

NOVA VOICE



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The Voice of the Legal Profession in Nova Scotia

Stretch Your Brain *Fitness for Lawyers*

What Does it
Take to Become
a Partner? How
about a Judge?



PRESIDENT'S REPORT



By **DAN MACRURY, Q.C.**

It has truly been an honor to be president of the Nova Scotia Branch of the Canadian Bar Association. I want to thank all the members for this tremendous opportunity. As I conclude my term as President, I am reminded of the words of two past presidents of this great branch—Julia Cornish and James

Rossiter.

As President Julia Cornish always said that the presidency of the branch was a tremendous experience and that the CBA was an organization that the more you give to the organization the more you get back. I can say without hesitation that she is so right. The CBA is an organization that gives lawyers an opportunity to meet and learn from other lawyers practicing in the same field. It also provides an opportunity to receive tremendous professional development to assist lawyers with their ongoing CLE requirement. I have been very fortunate over my years of practice to have great volunteer experiences but without a doubt the best volunteer experience is being involved in the Canadian Bar Association.

Past president James Rossiter when he was president always said that the Nova Scotia Branch at the national level always punched above its weight. As much as it pains me to say

this Jim is also right. As your representative on the national board I have observed how Nova Scotia's voice is well respected at that table. That respect is because Nova Scotia continues to make a tremendous contribution at the national level in all facets of the Canadian Bar Association. They include national sections council, national sections, national conferences, and national standing committees.

I would like to thank all the Nova Scotians who represented the Branch at the National level this past year. I would like to thank our tremendous staff under the leadership of our Executive Director, Tina Tucker, Jill Thomson and Ian MacDermid. We are very fortunate to have a tremendous staff assisting the membership of Nova Scotia. Though small I can say they are very mighty and are always up to the task. Again, thank you for your efforts.

I would also like to thank our executive team who made my job very easy. Vice President - Robin Elliott, Treasurer - David Cameron, Past President - Jessica Lyle, Communications and Public Relations Chair - Christine Doucet, Equity Chair - Lester Jesudason, Young Lawyers Section Chair - Andrew Taillon, Membership and Member Services Chair - Sean Foreman and Legislative and Law Reform Chair - Matthew Moir.

As I conclude this great year and say that next year we will be in great hands under the leadership of Robyn Elliott. Again, thank you so much. Slainte

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ON THE FRONT COVER: Andrea Baldwin

From the Bar to the Bench

By **JENNIFER TAYLOR**

At an eye-opening Women's Forum session on April 15, three of Nova Scotia's most accomplished female judges—the Honourable Justice Linda Oland of the Court of Appeal; the Honourable Justice Cindy Bourgeois of the Supreme Court; and the Honourable Chief Judge Pam Williams of the Provincial Court—provided valuable insight into some of the misconceptions we might have about what it takes to go from “counsel” to “My Lady”:

Misconception #1: It's too early in my career to think about becoming a judge

It's never too early to think about becoming a judge. Your reputation and character are two of the most important considerations for judicial appointments, and they follow you throughout your career. The judicial advisory committee not only canvasses candidates' listed references, but also other members of their legal and social circles, so any skeletons in closets will be discovered.

Justice Oland particularly emphasized the need for judicial candidates to demonstrate the utmost ethical care in their practice. You want to be known for demonstrating courtesy, respect, and patience to your colleagues and the Court – not for sharp practice. Justice Bourgeois put it succinctly: “Work hard and be polite to staff.”

You can work on perfecting your “judicial disposition” throughout your legal career – not just when you're “more senior” or “experienced” enough to become a judge.

Misconception #2: I'm not good/smart/experienced/etc. enough

Sheryl Sandberg's Lean In taught us that many women are plagued by self-doubt and decide to remove themselves from competition before they're even at the starting gate. Turns out Sandberg's plea for women to “lean in” to their careers, and to take chances on advancement and promotion, applies in the judicial arena too.

Justice Oland explicitly advised against “self-selecting yourself” out of the appointments process. She initially ruled herself out because she was not a litigator, until a senior colleague suggested that she apply. Fortunately she accepted the advice, and now cautions potential candidates not to close the door too quickly. Justice Bourgeois also advises women against selling themselves short. She doubted whether she could be a judge, but like Justice Oland, she had a cheerleader who encouraged her to apply – and followed up several months later to see if she had submitted her application yet.



From L-R: Justice Cindy Bourgeois, Nova Scotia Supreme Court; Tyana Caplan, Women's Forum Co-Chair; Justice Linda Oland, Nova Scotia Court of Appeal. (Missing from the photo is Chief Judge Pam Williams, Nova Scotia Provincial Court)

This is a lesson not only for potential applicants, but also for their colleagues and mentors: if you know someone who would be an ideal candidate for the Bench, let her know, and keep encouraging her.

As for not being experienced enough, Justice Bourgeois pointed out that the minimum requirement for appointment in the federal Judges' Act is (only) 10 years at the Bar.

Misconception #3: I don't practice the right area(s) of law

The panelists were clear that you don't have to litigate or even practice in a particular area of law to become a judge. A corporate lawyer like Justice Oland, and a civil lawyer like Justice Bourgeois, could end up presiding over a criminal jury trial in her first week on the Bench, but it's all part of the judicial learning curve. It's not even necessary to practice law in the traditional sense in order to be considered for a judicial appointment, as judges may be culled from the ranks of academia, in-house counsel, and adjudicators for non-judicial boards.

The work you do outside your office counts as well. Involvement in community and professional organizations can reveal some of your most valuable, and relevant, characteristics. It is important to use the application as your opportunity to showcase a well-rounded variety of skills and experiences.

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Aboriginal Law – A New Role for Administrative Law



By NAIOMI W. METALLIC

Recently, administrative law principles have been used by First Nations to challenge government decisions, in particular decisions made by the federal Department of Aboriginal Affairs. Two such cases hail from the Maritimes. In this first part of a two-part article, I will discuss the first case, *Pictou Landing Band Council et al. v. Attorney*

General of Canada, 2013 FC 342 (the “Beadle case”).

It is important to appreciate that most, if not all, programs and services on First Nations reserves, including health, social services and education, are funded and overseen exclusively by the federal government, primarily via Aboriginal Affairs. The *Indian Act* is largely silent on the provisions of such services and Canada chooses not to legislate, instead regulating a wide number of programs through a combination of funding authorities, policies and guides and contribution agreements with First Nations. Administrative law principles lend themselves to addressing the type of discretionary, non-legislative decisions that arise from Canada’s chosen style of regulating First Nations’ health and social services.

The *Beadle* case involved the Nova Scotia Pictou Landing Band Council and a band member, Maurina Beadle, as applicants in a judicial review against Canada. Ms. Beadle is the mother and primary caregiver to her teenage son, Jeremy. Jeremy has severe disabilities and is completely dependent for all the activities of his daily living. Ms. Beadle cared for Jeremy until he suffered a stroke in 2010 and had to rely on home care services, funded by Aboriginal Affairs, but administered by the Band Council. However, it soon became clear that the level of services required by Jeremy was rapidly depleting the overall amounts allocated to the Band by Aboriginal Affairs to administer the service. The Band therefore sought additional funding for Jeremy, citing the fact that although the amounts of home care funded off-reserve by the province was to a maximum of \$2,200 per month, the province had the ability to pay additional amounts in exceptional cases. Given that Canada’s policy is to provide

a comparable level of services as in the province, the Band argued Canada could and should treat Jeremy’s situation as “exceptional circumstances” and pay the additional amounts. Without additional funding, Jeremy would have to be placed in institutional care away from his mother and community.

The Band and Ms. Beadle also relied on “Jordan’s Principle”. “Jordan’s Principle” was a commitment made by Canada and several provinces in 2007 to avoid jurisdictional disputes over who, between the federal or provincial government, pays for services for First Nations children requiring health and social services. However, Aboriginal Affairs deemed this not to be a Jordan’s Principle case as there was no jurisdictional dispute between Canada and Nova Scotia about who should pay for Jeremy’s service. Nova Scotia permitted an exception, but Aboriginal Affairs had determined that had Jeremy been living off-reserve, his situation would not have qualified as an “exceptional circumstances”.

The Federal Court disagreed with Aboriginal Affairs, finding that Jordan’s Principle is not to be read narrowly and the absence of a monetary dispute is not determinative when officials of both levels of government are wrong about what is available to persons in the province in need of home care services. The Court determined that Jeremy’s situation was clearly one of “exceptional circumstances.” In the Court’s view, Jordan’s Principle requires assessment of the services and costs that meet the needs of on-reserve First Nations children and would encompass additional funding for exceptional cases where allowed for in the province where the child is geographically located. Aboriginal Affairs’ decision that Jordan’s Principle was not engaged was therefore unreasonable and set aside using administrative law principles.

In the next edition of *Nova Voce*, I will discuss another Maritime case involving a challenge to a decision by Canada / Aboriginal Affairs on administrative law grounds, *Simon et al. v. Attorney General of Canada*, T-1649-11 that will be heard in the Federal Court in late June 2013.

Trending is a recurring feature focusing on a new development in the law. Naomi Metallic is a lawyer at Burchells LLP in Halifax.

¹ When referring to “First Nations” in this article, I mean “Indians” as defined under the *Indian Act*, RSC 1985 c I-5, who live on reserve.

² Another noteworthy case from Ontario is *Attawapiskat First Nation v. Canada*, 2012 FC 948. In this case, the decision of Aboriginal Affairs to place the First Nation in third party financial management at the time

it was experiencing a severe housing crisis was overturned on the basis of being unreasonable, there having been no evidence to support that the First Nation lacked the ability to manage their finances to justify the imposition of third party management.

³ “Jordan’s Principle” takes its name from Jordan Anderson, a young First

Nations boy who died in hospital in 2005 without ever having stepped foot on his home reserve, due a dispute between Manitoba and Canada over who should pay for his services upon his return to the reserve.

⁴ Given this finding, the Court found it unnecessary to rule on the s. 15(1) Charter arguments that had also been advanced by the applicants.

Making Partner

By **TERESA M. GRAHAM**

Partnership is the goal of many associates. But what, exactly, does partnership mean? How long does it take to become a partner? What are the benefits and risks of partnership? I asked Joseph F. Burke of Cox & Palmer, Julia E. Cornish, Q.C. of Sealy Cornish Coulthard, and Matthew J. D. Moir of Weldon McInnis for their input on partnership: what it is and what it takes to get there.

Associates are generally employees or independent contractors. In some firms, associates may share in the risk and profits of their firms, but typically only in regard to their own performance. Partners, on the other hand, have an ownership interest in the firm. “The main advantage in becoming a partner is the right to share in the firm’s profits,” says Matthew Moir, “[o]ther advantages include a higher degree of authority and control within the organization, and for some lawyers a degree of prestige. There can be certain tax advantages to being a partner depending on individual circumstances”.

Of course, partnership also comes with a degree of risk. As Julia Cornish puts it “The buck stops with the partners on everything - financial management, human resources management, marketing and day-to-day operations. It can seem hard to meet all the responsibilities and still practice at a high level. When you become a partner, you are typically trading off security for control and influence”. Joe Burke adds: “[o]bviously you will see fluctuation in your income depending on factors such as the economic climate, the general volume of work, and how quickly the firm’s accounts are getting paid. If you are used to living paycheque to paycheque and don’t like any uncertainty, then maybe partnership isn’t for you. Similarly, if you are footloose and fancy free and don’t like the idea of getting too “rooted”, you might want to think again. We want our partners to be committed for the long haul!” Matthew Moir warns not to be too fearful of risk, “Financial considerations or adversity towards risk should never be reasons to decline partnership in my view. Any associate, whether paid by salary or an income split, faces business risks. The market for his or her practice area may decline or another associate may take his or her place, for example. And even if you are making an unplanned investment into your firm, you are likely to be earning more income with which to make that investment as a partner. If partnership works for you but you are concerned about the business risks, bury those deep and take partnership!”

All three lawyers provided an estimation of the time it takes to become a partner, ranging from 5 to 8 years, generally speaking. By the time you are being offered partnership, there will probably

be few reasons to decline it. However, if you are expecting to leave your firm for a significant period of time, such as for maternity or paternity leave, you may want to reconsider the offer. “Support for new parents in our profession is appallingly scarce, even more so for partners than associates,” says Matthew Moir, “[a] partner who returns after an extended leave faces the financial reality of re-starting the practice while carrying the financial burdens of being a partner”. Julia Cornish suggests that you also take a good look at the partners you are joining: “[t]he smaller the firm, the more important it is for you to share an attitude towards the firm’s financial health and overall philosophy. If you’re financially conservative and you’re asked to partner with lawyers who are risk-takers, you are setting yourself up for sleepless nights. And, of course, you have to have a rock solid confidence in your partners’ integrity”.

So, if you’ve decided that private practice and partnership are for you, how do you get from “here” to “there”? “Learn as much as you can about the necessary business skills-managing money, reading financial statements, managing people and marketing. Fortunately, there are a lot of resources out there geared to lawyers wanting to develop those skills. And look for mentoring,” suggests Julia Cornish. Joe Burke advises, “Stay the course. Work hard – but remember that the quality of your work is equally if not more important than your billable hours. Become a visible presence at your firm by getting involved wherever you can. And don’t forget about the importance of business development. Without clients, we have nothing”.

Career Compass is a recurring feature focusing on a workplace issue of interest to CBA members. Theresa M. Graham is an associate at Weldon McInnis in Dartmouth.

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And Now For Something Completely Different



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

I start each day before 6 a.m. reading two newspapers (old school) – meaning printed on paper – the *Globe and Mail* and the *Chronicle Herald* before going online. I also do a crossword puzzle to get the brain blood pumping and for amusement read my horoscope. Astrology is bunk. The French psychologist Michel Gauquelin undertook a massive statistical test matching

the personalities of people born under various signs of the zodiac. He listed 50,000 character traits according to the appropriate astrological sign that typified 16,000 famous people and there was no correlation found between personality traits and the sign under which a person was born.

I wrote this because it was the only thing that came to mind and I had a looming deadline for publication. The following is for your amusement, and if you find it funny, that is excellent. If you are offended in any way, that is your issue because, in short, you are who you are and life is what you make of it. Science is on my side. And besides, I am a Sagittarian and we do have a great sense of humour.

ARIES (Mar 21-Apr 20) Aries are strong, vibrant, enthusiastic and competitive. Although a ram is a sheep, you are anything but sheepish. Sheep say “Baaah”, Rams say “Baaaack off”. They are the impulsive, act first, respond to questions later. They are the cause of much drama and sometimes even accidents. If everything is running smoothly, you can count on them to do something (at times quite foolish) to shake things up. They tend to butt into lines. Aries is ruled by Mars – the god of war. Aries would make good contingency litigators.

TAURUS (Apr 21-May 20) One of the things most common about a Taurus is stability. They will work very hard for certain guarantees. They are practical and persistent. Other signs think they are stubborn and bullheaded. They would make excellent regulatory lawyers. Taurians are ruled by the Venus – the goddess of money and stuff so they have a fondness for beautiful and shiny things thus love flowers and jewelry.

GEMINI (May 21-Jun 20) - Geminis are quick and intelligent thinkers who are optimistic and have a good energy. Remember that Geminis are the twins, which means they can see both sides of an issue. They are easily bored and won't survive long doing tedious or repetitive work. They love travel and working with people. They are curious. Again, remember they are twins thus they can talk twice as long and twice as fast. They would make excellent mediators.

CANCER (Jun 21-Jul 22) – Cancer is the mother of the zodiac. Like most mothers they are sympathetic and understanding to other people's problems. Cancerians give great advice and are very protective. They make excellent family law practitioners. Having said that Cancer is the crab so they are prone to complaining. They are also ruled by the moon so subject to severe mood swings. If their kvetching gets out of hand, you know what to do with a crab – boil them.

LEO (Jul 23-Aug 22) – The lion is fearless, inspiring, and are best when they are in a leadership role. They can be high-maintenance because they love the spotlight and power. Leo is a cat and like all cats, they say “look at me and look at my hair, isn't it beautiful?” Others members of your firm think they are disruptive to the team environment but their charm usually wins everyone over in the end. Leos should be managing partners. Most Leos spend a lot of time looking at themselves in mirrors.

VIRGO (Aug 23-Sep 22) - They are the logical ones and known for their perfectionism and do very well in detailed-oriented professions. They are very tidy and neat. They are also easy to get along with as they are generally very cheerful. To the rest of the profession your nitpicking can be annoying. Virgo is the virgin, and thus they really are not a lot of fun. They hang out with accountants and actuaries because it makes them look like rock stars by comparison.

LIBRA (Sep 23-Oct 22) - What would our profession do without them? Libras are people people. They are good-looking, charming, gracious and entertaining. They make excellent ambassadors and are team leaders. They are artistic types and at times have difficulty with reality. They are not meant to be slaving away in the back office. They are best as rainmakers, law student recruiters and heading up the firm's social activities. If they were not practicing law they would be the lead singer of a rock band.

SCORPIO (Oct 23-Nov 21) – Scorpios are intense. They are shrewd in business and they are the one to call if you have a big problem. They need their independence so give them their space. They are after all the scorpion, so treat them well. You would never want to be cross-examined or interrogated by a Scorpion as they are intimidating and also very intuitive. Scorpios are also drawn to the abnormal and they like to know what makes things tick. Scorpios are prone to giving advice on matters that are of no concern to them. They make outstanding prosecutors and special investigators.

SAGITTARIUS (Nov 22-Dec 21) - They are optimistic, enthusiastic and philosophically very deep. Routine is not their best environment as they cannot be bothered with details. They are likable, witty and the best lovers out of all the signs of the zodiac. They are clear thinkers and can see the big picture. These people are deal makers. They should be general counsel or head the

Continued on next page

A Québécoise finds herself at home in Amherst



By CATHERINE HIRBOUR

A native Québécoise, I live, run, and work by the beautiful Tantramar Marsh in northern Nova Scotia. Could I have told you five years ago that I would be living and working in Amherst? Not at all. But life has a funny way of giving you what you need.

After moving to Nova Scotia to attend StFX, I worked for a non-governmental organization as an intern in Peru with the Coady International Institute. My travels then took me to British Columbia, where I completed a Masters degree in political science. After my law degree at UBC, I articulated at a national law firm. Working with the securities group in the midst of an American economic crisis wasn't in my favour when hire-back time came around. But again, this is what led me to do what I really wanted: to get closer to my roots back East. When an opportunity came up in Nova Scotia, I recalled my fond memories of the place, and did not hesitate in making the move.

Four years later, a lawyer at the mighty small-town firm of Creighton Shatford, I'm a home owner with my fiancé and our young pup Flynn in tow (he keeps us entertained with his shenanigans). No regrets. My practice takes me in many interesting directions. From a tense family law trial, to prosecuting a fisheries case in French, I like the relationships I build with my clients.

Relationships are key. I have been fortunate to meet a great

group of lawyers who feel the same. Recently, the Association of Collaborative Family Law Lawyers of Nova Scotia held a training session where we learned interest-based negotiation techniques. The interdisciplinary approach, where both clients may use the same financial advisor and social worker, makes sense from a cost-savings perspective and offers a supportive environment.

The main goal of the approach, and what attracts me to it, is that clients walk away feeling they have a settlement that they have crafted themselves. The goodwill gained goes a long way. However, in a town of 10,000, with two main law firms, I was concerned that this would leave clients having to travel to retain new counsel if the matter proceeds to court. But, with experienced professionals getting involved, it is amazing to see how artfully they can identify the clients' interests and help them articulate a viable plan.

As you can see, I enjoy practicing law in a small community and learning from the experienced practitioners around me. It's important to pass on a love of what we do. A few weeks ago, to celebrate Law Week, a colleague and I went to the local middle school, where an eager bunch of Grade 7 kids put the Big Bad Wolf on trial. Seeing all the props and outfits the students had, how they had memorized their parts and creatively presented their roles, it made me happy to share the drive I feel for practicing law and for being part of the cozy community of Amherst.

The Nova Voices column features the viewpoint of lawyers around Nova Scotia. Catherine Hirbour was called to the Nova Scotia bar in 2009 and practices Creighton Shatford in Amherst.

EXAMINO *Continued from previous page*

corporate practice department with tons of minions doing the dirty work. They are ruled by Jupiter, the king of the gods, so they are sometimes perceived to be "know-it-alls" but annoyingly so, they are almost always right.

CAPRICORN (Dec 22-Jan 19) – This sign is the goat and like a billy goat they are very ambitious, determined and persistent (read stubborn). Even in the face of a craggy mountain they will no doubt get to the top. They will enforce rules and keep everyone in line to very exacting standards. They are conservative and abhor any chance of mistakes so tend to be workaholics. A lot of administrative tribunals, disciplinary committees and court administrations are outstandingly lead by legally trained Capricorns. Toll roads were probably invented by a Capricorn.

AQUARIUS (Jan. 20-Feb 18) – They have an inventive mind, are progressive and what sets them apart from everyone else is their humanitarian point of view. Their favourite cereal is Fruit Loops. They are attracted to social issues. They do not thrive in corporate environments, needing freedom of thought and movement. They

will not be satisfied doing things the same way they have always been done. Aquarians should be environmental lawyers.

PISCES (Feb 19-Mar 20) – They have vivid imaginations, and are very creative and passionate. Whenever they see someone suffering, or in some type of trouble, it touches their heart so deeply that they can't help but lend their talents to the cause. Pisces is the fish. Actually two fish swimming in different directions. They understand the ocean has other dangerous fish-eating predators out there so they tend to believe they are being watched by spy agencies. Pisces make excellent entertainment lawyers.

If nothing else, I have made you think about a few lawyers you have met throughout your career and you are wondering – I wonder when his/her birthday is. Even better, you are nodding your head and saying – yes that sums up my coworker to a tee, thank you for explaining that for me.

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

Andrée K. Godbout

Called to the bar: New Brunswick - January 2006; Nova Scotia - March 2008

Firm: Scotia Private Client Group

Area of practice: Estates and Trusts

Describe your professional experiences to date: After a brief stint in private practice in New Brunswick, my husband Erik Lang and I moved to Brussels, Belgium where I completed a Master's degree in Legal Theory. From there we moved to Halifax, where I began working for Scotia Private Client Group (SPCG) as Senior Will and Estate Planner. I have been working in estate and trust planning ever since.

Describe your current practice: I am currently in the eighth month of a year-long maternity leave from my employment at SPCG, where I assist clients who intend on appointing Scotiatrust as their estate trustee.

Describe the unique qualities you bring to your practice: I find my work extremely satisfying in that I often connect with my clients on a very personal level in order to help them understand and guide them through the 'whys' and 'hows' of their estate planning goals. As you can imagine, a sense of humour about the topic at hand is often appreciated. As such, I have the opportunity to try out as many jokes as I can get my hands on.

Describe one of your most satisfying achievements in practice: Clients typically delay their estate planning to the very last minute, yet they often report that these questions have been hanging over their heads for so long. Relieving them of this burden and having them feel like they've taken care of things is one of the most satisfying aspects of my practice.

Describe your involvement with the CBA, both past and present: I've been a CBA member since my initial call to the bar in New Brunswick. I co-chaired the Women's Forum in 2009, and participated



in Law Day activities in conjunction with my involvement with the Association des juristes d'expression française de la Nouvelle-Écosse (AJEFNE).

What other activities and volunteer pursuits occupy your time? While my main maternity leave activities are focused on my two young boys, Frédéric and Jude - I remain actively involved with the Society of Trust and Estate Practitioners as a member of the Atlantic Branch's executive, and most recently was nominated as Secretary of the Halifax Estate Planning Council. From 2009 to 2011 I was President of AJEFNE and remained active there until late 2012.

Why did you decide to practice law? What drew you to your area of law? I was drawn to the study of law because it provides many different ways to help solve problems. As for estate planning, I was led there by my search for an alternative to private practice. At SPCG, I found a wonderful working environment in a fascinating field that provides me with as much client contact as I could want.

What do you consider to be the greatest challenges facing young lawyers? I have been very fortunate in my development as a young lawyer, and remain fortunate

that I have a job that allows me intellectual stimulation along with that almost-cliché "work/life balance". Most of the young lawyers I know are struggling to find balance between their love for their profession and their desire to have fulfilling family lives and community involvement.

What do you wish senior lawyers understood about young lawyers? I think young lawyers are in exactly the same boat senior lawyers were at the beginning of their professional lives - seeking good learning opportunities and wanting to dive into the subject-matter at hand. Perhaps the only difference with today's young lawyers is that they are not always so willing to give up the idea of a balanced life to attain professional success.

What words of wisdom do you have for new lawyers? Keep an open mind with respect to alternatives to private practice and fields of law you didn't think you'd be practicing later on!

What are your goals for your career as you become a more seasoned lawyer? I have a lot to look forward to with regard to deepening my knowledge in my field, and I would like to be able to share my knowledge with the community as much as possible.

Fitness for Lawyers

By HEIDI SCHEDLER

If I told you there was a way to not only improve the longevity of your law practice, but also to improve its efficiency, productivity and return on investment, would you be interested? Thought so.

Maintaining a healthy lifestyle not only reduces your risk of premature death, heart disease, stroke and a host of other unsavoury medical conditions; it also helps to improve your mental health, morale and self-esteem. Ergo, staying fit and healthy is absolutely key to maintaining a successful, affluent law practice.

Many people have a hard time fitting exercise into an already jam-packed schedule. Fair enough. But if you are waiting for the perfect time when you will have nothing else to tick off on your to-do list, you should know by now that this time will never come. Like most other things in life, staying healthy is about seizing an opportunity. So, get out there and, well... just do it! (Thanks Nike!) Exercise doesn't have to mean hanging over an elliptical machine for 60 minutes at a time. Think outside the box and just start moving!



Derek Land, Blackburn English, Bedford: "As a parent of three kids five and under, I have to seize every fleeting opportunity. I get my resistance training carrying reluctant children up and down stairs, or cooking whilst holding one on my hip, alternating sides as my arm reaches the point of muscular failure. On nice nights I try to get out for a run around the neighbourhood. All too often the midpoint of the run is the Sobey's checkout line with guacamole or baked goods in hand. Running up hill while trying to keep a blueberry pie flat and intact may be the perfect workout; it's as intense a mental exercise as it is a physical one, and integrates tangible evidence of the promise of instant gratification upon its conclusion."

Andrea Baldwin, Stewart McKelvey, Halifax: "Running, cycling and hiking are some of my favorite ways to stay healthy and in balance. I used to run half and full marathons, later changing to triathlons for a new challenge. Nowadays as the mother of a toddler and preschooler I have much less time to devote to physical activity so I have also returned to the practice of yoga, which I find to be calming and restorative. And, although it's quite challenging, my goal is to apply the mindfulness and compassion of yoga off the mat, in my day-to-day life."



Brian E. McConnell, Barrister and Solicitor, Digby: "For my health and my happiness, I swim, both at home and at the local Y. I usually get to the Y every other day, swimming approximately 8,000 metres a week, or 320 lengths of the 25 metre pool. We also have a backyard pool which we open as early as we can, and did this year at the beginning of May. Fortunately, from an early age I was encouraged to learn to swim by my mother, later becoming a lifeguard and swimming instructor. Then eight months ago when I fractured my lower back in a serious vehicle accident, I used swimming as therapy to get back into shape again."

Ellen Sampson, Blackburn English, Enfield:

"I try to run as often as I can. A 5K following work really gets me through my day. I love running because it's easy and gives me an opportunity to clear my head. I also try my best to get out for a short walk during my lunch break when possible."



Michelle Rogers, McGinty Doucet Walker, Halifax: "I recently became involved in karate, which I do twice a week in a class with my kids. (I just earned my orange belt!) I can't remember the last time I enjoyed a hobby more. It's a great way to be active, and spend time as a family. I'm also fortunate to have a Goodlife in my office building, so it's convenient to pop into to a few lunch-time classes a week. My favourites are yoga, spinning and Body Pump. It gives me time to get out of the office and clear my head, which makes for a more focused and productive afternoon."

Outside the Office is a recurring feature focusing on a lifestyle issue of interest to CBA members. Heidi Schedler is Enforcement Counsel with the Nova Scotia Securities Commission and a member of the editorial board of Nova Voce.

Peter J. MacKeigan, Q.C.

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**Alternative Dispute
Resolution**



Top: students and volunteers at J.L. Ilsley High School, Bottom middle: Military Law Section hosted a mock Summary Trial and presentations by Military Police with 250 Vimy Royal Canadian Air Cadet Squadron. Bottom right: CBA vice president Robyn Elliott and representatives of the East Coast Environmental Law Association Nathan Smith and Jessie Irving.

Law Day Recap

Law Day 2013 achieved its goal of engaging the next generation. Nova Scotia lawyers brought the message of the Rule of Law to over 650 students and cadets across the province on April 17, 2013. For the first time, Law Day focused exclusively on engaging students across the province by sending lawyer volunteers directly into their schools to give presentations and to coach and conduct mock trials.

The following 15 schools and two cadet squadrons welcomed CBA lawyers into their classrooms:

Auburn Drive, Citadel High, Eastern Shore, Halifax West, J.L. Isley, Lockview, Prince Andrew, Sackville High, Sir John A. Macdonald, Riverview, Northeast Kings, CEC, Dr. J.H. Gillis,

Avonview, Yarmouth Consolidated, 250 Vimy Squadron Hubley, and 865 Dartmouth Kiwanis Squadron.

This year's worthy recipient of the Law Day Award was the East Coast Environmental Law Association. The Association received the award at a dinner on May 23, 2013.

2013 Law Day co-chairs David Cameron and Darrin Reeves thank the committee for its superb contribution. The Law Day committee hopes to continue the success with the next generation next year by targeting 25 schools around the province. For highlights of this year's events, please see:
Twitter: https://twitter.com/LawDayNS_2013
Facebook: <https://www.facebook.com/NsLawDay?fref=ts>

Misconception #4: Only men get appointed to the Bench

Sadly it might seem that way sometimes – of the 49 federally appointed judges in Nova Scotia, only 15 are women, and only 10 of 39 provincially appointed judges are women. Nationally, women make up about 33 per cent of the federal judiciary.

However, Nova Scotia just reached an important milestone when it comes to women on the bench: Chief Judge Williams recently became the first woman to be appointed Chief Judge of the Nova Scotia Provincial and Family Courts.

So don't let statistics deter you.

And the more women who are appointed to the Bench, the more judicial policies adapt. Justice Bourgeois became pregnant soon after her appointment to the Bench, and despite there being no maternity leave policy for judges, she was able to take advantage of provisions in the Judges' Act permitting the Chief Justice to grant a leave of absence for up to six months.

Misconception #5: I applied once and didn't get appointed so I shouldn't apply again

There is no rule against multiple applications; in fact, they are quite common. As Chief Judge Williams advised, the application process is, to a great extent, about timing. She suggested that interested lawyers should keep submitting applications – you never know when your application will coincide with an opening on the bench.

Once you know the ins-and-outs of the application process, you may also want to consider how becoming a judge will affect your day-to-day life. You will have to play by an adapted set of social rules when you become a judge. Isolation can also be a downside of the position – you can't express political opinions, even with close friends, and you may have to end certain community involvement upon appointment to the Bench. On the other hand, Chief Judge Williams emphasized that it's still important for members of the judiciary to be visible members of the community in which they live and work (even if it's just walking the dog or buying groceries) and not sequestered in their Chambers.

You will also have to travel. Under the Nova Scotia Judicature Act, there are four judicial districts in the province, and there are two "resident judges" of the Supreme Court for each district. You will be required to rotate through courts across the province for two-week sessions at a time, or potentially to fill in for a colleague at the last minute. This takes some planning and adjusting, especially if you have kids at home (as Justice Bourgeois does), but is an essential part of the position.

Remember the hockey adage that you miss 100 per cent of the shots you don't take? The same applies to qualified women lawyers who may doubt whether they should apply to the Bench. As Justice Oland concluded at the end of the Women's Forum session, "We need women on the Bench and this is a wonderful time to apply."

For more information that might help demystify the federal judicial appointments process, visit <http://www.fja-cmf.gc.ca/appointments-nominations/process-regime-eng.html>.

Sections Spotlight is a recurring feature focusing on a recent meeting or initiative of a CBA-NS section. Jennifer Taylor is a Clerk of the Nova Scotia Court of Appeal and a member of the editorial board of Nova Voce.

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NEW MEMBERSHIP MODEL

What's new? First, because we know that you rely on your CBA membership for access to practical, cost-effective professional development, we're offering you upfront 20 per cent discounts on new packages of PD and Sections as a thank you for membership. On top of that, we're providing rewards of between three and five per cent on anything else you purchase from us, as a straight reduction on your membership renewal cost the following year. And the third big change is a revamping of our membership categories to become more inclusive of, and responsive to, the diversity of the profession. As an example, in NS, there are 807 lawyers who have chosen "non-practising" status with the Barristers' Society. So, now, if you are a non-practising, or retired member, you will be able to access all of the services, programs, advocacy and volunteer opportunities that the CBA provides, for half the price of regular membership. If you are a new lawyer in your first three years of call, we're offering an even bigger discount: 60 per cent off the regular price, because we know that the first few years are when you are working hard to establish yourself and build your own network. To learn more about the new offerings, or to renew your membership online, visit: <http://www.cba.org/CBA/membership/main/new-fee-structure.aspx>

Futures initiative moves into consultation phase



With the ultimate goal of establishing a better way of practicing law, the CBA's Legal Futures Initiative has concluded its research phase. This stage involved commissioning original research to establish where the profession currently stands, and identify the primary drivers of change. Seven background papers commissioned by the CBA have found a fairly wide agreement on the pressures buffeting the legal system: globalization, the economy, empowered clients and overwhelmingly, the rapid developments in technology. It has also found that the profession is in a state of "quasi-inertia" about how to respond to these changes. June marks the release of a final paper drawing all of these findings together, as well as the launch of Phase II of the project - the consultation phase. This stage will ask CBA members and other legal professionals to provide feedback on their future vision of the profession, the changes they have been making in response, and the role they foresee the CBA playing. Keep an eye — and your Twitter fingers — on the discussion at #CBAfutures, or visit the Futures website at www.cba.org/cba/fol/home/ to learn more.

HELPING YOU PLAN YOUR CONTINUING PROFESSIONAL DEVELOPMENT (CPD)- Section Meetings Are Free and Count toward Your Required 12 Hours of CPD

To help you plan for the mandatory component of your CPD, a list of proposed Section meetings containing topic information, speakers' names and the date of these meetings is now required from Section Chairs for publication in Nova Voce. Section Chairs are asked to send these lists to the Section Coordinator three times a year, beginning with the Fall issue, again in the Winter issue and finally in the Spring issue. The first list is due in the CBA-NS Branch office by September 12, 2013. In addition, when providing the Section Coordinator with details of these Section meetings, Section Chairs are asked to indicate the applicable category of mandatory CPD: Substantive Legal Education & Skills Development, Risk & Practice Management, and Professionalism. See the NSBS web site for detailed information on these categories: <http://nsbs.org/sites/default/files/cms/menu-pdf/mandatorycpdchart.pdf> Please feel free to contact Jill Thomson, Sections Coordinator, at 422-1905 if you have questions.

An Opportunity and a Challenge...

BY ANN SMITH

Six years ago, Burchells LLP made a commitment to engage with youth from historically disadvantaged communities in Halifax, and that commitment has not lost any steam. Through the Burchells Summer Internship and Scholarship Program, the firm provides an African Nova Scotian or Aboriginal student graduating from Citadel High School with a scholarship towards post-secondary education. The Scholarship comes with a six week internship where the student obtains hands-on experience working in the firm's various administrative and legal departments.

The firm is in the process of selecting this year's successful candidate. The process brings to mind all the benefits of the program. "The students bring so much energy and enthusiasm – it really is good for the firm", says Ann Smith, the Burchells partner currently responsible for the program, and a member of the CBA-NS Equity Committee. "It's also good for the students", she continues, "The top candidates selected by the Citadel High School administration are asked to provide a resumé and cover letter to us, which may be the first time they have had to prepare these documents for work in an office environment. Then they come in for an interview – another first for most of the students."

The successful applicant demonstrates good academic performance, community involvement and financial need. "The calibre of the students is exceptional", says Ann Smith, "They are young people

who will be future contributors to society, no matter what type of work or profession they pursue. The Scholarship Program is meant to recognize their achievements to date and to give them a chance to build confidence by working in what likely is their first professional office environment".

Exposure to the work carried out by the firm's administrative staff, paralegals, receptionist, accounting department and lawyers provides students with an opportunity to experience the operation of a variety of important office functions and perhaps tweak an interest or identify an aptitude the student has in these areas and wants to pursue.

The first scholarship winner, Lindell Smith, who studied Recording Arts at the Nova Scotia Community College, has said, "If every law firm could develop a program like this it would have so many young teenagers more focused because they would know that if they work hard enough an opportunity like this could be waiting for them".

That sounds like a good challenge to other law firms...and a wonderful opportunity as well for all involved!

Giving Back is a recurring feature highlighting a pro bono opportunity for Nova Scotia lawyers. By Ann Smith, partner at Burchells LLP, with assistance from Amanda Fricker, Articled Clerk, on behalf of the CBA-NS Equity Committee.



Burchells Summer Internship and Scholarship

The Burchells Summer Scholarship and Internship program is available to qualifying African Nova Scotia and Aboriginal Citadel High students. The goal of the program is to provide real-life work experience that will build confidence and expose the winner to a variety of possible careers. The selected candidate is paid for the six week internship and receives a \$3500 contribution towards tuition.

This year we welcomed **Nigel Hibbert-Coles**, as 2012's intern and scholar. We were able to put Nigel's interest in accounting to good use, giving him an inside-view of office administration and management of a law firm. Nigel starts a Bachelor of Commerce degree at St. Mary's University this September.

*left to right
Naiomi S. Metalli,
Nigel Hibbert-Coles,
Ann Smith*

BURCHELLS LLP
JUST RIGHT

SCHEDULE OF MEETINGS

CBA–NS Branch Meeting Schedule

EXECUTIVE COMMITTEE:	September 12, 2013 (Thurs)	3:30 pm – 5:30pm	Meeting, Dinner and Orientation
	October 10, 2013 (Thurs)	4:00 pm - 5:30 pm	
	November 14, 2013 (Thurs)	4:00 pm - 5:30 pm	
	January 9, 2014 (Thurs)	4:00 pm - 5:30 pm	
	March 13, 2014 (Thurs)	4:00 pm - 5:30 pm	
	May 8, 2014 (Thurs)	4:00 pm - 5:30 pm	
	June 12, 2014 (Thurs)	4:00 pm - 5:30 pm	
	August 7, 2014 (Thurs)	3:00 pm - 4:45 pm	Note - AGM follows this meeting at 5:00 pm
COUNCIL:	November 28th, 2013 (Thurs)	3:00 pm - 6:00 pm	Meeting/Membership Appreciation Reception, CBA Top Floor Boardroom
	February 5th, 2014 (Thurs)	3:00 pm - 6:00 pm	Meeting & Reception, Venue TBA
	April 24th, 2014 (Thurs)	3:00 pm - 6:00 pm	Meeting/Reception, CBA Top Floor Boardroom
ANNUAL GENERAL MEETING:	August 7th, 2014 (Thurs)	5:00 pm - 6:15 pm	Note - Executive meets 3:00 pm - 4:45 pm
CONFERENCES:	November 15th, 2013	Elder Law Conference	WTCC
	February 6th & 7th, 2014	Mid-Winter Conference	WTCC
	March 21st, 2014	Legal Assistants' Conference on Real Estate	Casino Nova Scotia
	May 9th, 2014	Women's Conference	Casino Nova Scotia
OTHER EVENTS/MEETINGS:	September 12th, 2013 (Thurs)	Sections Chairs/ Vice-Chairs Orientation	CBA Top Floor Boardroom & Reception (5:30 pm – 7:30 pm)
	February 5th, 2014 (Thurs)	President's Reception (5 pm – 6:30 pm)	WTCC
	February 6th, 2014	Mid-Winter Reception & Dinner (6 – 10:00 pm)	
	April 10th, 2014	Law Day	Various schools/venues TBA
	May 9th, 2014	Women's Forum Spirit Award Dinner	Casino Nova Scotia

UPDATE

Legislation & Law Reform Update



BY MATTHEW J.D. MOIR

We have had quite a few legislative amendments in 2013.

The following 2013 enactments received royal assent on May 10, 2013 but have not been proclaimed in force:

- Adult Protection Act (amended), c.13.
- Builder's Lien Act (amended), c.14.
- Cyber-safety Act, c.2.
- Labour Standards Code (amended), c.11.
- Language Schools Act, c.5.
- Medical Imaging and Radiation Therapy Professionals Act, c.7.
- Pension Benefits Act (amended), c.26.
- Protection for Persons in Care Act (amended), c.27.

The following are among 28 Nova Scotia statutes which have so far been proclaimed in force in 2013.

- Consumer Protection Act (amended), 2012, c.19, s.1.

- Education Act (amended), 2012, c.56, ss.2, 3.
- Freedom of Information and Protection of Privacy Act (amended), 2010, c. 41, s. 111; 2012, c. 24, s. 25.
- Health Protection Act (amended), 2010, c. 41, s. 112.
- Hospitals Act (amended), 2010, c. 41, s. 113.
- Involuntary Psychiatric Treatment Act (amended), 2010, c. 41, s. 114.
- Labour Standards Code (amended), 2011, c. 19, ss. 1(b), (d) & (g), 3 [to extent it enacts s. 7(ca) & (cd)-(cq)], 5(e), 8(2) [to extent it enacts s. 21(3A) & (3C)] & 21 [to extent it enacts heading preceding s. 89H & ss. 89I-89R & 89Z]; 2011, c. 19, s. 21 [to extent it enacts ss. 89C, 89H, 89S and 89U-89Y]; 2011, c. 19, s. 21 [to extent it enacts s. 89T].
- Motor Vehicle Act (amended), 2011, c. 22; 2011, c. 35, ss. 10-12.
- Personal Health Information Act, 2010, c. 41.

The Perpetuities Act still has not been proclaimed but we are advised by the Minister of Justice that CBA – NS's recent resolution on this statute has been heeded and that he has directed staff to take steps to see the statute proclaimed as soon as possible.

Strengthening Your CBA Membership

BY TINA TUCKER

At the Canadian Bar Association (CBA), we are now implementing our redeveloped membership

model. This is a project that was undertaken two years ago and involved extensive consultations with our members. I want to give a special thank you to David Cameron and Sean Foreman, both of whom contributed to the development of this new model during their terms as Membership and Member Services Committee Chairs. I would be remiss if I did not also thank Past-President Jessica Lyle and President Dan MacRury for their leadership and participation in many hours of facilitated sessions, both at the branch and national levels.

More Value for Our Members

We have responded to your wish for more choice, more savings and more flexibility. As a member, and regardless of your circumstances as a lawyer, you will now find the CBA even more responsive to your needs and objectives. This initiative is not a means to generate more revenues – quite the contrary. Our goal is to provide more value to our members. You will find great opportunities to reduce your costs on the offerings of the CBA.

New Features

“Portfolio” and “Portfolio Plus” are the two new options that you can purchase over and above your CBA membership. They contain savings that you will appreciate, including 20 percent on CBA Professional Development, Education activities and Sections involvement. These savings are in addition to the member preferential pricing you already receive, as a CBA member, on products, services and activities. “Portfolio” and “Portfolio Plus” are available for purchase now and become effective September 1 for one year. *But remember: you may choose to simply renew your membership without changing anything. And the price also remains unchanged, except for the annual CPI increase which is required by CBA Bylaws.*

Our research informed us that the one-size-fits-all model didn't work. Responding to the diversity of the profession, we have introduced measures that make the CBA membership more accessible to more lawyers. For instance, we now have a 50 percent

reduction in the membership fee for **part-time*** and **non-practising lawyers**, and new Member Discount Categories whereby **new lawyers** can enjoy the benefits of CBA membership for a 60 percent reduction in the base membership fee for the first three years after their call to the bar. And for **articling and bar admission students**, CBA offers a full membership at 75 percent off the base membership fee.

Renewal Dates Are Changing

The other part of the redeveloped model is that our membership renewal dates are changing. All CBA members will now renew their membership on September 1 each year. The transition process begins September 1 2013 and will be completed September 1 2014. If you have been renewing your membership on September 1 each year, this change really does not affect you.

However, if your renewal date has been other than September 1 in the past, you will be receiving your renewal notice one month prior to the end of your membership year, as usual. From then on, you will renew on September 1. The CBA will be offering you payment options to facilitate the introduction of this change.

Reminder: It's best to renew online. A new website dedicated to renewing your membership is now available. Just visit cba.org/membership. This website is also the place to get all the information on the redeveloped membership model, and to purchase “Portfolio” or “Portfolio Plus”, should you wish to do so. Otherwise, you can always call our Membership Services Department at 1-613-237-2925 or toll free 1-800-267-8860.

The purpose of this new membership model is to reward your participation and involvement in the CBA. We hope that you will make the most of the new options and avail yourself of the flexibility and the savings.

**The part-time category only applies in jurisdictions where provincial/territorial law societies recognize part-time status. The Nova Scotia Barristers' Society does not recognize part-time status. Currently, only the Law Society of Upper Canada and the Law Society of British Columbia recognize part-time status.*

TAKE NOTICE

The CBA–NS Annual General Meeting and President's Reception will be held 5 – 7 pm, Thursday, August 8th, 2013 at the Marriott Harbourfront Hotel, Acadia Rooms. Everyone is welcome to attend the Meeting, 5 – 6 pm and the Reception, 6 – 7 pm



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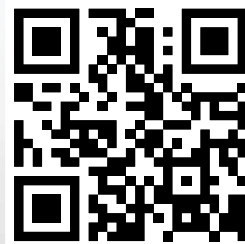


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- bring your mobile device to ***Mastering the "Cloud": How the Virtual Law Firm Can Work for You***
- join the discussion and input on the white paper ***Data After Death: Who Has the Rights to Your Data When You're Gone?***
- participate in moral clause and depiction release drafting and discuss contracting with minors at: ***Lights, Camera, (File An) Action! Timely Topics in Entertainment Law***
- explore opening your own practice and build a tool kit of knowledge at ***Law Practice Bootcamp***
- learn to play hardball without losing your spot at the water cooler at Dealing with ***Difficult Clients for In-House Counsel***



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Learn more about our complete list of PD offerings: www.cba.org/clc