

NOVA VOICE



Volume 31, No. 2, Winter 2013

The Voice of the Legal Profession in Nova Scotia



2013:
*The Year
of FUN!*

PRESIDENT'S REPORT



By Dan MacRury, QC

As we begin the New Year, I am now half way through my presidency. With any new year, it's time to make a resolution or goal. I had a piece of cheesecake on New Year's Day, so I guess losing weight is out again this year. My New Year's goal as your President is quite simply this: at every opportunity, I'm going to stand up and shout "I am a proud lawyer and this is a great profession."

Throughout my 26 years of practicing law, I've witnessed terrific advocacy by lawyers in this province on behalf of their clients. Lawyers, as a general rule, are great advocates for their clients. But quite frankly as a profession, we aren't so good at championing the positive contributions that our members make to society.

In 1985, defence lawyer Joel Pink spoke to my bar admission class. He told us that a well-rounded lawyer did the best job not only for his or her client, but also for his or her community. As a profession, I think it's important that we celebrate the hard work of our colleagues and recognize their volunteerism and community involvement. We should also be proud of the pro bono work that our members do on a daily basis.

I was recently asked what sparked my interest in the Public Prosecution Service and my interest in the law. I've been involved in public service pretty well my entire career. First, I was a legal aid lawyer and then I moved to the Crown. This was a natural fit for me because public service and volunteerism are virtues in my family. My father worked as a hospital administrator and a city councilor here in Sydney. My mother was a nurse in Detox. Both my sisters work in healthcare and, in fact, I married a public servant. Giving back to my community was instilled in me at a young age, and that's really what I've been trying to do throughout my career.

This month, the Nova Scotia branch of the CBA will host its first two-day mid-winter meeting, with a bench and bar dinner honouring former Chief Justice Lorne Clarke, former

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Editorial Board

Christine Doucet, Chair
 Donna Boutilier
 Theresa Graham
 Michelle Rogers
 Heidi Schedler
 Jennifer Taylor

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COVER PHOTO: Bruce Jollimore Photography

Introducing Our New Spotlight on Section Meetings

Wish you could remember the name of the cases reviewed in that last section meeting? Curious about what might be discussed in other sections? Fret no more! Nova Voce will be presenting a Sections Spotlight article each issue to keep you apprised of what is happening on the ground level at section meetings. If you would like to report on a section meeting that you have spoken at or attended, please contact Theresa Graham at tgraham@weldonmcinnis.ca.

One of the great benefits of being a CBA member is the opportunity to attend and participate in section meetings. The following are just a few reasons to attend:

1. Meeting Your CPD Requirements

Attending Section Meetings is a great way to satisfy the CPD requirements of the Nova Scotia Barrister's Society. Attending one lunchtime meeting a month fulfils the current requirements (and means one less lunch to worry about)!

2. Keeping Up with the Latest Legal Developments

CBA Members are known for their commitment to continuing legal education. Although you may well keep up with the latest developments in the law on your own, it is nice to learn socially as well. Plus, you can discuss these exciting developments with someone who is more interested than, say, your spouse, your friends, or whomever else you've been boring lately with talk of the latest decision from the Supreme Court of Canada.

3. Networking, Networking, Networking

Attending a meeting is an excellent way of building a network, meeting new lawyers and getting involved with the CBA. The CBA, after all, is an association of lawyers, for lawyers. We are here for each other, and section meetings are but one way to strengthen a lawyer's attachment to the CBA and to the profession.



Professor Dianne Pothier of the Dalhousie Schulich School of Law was honoured at CBA Council on November 1, 2012 with the President's Award, presented by national CBA past president Trinda Ernst, QC. Also present in the photo are national president Robert Brun, QC and Nova Scotia branch president Dan MacRury, QC.

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Clements v. Clements and the Material Contribution Test

By Prof. David L. Blaikie, *Schulich School of Law*

Clements v. Clements, [2012] S.C.J. No. 32 is the most important decision by the Supreme Court of Canada on the issue of causation in negligence since *Resurfice v. Hanke*, [2007] S.C.J. No. 7.

The plaintiff Joan Clements, and her husband Joseph the defendant, were motorcycle enthusiasts. At the moment of the accident, Joseph was driving, with his wife in the passenger seat. The bike was about 100 pounds overloaded. Unknown to Joseph, a nail had punctured the rear tire. Travelling in a 100 km/h zone, he accelerated to 120 km/h to pass a car.

The nail fell out, the rear tire deflated, and the motorcycle began to wobble. He was unable to maintain control and the vehicle crashed, with Joan suffering a severe traumatic brain injury (Court summary). A lawsuit followed, with Mrs. Clements alleging that Mr. Clements' negligence in driving an overloaded bike too fast caused her loss. A central issue at trial and on appeal was whether, on these facts, the material contribution test could be used, rather than the "but for" test.

Clements makes two important points:

- Since the *Resurfice* case, the outstanding unanswered causation question concerned the sort of facts that would allow a plaintiff to use the material contribution test. *Resurfice* said that "it must be impossible for the plaintiff to prove that the defendant's negligence caused the plaintiff's injury using the 'but for' test" (para 25). Both *Resurfice* and *Clements* make it crystal clear that "but for" is the basic test and that the material contribution is only available in exceptional circumstances, but what those circumstances might be is the \$64,000 question. *Clements* seeks to answer that question. According to *Clements*, the requirement of "impossibility" is limited to fact situations where there are multiple tortfeasors, all are at fault and it can be established that one of the tortfeasors has in fact caused the plaintiff's loss. Impossibility of proof arises because each tortfeasor can point a finger at a co-defendant, making it impossible for the plaintiff to prove "but for" causation on the civil standard against any one of them (para 39). This appears to be a significant narrowing of the test, more narrow, for example, than the examples offered by the Court in *Resurfice* to illustrate the sort of factual situations when the test might be available (at paras. 27 & 28 of *Resurfice*).

- *Clements* also has important things to say about the "but for" test, although in the main by emphasising past holdings. Significant emphasis is put on the decision of *Snell v. Farrell*, [1990] S.C.J. No. 73, wherein trial judges were encouraged to take a "robust and pragmatic" approach to the facts on causation and draw an inference of "but for" causation even in the absence of positive or scientific proof (*Clements*, para. 9). The Court in *Clements* seems to be saying that if trial judges better understood how to think about and apply the "but for" test there would rarely be a need for the material contribution test.

Trending is a recurring feature focusing on a new development in the law. David Blaikie and Nathan Sutherland of Stewart McKelvey spoke on the above topic at the October 24, 2012 joint meeting of the Civil Litigation/ADR and Insurance Law sections.

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Nancy Barteaux,
Ritch Durnford



Erin O'Brien Edmonds, Q.C.,
Burchell MacDougall

Managing Partners – Surprisingly Rewarding

By Heidi Schedler

In November I attended the CBA-NS Women's Forum Section meeting to discuss becoming a managing partner. The speakers were Erin O'Brien Edmonds Q.C. of Burchell MacDougall and Nancy Barteaux of Ritch Durnford. For both these women, although becoming a managing partner was not a lifelong dream it ended up being surprisingly rewarding.

The value of good and effective management within firms cannot be overemphasized. As lawyers, we tend to let the momentum of our practice take control, and assume that as long as we keep billing, the firm will survive, if not thrive. Nothing can be further from the truth. You know those things that many lawyers consider to be "soft skills": the ability to critically analyze financial statements, effectively handling human resources issues, knowledge of emerging technology, identifying marketing opportunities, and mentoring of junior lawyers? Well those "soft skills" can have a dramatic and unrelenting impact on your bottom line.

As managing partner, you are given insight into the inner workings of your firm. You gain a keen understanding of how your firm works, why it works that way, and what needs to be changed. You have direct influence in the major decisions facing your firm, and a sense of control over the vision and the direction of your firm.

Being a managing partner is not all roses and daisies. As

managing partner, you are often expected to maintain your current case load in addition to the time commitment required to manage your firm. The compensation for managing partners can be lackluster or even non-existent.

That said, the role of managing partner can be abundantly rewarding. Not only do you get the personal satisfaction of having contributed to bettering the work climate of your firm, but your colleagues actually express appreciation for a job well done. You are integral in leading your firm towards success and affluence. Your impact and influence is direct and undeniable.

According to statistics compiled by the Nova Scotia Barristers' Society, in August 2012, of the 469 lawyers in Nova Scotia who identify themselves as a "partner", only 101 were women. Placing more women in leadership positions within the profession will not only correct this imbalance, but also recognize that although the "female skill set" may be different than a man's, it is no less valuable.

Both Erin and Nancy were up for the challenge of becoming a managing partner. They believe that their skills as good listeners and communicators, being caring, fair and open-minded, and voicing appreciation to colleagues have served them well in their roles as managing partner. They both enjoy being a part of their firm's team of visionaries and they both find the role rewarding; surprisingly rewarding.

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

Nemo Dat and That is That

With sincere apologies to Dr. Seuss

By Robert Patzelt, Q.C.

Ab initio and contra bonos mores
A special poem for us all lawyers
Lex dilationes abhorret and nemo dat
Enough legal maxims to fill a big hat

Did you go to law school, a world to save?
Or was it higher learning that you did crave?
Books and tuition that we could barely afford
In trade for Wigmore and Denning the Lord

We were so hot, our law school caught fire
A temporary library was really not dire
Acquire, perspire, undergrad brain to rewire
Student of law and future esquire

Late nights, beer and more at Domus Legis
Contract classes Friday, for many to miss
Open book exams but extra reading time
Panic was to stress, its partner in crime

Pals and peers, mascara smears and tears
Finally all was over in three long years
Firms came to interview and query the lot
Dressed to kill, fancy tie in Windsor knot

Library, law courts and the registry of deeds
Time sheets and memos for partners to feed
Long hours, long days, and no time for a hobby
Wear your suit jacket if you go into the lobby

Paralegals, partners, assistants & clerks
Two weeks off and some say, very few perks
They have it easy now, open collar, better pay
A clothing allowance, in hopes they will stay

Non-fat latte, one part of the daily grind
Progressive lenses, for justice truly is blind
Media in the courtroom, hard funding legal aid
Sponsorship scandal all the way to free trade

Canada's constitution to Tiananmen Square
The rise of the Internet, to fighting for fair
From AIDS to terrorism and Cold War thaw
Proud to be part of defending the Rule of Law

Gifted as we are, we cannot break one rule
When driving a minivan, impossible to look cool
Looking back at it all, and at the end of the day
To be sure, I wouldn't have it any other way

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

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SAVE THE DATE

Friday, May 10th, 2013
Personal Injury Conference (all-day)
Casino Nova Scotia
(Schooner Room)
Details available in February

How Are Ya, Dear?



By Gail Rudderham Chernin, QC

“How are you, dear?” I greeted my out-of-province friend enthusiastically when he answered my telephone call.

“Oh my, Gail, can I call you ‘DEAR’?”

“What! I would be disappointed if you didn’t! What kind of question is that, anyway?” I was surprised. Why would he ask that?

“You know, Gail,” he began to explain, “I called a female lawyer ‘dear’ and she complained to the Law Society here. She said I was treating her in a demeaning way”.

I was saddened to hear this; I know my colleague would not intentionally be demeaning in any way. I have always known him to be a gentleman. As a fellow Cape Bretoner, he, like many of us would have said that in an endearing way.

And yet, I could not help recalling one of my first appearances in Chambers, as a young lawyer. I was the only female in the Courtroom. The Presiding Justice called each of my male colleagues forward very respectfully, referring to each with the title “Mr.” I was last on the docket and when he turned to me, His Lordship said, “What can I do for you, ‘dear’?”

I felt like a child! Was it my age; was it my gender; or did he just not know my name?

I will admit, it did feel demeaning but I was not about to dwell on it nor allow it to trouble me. It just was not worth it – it was one of those moments that I would refer to as “experience” or “character-building”.

In contrast, I recently received a call from a young client of mine, approximately 30 years my junior. I answered the phone.

“Hello, Gail Rudderham Chernin speaking”.

The client energetically exclaimed, “Hey, dear, how are ya?”

I responded in kind, “I’m fine, dear, how are you?”

“Just great, sweetheart! Now listen darlin’, I was just wonderin’; how’s my case goin’?”

“Everything is going well. We will be meeting soon to go over some information,” I explained.

“Well, that’s great, love!” he cheerfully continued, “Thanks now sweetie!”

As the smile continued to broaden across my face I answered, “You are very welcome. It is my pleasure.”

“Oh, my darlin’, I know yar’ takin good care of me. Bye now, honey!” he said as he concluded the call.

I hung up the phone and had an “LOL” moment. I was pleased to know that my client was so happy with my legal services and I thought about how I enjoyed my Cape Breton culture.

As I revelled in the moment, I wondered, “Had age changed my perspective?”

The Nova Voices column features the viewpoint of lawyers around Nova Scotia. Gail Rudderham Chernin is a CBA member and lawyer at The Breton Law Group in Sydney.

PRESIDENT’S MESSAGE Continued from page 2...

Chief Justice Constance Glube, and former Associate Chief Justice Robert Ferguson. These individuals have made tremendous contributions to the law, the judiciary, and the people of Nova Scotia and truly demonstrate what’s great about our profession.

My challenge to members this year is that at every opportunity we should stand up for this great profession and

tell others about the contributions we make as a profession. I truly believe that an improved perception of lawyers by the general public will enhance the administration of justice. As your President, I would like to hear your stories of why you have become a member of this great profession, and about the contributions you make to your community. Happy New Year!

Lynette M. Muise

Called to the bar: February 2011

Firm: Pink Star Barro

Areas of practice: Family Law, Criminal Law, Civil Litigation, Real Estate, Wills and Estates, Language Rights

Describe your professional experiences to date: I graduated from the Dalhousie Schulich School of Law in 2010 and was among the first recipients of the Schulich School of Law Scholarship. I have been in practice with Pink Star Barro since I completed my articles with the firm in 2011.

Describe your current practice: My practice is primarily focused on Family Law, with much of the rest of my practice stemming from my family law work. I also assist senior lawyers in my other areas of practice. Pink Star Barro is a true, full service Nova Scotia law firm which caters to a clientele from all walks of life, and is a great place to work.

Describe the unique qualities you bring to your practice: As the only female lawyer of six, I am also Acadian with Métis status. I speak and write French and Italian, and still have some knowledge of Mandarin from living in Taiwan for several years. I bring a cultural component to the firm.

Describe one of your most satisfying achievements in practice: The moment I realized my clients have been recommending me to their friends and family because they are satisfied with my service. I am grateful for it.

Describe your involvement with the CBA: I have been a member of the CBA since I began law school in 2007. I am the AJEFNE (Association des juristes d'expression française de la Nouvelle-Écosse) representative with CBANS. I have volunteered for Law Day for the last few years, and have also assisted CBANS with some light translation pro bono.

What other activities and volunteer pursuits occupy your time? I am in my second year as President of AJEFNE, a non-profit organization with a mandate to promote access to French-language legal services. Our membership is comprised of lawyers, judges, professors, translators and law students interested in access to justice in French in Nova Scotia. We are actively recruiting members, and warmly welcome anyone in the justice system. Whether you speak French fluently or just love Rappie Pie and want to know more, you can check us out at: www.ajefne.ns.ca. Disclaimer: Our website is in French, and no, I do not know the guy on our home page.

We are actively collaborating with CBANS again this year in the planning of Law Day activities around Nova Scotia. This is a great example of how AJEFNE is partnering with key players in the justice system to meet its mandate.



I am also the Secretary for the Yarmouth County Barristers' Society.

Why did you decide to practice law? What drew you to your area(s) of law? Before applying to law school, I worked for an IT company managing domain name portfolios for Intellectual Property law firms and in-house counsel. The lawyers I worked for encouraged me to go to law school. I also had some strong encouragement from very close friends and family in the legal profession. My own lawyer hired me to article with Pink Star Barro, where I have been building my practice since.

My family law practice has grown the most rapidly in response to the needs of the community. Although it is of great interest to me, there is not much demand for IP law in rural Nova Scotia.

What do you consider to be the greatest challenges facing young lawyers? Lack of experience. Decision-making and confidence in your own recommendations to clients is tough in the first few years of practice, as you do not have all those cumulative years of practice from which to draw wisdom. I find it crucial to reach out to experienced lawyers, within our firm and through the Mentorship Program through the Nova Scotia Barristers' Society. Some answers just cannot be found through research, no matter how skilled, but can be answered quickly and simply by a lawyer with years of experience.

What do you wish senior lawyers understood about young lawyers? That mellowing only comes with age and that it can only be achieved once you have enough knowledge to be comfortable knowing when you should relax a little and when you should fight the good fight.

What words of wisdom do you have for new lawyers? A good name is solid ground to build a practice on. In private practice, a lot of business is generated by 'word of mouth'. Provide great service to your clients and they will come back, and so will their friends and family. A little small talk with clients builds great rapport.

What are your goals for your career as you become a more seasoned lawyer? I plan to develop my practice in keeping with the needs of the community, including providing more legal services in French. I plan to continue to work toward increasing access to justice in French in Nova Scotia with AJEFNE to meet this goal.

November

– a Moustache is worth a Thousand Words



Putting a New Face on Justice meant exactly that for dozens of local lawyers, judges and other members of the justice community who sprouted moustaches in November in honour of the Movember campaign. Nova Scotia's legal and justice community contributed a whopping \$59,582 to the campaign to raise funds and awareness for men's health, including prostate cancer and mental health. Since its inception in 2011, the Nova Scotia committee has inspired community members to raise over \$165,000. Across the country, 247,251 registrants raised \$38,511,379. Boyne Clarke partner Rebecca Hiltz LeBlanc and her husband Mitch LeBlanc won The Honourable Justice Jamie W.S. Saunders Award (otherwise known as the Golden Mo) at the Halifax Law Courts wrap-up on November 29.



Law Day: Your Chance to Inspire Aspiring Lawyers

By Theresa M. Graham

When I was in Junior High, “lawyer” was not among my list of future career choices. Olympian? Sure. Famous movie star? Absolutely. FBI Agent? Sign me up (as long as I get to work on the X-Files). So, when my Social Studies teacher asked me and my classmates to participate in a mock trial, I agreed mostly because of my interest in the television series “Law & Order”, and not because of an interest in pursuing a legal career.

Looking back on it, I realize now how little exposure there is to the law and the legal profession in our public schools. For many students, the only opportunity available to study law is by voluntarily taking the Law 12 course in high school, if that course is even offered at the student’s school. That is why I am

excited to hear that Law Day 2013 theme is “Rule of Law Spring: Engaging the Next Generation”.

In line with the theme this year, the focus will be to work with high schools and youth across Nova Scotia to run mock trials on Law Day. Lawyers from the community will be connecting with these young adults to offer mentorship and guidance while they prepare for the mock trials. It is an excellent opportunity for the profession to strengthen its ties to the community and improve our reputation among young adults. This year, the Nova Scotia Law Day activities will be condensed from a week to a single day: Wednesday, April 17, 2013.

My own mock trial turned out to be a lot of work (Ben Stone made it look so easy!), but it turned out to be a lot of fun, as well. I was proud that I managed to undermine an eyewitness’ credibility by getting her to admit she had been drinking heavily before witnessing certain events at a rock concert. The students took on the roles of judge, prosecutor and defence teams, and the witnesses. The outcome was decided, quite literally, by a jury of our peers. The rest of the school came to watch. No pressure.

For many high school students, participating in a mock trial may be their only exposure to law and the legal profession. For some, it may, as it did for me, influence a decision later in life to pursue a career in law. Regardless, participation in a mock trial is a great way to appreciate the Rule of Law while having a fun time. We didn’t have the benefit of professional advice for my mock trial, but I can imagine that it would have greatly enriched the experience.

The Law Day Committee is calling for volunteer lawyers who are willing to put their advocacy skills, enthusiasm for the law, and passion for their community to good use to help high school students prepare for and run mock trials. No formal trial experience is required. Interested persons who are available for preparation starting in February and/or on Law Day can contact Jennifer Taylor, Nova Scotia Court of Appeal Law Clerk, at jtaylor@judicom.ca.



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Speaker: Gordon MacDonald, TEP

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Happy FUN Year!

Local lawyers resolve to do things differently in 2013

By Jennifer Taylor

A New Year's Resolution is often a code for punishment: I will ... go to the gym instead of the pub. Eat carrots instead of cookies. Read biographies of dead politicians instead of celebrity gossip websites.

Why do we do this to ourselves? After successfully surviving the stress of the Christmas season, we somehow think it's a good idea to start punishing our Type-A selves anew when the calendar year changes. Well I, for one, think it's time to put a stop to the whole idea of punitive goals. New Year's resolutions (unlike, say, legislative resolutions) should be FUN.

I began choosing fun resolutions last year. Too many of my friends and colleagues were talking about starting new diets come January, so I decided to go the opposite way: I resolved to bake more. And, of course, to eat what I baked. A delicious year—if I may say so myself—of chocolate peanut butter cupcakes, pumpkin walnut bread, and spicy apple cake followed.

Turns out I'm not the only one with less taxing plans for 2013 than, say, organizing my kitchen cupboards. (But hey – if anyone wants to volunteer for this task, I'm all ears!) Here is what a few of our fellow CBA-NS members are planning to do outside the office this year:



Ann Levangie (Partner, Patterson Law, Truro): "I resolve to stay up until 10 p.m. at least three nights a week."

Lana MacLellan (Staff Lawyer, Stewart McKelvey, Halifax): "My resolution is to spend more time outside – especially in the winter."



Darin Reeves (Canadian Forces, Halifax): "To take more walks with my wife and dogs, and to watch at least one movie/TV program a month that makes me laugh so hard I spill my beer."

Scott McCrossin (Counsel, RCMP Legal Services, Halifax): "To open a Twitter account so I can start following @DanMacRuryismyGod (if it doesn't exist, I'll start it). To learn and tell two cop jokes for every lawyer joke I'm told at the office. To stop explaining things to my six-year old before he screams 'Okay, okay Dad! That's enough – I get it!!!"



David Hutt (Partner at Burchells LLP): "I resolve that in 2013 I will no longer be the greatest contributor to my children's fundraising efforts."



Candee McCarthy (Associate, Sampson McDougall, Sydney): "1. To say 'no' more often - so that I say 'yes' to me more (thank you Oprah for that suggestion...). 2. To start a 'girls' night' monthly wine and shopping club. 3. To start putting money into a vacation fund so that I can visit the sunshine next winter!"

Daleen van Dyk (Articled Clerk, Waterbury Newton, Annapolis Valley): "To explore more of the world, if not in person then by sampling wine from every wine-producing country."



As for me, I have three objectives for 2013. I want to get regular manicures, finally start learning German, and watch more British tv shows (Sherlock Holmes and Cousin Matthew, I'm looking at you). Far better than counting calories, and proof that improving ourselves doesn't have to mean punishing ourselves.

Happy New Year!

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

Peter J. MacKeigan, Q.C.

Chartered Mediator
Chartered Arbitrator
Barrister & Solicitor



Peter is a full time commercial and labour mediator and arbitrator serving Atlantic Canada. He is a Chartered Mediator and Chartered Arbitrator as designated by the ADR Institute of Canada, a Distinguished Fellow of the International Academy of Mediators and has received an AV Peer Review Rating from Martindale-Hubbel.

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Alternative Dispute Resolution



Chief Justice Michael MacDonald on his trip to Kazakhstan

November took me on a big adventure – a whirlwind trip to snowy Kazakhstan, organized by the American and Canadian Embassies and the National Judicial Institute. The main event of the trip was meeting with the Prime Minister of Kazakhstan and his council, but I managed to squeeze in several other fascinating events during my three-day stay.

After a stopover in Frankfurt, I arrived in Astana, Kazakhstan. Astana Air is actually a nice airline with great service...and very different food. However, I was a little taken aback by the almost complete lack of English on the flight. I heard lots of other languages, like Kazakh, Russian, and German, but little English (or French). It was the first time I had flown when I understood nothing, so when the captain came on I had no idea whether he was telling us to enjoy the flight or expect turbulence.

We landed safely in snow-covered Astana, a new, modern, and prosperous-looking city, eager to vault into the future and shed its Soviet past. Astana was recently made the capital so they are working hard to complete the government infrastructure, and it was also just tapped to be the host city for Expo 2017. The architecture is amazing.

Almaty to the south remains the economic driver – not unlike Calgary and Edmonton. Also like Alberta, this is an extremely mineral-rich part of the world.

On my first day there I spoke to a group of superior court judges coincidentally assembled for an educational conference. They asked a lot of very relevant and interesting questions, especially about Canadian judges' salaries and benefits.

Day two brought a meeting with a group of prosecutors and other legal experts on anti-money laundering law. It was a relatively new topic for me, but one that was very important to them. The other interesting part was that, because I'm a federally appointed judge and a Chief, they thought I was the Chief Justice of Canada. I tried to correct them several times, but the translation was tricky!

That afternoon I met with a large crowd of law students. Very energetic, engaging, and fun – students are students wherever you go. They too asked great questions, on everything from salary to the appointment process to judicial conduct to our system of precedence.

The biggest event of the trip happened on my last day: a meeting with the Prime Minister and his Executive Council on judicial independence and impartiality. Our views were appreciated and it will be exciting to watch the progress of judicial reform in that part of the world.

On the social side of things, highlights included sharing the stash of Tim Horton's coffee I brought over with me; attending an American Thanksgiving dinner hosted by a US Embassy staffer; and only spending \$133 CDN to withdraw 20 thousand from the bank.

All in all, Kazakhstan is a great country, and Astana a great city. Too bad it's so far away.

Chief Justice Michael MacDonald is chief justice of Nova Scotia. He travelled to Kazakhstan in November 2012.

Benchmark is a recurring column highlighting the work of members of the Nova Scotia judiciary.

Notice of CBA-NS Council Meeting

The next CBA-NS Branch Council Meeting will take place January 31st, 2013, 3 - 5 pm at the Marriott Harbourfront Hotel, Lower Water St., Halifax. Highlights include presentations by the two candidates from Ontario who are vying for the position of CBA Second Vice-President for 2013-2014, Janet Fuhrer of Ottawa and Paul Sweeny of Burlington, as well as remarks from Sean Kelly, National Director of Membership. A short reception will follow the meeting. Please "RSVP" at cbainfo@cbans.ca.

Envisioning Equal Justice Summit

For too long, we've been talking about an access to justice crisis without making tangible progress. But as the crisis has gotten worse, our knowledge base has grown, and strategies are emerging to build a practical vision of equal justice. If you're looking to make a meaningful contribution and help resolve the crisis, you need to attend the CBA's Envisioning Equal Justice Summit, April 25-27 in Vancouver. At the Summit, you'll develop practical strategies, skills and tools for building a more just society and take home new ideas to use in your own work. You'll also earn at least 12 CPD hours in the process. To learn more and register, visit: <http://j.mp/equaljusticesummit>.

FAQs on solicitor-client privilege for in-house counsel

Building on the popular 2010 FAQs on Privilege and Confidentiality for lawyers in private practice, the CBA Ethics and Professional Responsibility Committee and the CCCA have produced a new series of FAQs about solicitor-client privilege and confidentiality aimed to meet the needs of in-house counsel.

The new FAQs cover the basic principles and offer practical guidance for difficult situations. Sample questions include "What are the exceptions to the duty of confidentiality and solicitor-client privilege?" and "What do I do when there is a possibility of a crime or fraud occurring?" For the answers to these questions and more, visit: www.cba.org/CBA/activities/code/privilege.aspx.

Count yourself in...

One of the ways the CBA can better serve its members is through an enhanced understanding of who they are. The national Membership Committee, in consultation with the Equality Committee, has implemented a self-identification module on the CBA website whereby members can update profiles to be statistically counted as a member of a particular demographic group – such as race, sexual orientation, gender, or religion. Please consider identifying yourself, in confidence. This can be done at any time on the CBA website. To self-identify and count yourself in, visit <http://j.mp/CBAmembership>.

SCHEDULE OF MEETINGS

2012/2013 Section Meetings

(January 2013 – June 2013)

Business Law	TBA	45-106 Capital Raising Exemptions (Joint with Securities Law)
	TBA	The New Place of Supply Rules (Joint with Taxation Law)
	TBA	Employment Issues in the Purchase & Sale of a Business
	TBA	Perils and Pitfalls of Adjustment Clauses in Commercial Transactions
	TBA	Business Names, Trademarks and Extra-Provincial Registrations
Citizenship & Immigration Law	Jan 24	The Community-Identified Stream of the NS Nominee Program
Civil Litigation/ADR	TBA	Best Practices for Electronic Disclosure
	TBA	Do's and Don'ts for Preparing for Trial
Construction Law	TBA	Occupational Health and Safety and Related Issues
Criminal Justice	TBA	Document Examination
	TBA	Prosecutorial Discretion
General Practice Solo & Small Firm	TBA	An Ounce of Prevention is Worth a Pound of Cure
Government & Public Sector Lawyers	TBA	A presentation on the powers of the House of Assembly and its committees to compel the testimony of witnesses and the production of documents
	TBA	A presentation on government procurement rules and related issues
Health Law	TBA	The New Personal Information Act
Labour & Employment Law	Feb 20	An Evening with the Labour Board of Nova Scotia
Military Law	March	Contemporary Maritime Law Issues, Including Piracy
	May	Preparing for Deployment: Family, Wills and Civil Law Concerns for the Military Client
Privacy & Access Law	Jan 17	Why Protect Privacy? What Can Go Wrong? Where Can You Get Help?
Real Property	Jan 30	The Future of Real Estate. How Technology Can Help Your Practice
	TBA	Software Solutions – Work Smarter not Harder!
	March	Conflicts of Interest in Real Property Transactions
Securities Law	TBA	Private Placement Refresher – Listed and Unlisted Companies
	TBA	Offering Memorandums- What are they, what must they contain and statutory rights and remedies
	TBA	The Mechanics of a Trade – A Broker's Perspective
	TBA	Community Economic Investment Funds & the Equity Tax Credit
Sexual Orientation & Gender Identity	Winter/Spring	Case Law Update [The timing of the decisions of the S.C.C. in Saskatchewan Human Rights Commission v. Whatcott and the B.C.C.A. in Pratton v. British Columbia (Attorney General)]
	April	Joint Section meeting with the Health Law Section
	July	Annual Pride Reception with the Nova Scotia Barristers' Society

SCHEDULE OF MEETINGS

Taxation Law	TBA TBA	GST/HST Place of Supply Rules U.S. Cross Border Tax issues
Wills, Estates & Trusts	Jan 8 TBA TBA TBA TBA TBA TBA	Who Are Your Notes Supposed to Protect, the Client, the Estate or You? Refresher Course on the Tax Consequences of Death Professionalism: A discussion of the standard of professionalism among lawyers and clients What needs to be done to protect the Estate when a family member has been intentionally excluded as beneficiary under the Will? Estate Planning for the Second Family Does Your Client Need Two Separate Wills if the Client Owns Land in Canada and land outside of Canada Incompetent v. Incompetency – What does this mean to you when you are to draft a Will, Power of Attorney and/or Personal Directive for a Client. Undue Influence-Factors to consider when undue influence is suspected.
Women's Forum	Jan 15 Feb April May	Practising Law on "Flexible Hours" – Myth or Possibility? Going From Lawyer to Novel Writer – A Chat with Pamela Callow How Does One Become a Judge? Trivia Night – Women, Wit and Wine
Young Lawyers	Jan 29 TBA TBA Jan Feb March April Spring	Managing Your Time and Energy Mixer with the Law Student Section Real Estate Law Mental Health and Wellness Crown Law Panel Discussion on "Marketing and Managing Your Solo or Small Firm Practice" Insurance Law Spring Social to gather feedback for next year's events

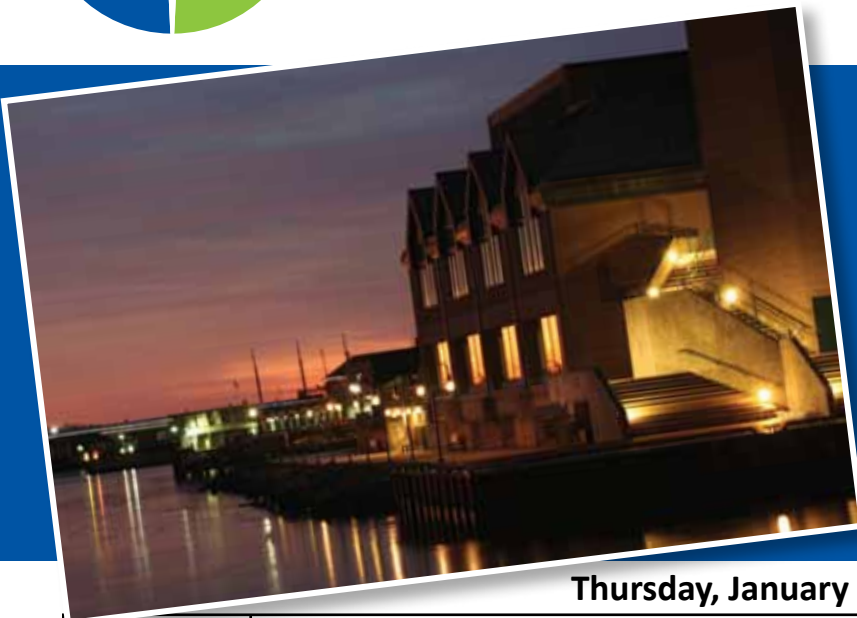
<p>CBA Nova Scotia is indebted to its volunteers for the time and commitment devoted to producing top of the line programs. We would like to thank the following organizers and speakers for their outstanding contribution to:</p> <p>Tax Law: Tips and Traps for Non-Tax Practitioners, October 26, 2012 Organizers: Sarah Campbell, Patterson Law Natalie Woodbury, Wickwire Holm Speakers: Kate Harris, Patterson Law Robert Miedema, Boyne Clarke</p>	<p>Raymond Adlington, McInnes Cooper Todd King, Deloitte Blair Hodgman, Allen & Hodgman P. Robert Arkin, Cox & Palmer Christine Pound, Stewart McKelvey Mark Singer, Grant Thornton Stephen Campbell, Wickwire Holm R. Daren Baxter, QC, McInnes Cooper.</p> <p>Face to Face: A Conference for Litigation Support, December 7, 2012 Organizer: Matthew Moir, Weldon McInnis Speakers: Daniela F. Bassan, Stewart McKelvey</p>	<p>Elizabeth Caverly, Federal Courts Administration Service Mark V. Rieksts, Nova Scotia Department of Justice Angela J. Green, Department of Justice Canada Caroline McInnes, Supreme Court of Nova Scotia The Honourable Gerald R.P. Moir, Supreme Court of Nova Scotia The Honourable John D. Murphy, Supreme Court of Nova Scotia Cathy Mollon, Supreme Court of Nova Scotia.</p>
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**THE CANADIAN
BAR ASSOCIATION**
Nova Scotia Branch

**PROGRAM &
REGISTRATION**

Full Registration = 12 CPD Hours



2013 Mid-Winter Conference & Business Meeting

January 31-February 1, 2013
Marriott Harbourfront Hotel
Lower Water Street
Halifax, Nova Scotia

Thursday, January 31, 2013

8:30 am	OPENING PLENARY – Ultimate C.L.E. - Clients, Loyalty and Excellence Robert Patzelt, QC, Scotia Investments Limited • Amy Sakalauskas, Nova Scotia Department of Justice		
9:30 am	<i>Alternative Mechanisms for Structured Settlements</i>	<i>Powers of Attorney and Personal Directives</i>	<i>The Cloud</i>
11:00 am	<i>Is It Worth the Cost(s)?</i>	<i>The Practical Application of Social Media</i>	<i>The Practical Application of Social Media (cont'd)</i>
12:15 pm	Lunch featuring Special Guest Speaker: The Honourable Warren Winkler, Chief Justice of Ontario		
1:30 pm	<i>Child Protection 101</i>	<i>Don't Like it? Let's Change It or Get Rid of It! - How to Vary or Wind Up a Trust (or Will) That No Longer Suits</i>	<i>Fifty Shades of Grey: Interpreting Contracts</i>
3:00 pm	<i>Experts/Personal Injury</i>	<i>Advising the Not-For-Profit Client: Tips, Traps and Recent Developments</i>	<i>Council Meeting</i>

Friday, February 1, 2013

8:30 am	PLENARY – Chief Justices Round Table on Advocacy Chief Justice J. Michael MacDonald, Chief Justice Joseph P. Kennedy, Associate Chief Justice Lawrence I. O'Neil, Associate Chief Judge James C. Wilson, Associate Chief Judge Pamela Williams, Chief Justice Richard Scott, Manitoba		
9:30 am	<i>Real Estate BooBoos</i>	<i>Succession Planning</i>	<i>Children and the Law</i>
11:00 am	<i>Court Confidential: Publication Bans, Sealing Orders & Lessons From The Trenches</i>	<i>Ins and Outs of LRA</i>	<i>Unscrambling the Pension Nest Egg – Pension Issues on Employment Termination and Marriage Breakdown</i>
12:15 pm	Lunch featuring Special Guest Speaker James Lockyer, Lockyer Campbell Posner, Toronto		
1:30 pm	<i>Cultural Competence</i>	<i>Cultural Competence</i>	<i>Cultural Competence</i>
3:00 pm	<i>Social Media Policies for Law Firms and Clients</i>	<i>Tax Planning for the Self-Employed</i>	<i>Til Debt Do Us Part</i>

Don't forget to register for **The Bench & Bar Reception & Dinner** with special guest **The Right Honourable Beverley McLachlin, Chief Justice of Canada, Thursday, January 31, 2013.** Come and see former Chief Justices **Constance R. Glube, Lorne O. Clarke** and former Associate Chief Justice **Robert F. Ferguson** receive **Honourary CBA Memberships.** *This is a separate ticketed event.*

REGISTER ONLINE AT:

www.cba.org/pd/province_en.aspx and choose Nova Scotia.