory bodies. I also manage a collections practice on behalf of Service Nova Scotia and Municipal Relations.

**Describe the unique qualities you bring to your practice:** I have an open mind and approach legal issues with a creative and diverse perspective. I take a methodical approach to my practice, a significant portion of which involves organization and operating electronically. In this way, I try to reduce unnecessary paper and increase the efficiency.

**Describe one of your most satisfying achievements in practice:** I have successfully represented the Department of Energy in a number of hearings before the Nova Scotia Utility and Review Board. Of particular note is my participation in a multi-billion dollar regulatory application, where I co-authored legal submissions, provided strategic advice, and assisted with the preparation and cross-examination of expert witnesses.

**Describe your involvement with the CBA, both past and present:** I have been actively involved in numerous CBA Sections since 2010. Most recently, I have become Vice-Chair of the Young Lawyers Section. As Vice-Chair, I represented Nova Scotia at the Young Lawyers CBA 2014 Directorate Meeting in Toronto. I have also sat as a panel member on behalf of the Career Development Office at the Schulich School of Law, and co-organized the “Letters to Young Lawyers” series, where senior lawyers in various practice fields throughout Nova Scotia reflect on their own experiences in the legal profession and provide insight to young lawyers.

**What other activities and volunteer pursuits occupy your time?** Outside of the office, I sit on the Nova Scotia Barristers’ Society Racial Equity Committee and routinely present to the Sociology and Criminology department at Saint Mary’s University. My hobbies include playing hockey, golf and yoga.



**Why did you decide to practice law? What drew you to your area(s) of law?** My interest in law originated from my undergraduate degree in Criminology. At that time, I thought that a law degree would complement my education and become an asset in a number of possible career choices. Since that time, I have enjoyed the excitement and human element involved in litigation. Within my litigation practice, I have gravitated towards energy law, which presents interesting issues and is a continuing area of growth.

**What do you consider to be the greatest challenges facing young lawyers?** From a government perspective, it is increasingly difficult for young lawyers to obtain positions within the public sector. Employment opportunities are dependent on budgetary constraints and often require years of experience in a particular area of practice. More generally, fully comprehending your client’s legal issues is always challenging, especially if the young lawyer is not given the opportunity to be involved from the outset. Nevertheless, working with the client to understand their issue and furthering their objectives is always a rewarding process.

**What do you wish senior lawyers understood about young lawyers?** Technology and its application to the practice of law are ever-changing, as evidenced by our electronic-disclosure requirements. Young lawyers may be able to assist with the transition. It is important for lawyers, both junior and senior, to appreciate how the practice is evolving and to stay ahead of the curve. The CBA Legal Futures Initiative is an excellent resource to gain insight into this evolution.

**What words of wisdom do you have for new lawyers?** There is no substitute for hard work. Clients expect professionalism and a complete comprehension of their legal issues, regardless of seniority or experience. Likewise, there is no shortcut to obtaining a full appreciation of the facts. Finally, listen, ask questions and know the documents inside and out.

**What are your goals for your career as you become a more seasoned lawyer?** I would like to focus on a particular area of practice and develop an expertise in that field. I have been practicing law for a number of years and realize it is time to find a specific area of law that I am passionate about and make it the focus of my career.



# In-house counsel - not the job you thought it was



By KATE HOPFNER

I.M.P. Group International  
Inc.

It has been almost eight years since I started working as in-house counsel, and over this time I have come to realize there are a number of misconceptions that are floating around about the job. Working in-house has a certain reputation, but that reputation does not always match the reality. When considering making the move to an in-house position, it is important for lawyers to understand that not all positions

are the same. Below is a list of the most common misconceptions that I have come across.

## 1. You only have one client when you work in-house

It always surprises me when potential in-house candidates, stressed from being pulled in different directions by their private practice clients, state “it would be nice to only have one client” as a reason why they would like to work in-house. Yes, there is a corporation whose interests you represent; however, in reality, that corporation is made up of people. In most cases, it is a lot of people. Each and every one of these people can be one of your clients, demanding your time and insisting that their requests are the most urgent and important. Further, within that company, there may be several different departments or divisions with very diverse legal needs. In my job every day is a juggling act, trying to ensure all my clients get timely legal advice and feel appreciated. I imagine this is much the same as working in private practice. The number of clients you have while in-house depends on the size and structure of the organization. Although I am sure there are situations where there are only a few individuals in the corporation seeking advice, in reality, in-house counsel could have as many or even more clients than a lawyer working in private practice.

## 2. In-house work is just reviewing contracts

Before I started working in-house, I was worried the position would involve looking at paper day in and day out. Certainly, contract review can be a component to working in-house, but it is not the only option. In house lawyers

can practice many different areas of law, depending on their role within the legal department and the needs of the company. I am lucky enough to practice in several areas, including contracts, labour and employment, litigation, and aviation. I spend most of my day on the phone or in meetings, and I also represent the company at a variety of hearings, including arbitrations and human rights tribunals. I do not think my job is unique in this; in-house counsel can work in almost every area of law or just in one, depending on the structure of the position.

## 3. Work-life balance is always better in-house

Some lawyers would tell you that work-life balance is better when you work as in-house counsel. In reality, though, I think it depends on where you are working and how much your workplace values work-life balance. There are in-house jobs where balance is considered important, and it will show. There are also in-house jobs where the expectation is that you will be available at all times as needed. More important than whether you are in-house or private practice is understanding of the culture of your organisation, and making sure it fits with you.

## 4. In-house lawyers are not really practicing law

There is a misconception that the truly sophisticated, interesting work is confined to lawyers working in private practice. Again, it really depends on where you work. I am sure there are some companies where in-house counsel are basically managing legal files, dealing with outside counsel who do much of the legal work. There are also in-house counsel who single-handedly negotiate major international agreements, close the sale or purchase of a business, or represent their organization at court hearings. With the right job, working in-house can provide a level of sophisticated, interesting legal work that could meet and even surpass some private practice positions.

Working in-house is not a “one size fits all” position – it varies depending on the size, nature and culture of the organization. It can be a highly rewarding job, though it is important to fully understand your needs and expectations as well as the position before taking the plunge in-house.

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

# Lawyers on Boards



By JENNIFER TAYLOR

Stewart McKelvey

Lawyers are often asked to become directors of not-for-profit organizations, but they may be reluctant to jump on “board.” The time commitment involved and the potential for ethical dilemmas are two common reasons for this reluctance. But in a recent presentation to a joint meeting of the Young Lawyers and Charities & Not-for-Profit Law sections, Dennis James, QC from Patterson Law and

John McFarlane, QC from Stewart McKelvey emphasized the value of sitting on a not-for-profit board, and outlined how lawyers can protect themselves in their role as directors.

Before you join, talk to the current chair, the general manager or executive director, and any colleagues who have been involved. In random order, here are 10 areas to canvass:

1. **Investigate the organization.** How is the organization run? Is the board more advisory (advises on risk) or governing (owns the risk)? How are the responsibilities split between management and the board? What is the state of the organization’s finances? Who are the stakeholders? Will you be expected to be involved with fundraising? Are there any ongoing problems you should know about? Does your firm have a pro bono policy, and if so does the organization fit?

2. **Manage expectations.** What is the current board looking for from you? Do they want you to act as an in-house counsel, or is your legal training just a bonus? Be clear up front how much of a time commitment you’re able to give, whether you’re willing to sit on or chair committees, and what kind of advice you will and will not be able to provide. Sometimes a board might be satisfied to have you “on call” as a sounding board and not in a full directorship position.

3. **Understand the board’s statutory obligations.** Various statutes may impose liability and / or extra duties on directors in certain circumstances, e.g. in the areas of environmental protection; income tax; or occupational health and safety.

4. **Review the protective measures in place.** Ensure there is D&O insurance, and review the policy. But beyond protecting *yourself*, consider the protective measures in place for the *organization*: What kind of insurance does it have? What about its lease arrangement?

5. **Remember that you can never remove your lawyer hat completely.** While not always acting as a lawyer, your obligation as a director is defined and heightened by your legal training. Even if

you’re not technically offering legal advice, it may be taken that way by the rest of the board. You can give a general overview of the law, but specifics should be delegated to outside counsel.

6. **Look out for potential conflicts of interests.** Discuss your board membership with a senior/managing partner (especially one involved in risk management). Always keep your eyes open for potential conflicts of interest. Any not-for-profit organization could end up in an adversarial position against one of your firm’s clients, and you may have to recuse yourself from certain discussions if that happens.

7. **Don’t try to run the organization.** Follow the “nose in, fingers out” rule as much as possible: review what’s happening on the ground, don’t run the organization. The less “sophisticated” the organization, the more “hands on” you may have to be, but as long as there is a formal management structure in place your role should be more advisory than anything.

8. **Know when to recommend outside counsel.** If a matter does become litigious, there will come a time when the organization needs outside counsel, someone independent from the day-to-day life of the organization and the board.

9. **Help the organization manage risk.** Risk can be managed, but not completely eliminated. With a not-for-profit especially, financial risks can be big, and having a strong finance committee in place helps a lot. Also consider *reputational* risk (the organization’s social media presence will come into play here) and *relevancy* risk (is there declining interest / attendance / enrollment to worry about?). Finally, be aware of fraud; ideally an audit will be conducted annually to help mitigate this and other financial risks.

10. **Plan for the future.** There are two branches to consider here: Succession planning (to avoid a panic if someone leaves) and strategic planning (so you know the organization’s short, medium, and long-term goals). If there aren’t any relevant plans in place, consider striking a committee to report back to the full board.

Both John and Dennis were adamant that you shouldn’t let these issues scare you away from joining a not-for-profit board. It’s a great opportunity to “get out of the practice box”, meet new people, and develop your skills. I have been on the board of Halifax Dance for almost two years now, and I have learned so much and become even more passionate about the organization. Once you know the risks, you might enjoy jumping on board too.

*Giving Back is a recurring feature highlighting the pro bono work of Nova Scotia lawyers.*



# Increasing Racial Diversity in Your Workplace Could Give You Superpowers

By **GAIL GATCHALIAN**

**Pink Larkin**

I have a hidden superpower: I am immune to accents. I have, so far, never been stumped by someone's accent. I attribute this superpower to growing up with a father who was fluent in English, but who had a Filipino accent. In junior high, I had a teacher from India who had an accent. In undergrad, I had a professor from Korea who had an accent. In both instances, my mostly white, unilingual English-speaking fellow students could not understand the instructor and complained. They may have not only had trouble understanding the accented speech, but may have also associated accent with lack of competency. I imagine the instructors, who probably considered themselves to be fluent in English, felt that they were in some way being discriminated against. If all of the students had my superpower, I think that the experience of those students and the two instructors would have been very different.

You too could gain superpowers – though perhaps not as cool as mine - by enhancing racial diversity and cultural competency<sup>1</sup> in your workplaces. For example:

- You could improve your ability to retain and attract clients who are diverse or international.<sup>2</sup>
- You could improve your team's productivity.<sup>3</sup>
- You could enhance the quality of decision-making in your firm, thereby providing better legal services to your clients.<sup>4</sup>
- You could help address systemic racism in the legal system.

"What!" I can hear some of you saying. "We thought this was going to be a light article. She was talking about superpowers – now she's talking about systemic racism in the legal system!" "I just don't want to think about it – it's too negative." Or "Come on. Things have changed. It's not that bad. I have lots of friends who are from diverse backgrounds."

Things may have changed. But it's still bad.

According to a 2014 Law Society of Upper Canada consultation paper, overt discrimination and bias are a feature of daily life for many racialized<sup>5</sup> lawyers in Ontario.<sup>6</sup> This despite a steady increase in the number of racialized lawyers in Ontario over the last 20 years.<sup>7</sup> Not surprisingly, racialized lawyers in Ontario also identified feeling alienated from the dominant culture of the profession, a lack of mentoring and networking opportunities, and barriers to entry into the profession and advancement in the profession.<sup>8</sup>

If you are interested in increasing diversity in your workplace, or improving the cultural competency of those you work with, for any of the reasons above, take a look at the CBA's guide "Measuring Diversity in Law Firms: A Critical Tool for Achieving High Performance" The Guide talks about the value of, and provides tools for, (1) measuring employee and partner membership in specific diversity groups, and (2) measuring

the "diversity climate" in a firm. Diversity climate data "focus on the perceptions and attitudes about diversity held by members of a firm," and "are an important indicator of the inclusiveness of the workplace." Importantly, "diversity climate data can be used to help build a more inclusive firm culture."<sup>10</sup>

Maybe you think your workplace is doing fine. You have some diversity amongst your lawyers. Discrimination is not tolerated, and there is no overt racism. Take a look at the three approaches to diversity management described in the CBA Guide. To summarize:

1. "Discrimination and Fairness": the focus is on ensuring non-discrimination and differences are assumed to be irrelevant. The result is that employees from diverse groups often feel marginalized.
2. "Access and Legitimacy": cultural differences are recognized as being of import to clients and differences are used to reach out to certain clients. The result is that employees from diverse groups often feel exploited and that their roles are career-limiting.
3. "Learning and Effectiveness": cultural differences are recognized as an important source of organizational learning and differences are incorporated into core business processes. The result is that employees' different perspectives are used to rethink how organizations do business and employees from diverse groups feel valued and respected.<sup>11</sup>

My guess is that most of our legal workplaces fall into the first category. Perhaps some fall in the second. If your workplace falls into the third category, job well done.

Every three years, the Nova Scotia branch of the CBA recognizes a legal workplace striving to advance equity and diversity in the legal profession and/or the general community by awarding the Excellence in Equity and Diversity Award. The recipient of this year's Award is Nova Scotia Legal Aid (NSLA). The award was announced at the Mid-Winter Conference luncheon on Friday, January 30, 2015. If you think your workplace might be deserving of recognition, consider applying for the next Award, to be given out in 2018. If you're not there yet, there is something to aspire to.

<sup>1</sup> Robert Wright, an African Nova Scotian social worker and sociologist, defines "cultural competence" as "an ability to interact effectively with people of different cultures": see the Law Society of Upper Canada's 2014 Consultation Paper, Development Strategies for Change: Addressing Challenges Faced by Racialized Licensees, The Law Society of Upper Canada, p.35.

<sup>2</sup> See the CBA's 2012 guide, Measuring Diversity in Law Firms: A Critical Tool for Achieving High Performance, authored by Dr. Lorraine Dyke for the Equality Committee of the Canadian Bar Association, p.4

<sup>3</sup> See Measuring Diversity, p.5

<sup>4</sup> See Measuring Diversity, p.5 and Jennifer Nedelsky,

"The Reciprocal Relation of Judgment and Autonomy:

Walking in Another's Shoes and Which Shoes to Walk In," in Jocelyn Downie and Jennifer Llewellyn, eds., Being Relational: Reflections on Relational Theory and Health Law (Vancouver: UBC Press, 2011) 35

<sup>5</sup> "Racialization is the 'process by which societies construct races as real, different and unequal in ways that matter to economic, political and social life': See Development Strategies for Change, p.5, footnote 2

<sup>6</sup> Development Strategies for Change, p.6

<sup>7</sup> Development Strategies for Change, p.5

<sup>8</sup> Development Strategies for Change, p.7

<sup>9</sup> Measuring Diversity, p.12

<sup>10</sup> Measuring Diversity, p.13

<sup>11</sup> Measuring Diversity, p.10



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