

NOVA VOCE



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The Voice of the Legal Profession in Nova Scotia

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PRESIDENT'S MESSAGE



DAN
WALLACE

McInnes Cooper

Imagine you had to flee your home country because you fear persecution due to your race, religion or sexual orientation. After a difficult and dangerous journey, you arrive in Canada and make a refugee claim. The determination of that claim may have literal life-or-death consequences: you may be granted refugee status and live in safety in Canada, or you may be returned to the country that you fear and from which you have just escaped.

Now, imagine that you have to navigate the refugee claim and hearing process in a foreign legal system and language that you do not understand, and that you have to do it without a lawyer.

This scenario is unfortunately a common one and just one of many examples of where Canada's access to justice problem plays out in real life.

In the words of the Honourable Justice Thomas Cromwell, access to justice is the biggest challenge facing our legal system. Lawyers and judges see first hand the barriers to access to justice and the resulting consequences to the individuals involved, the administration of justice, and society as a whole.

As part of its public policy and advocacy work, the Canadian Bar Association is devoted to improving access to justice.

On a national level, the CBA engaged in an advocacy campaign entitled #legalaidthematters during the recent federal election where we encouraged and assisted our members to put the issue of legal aid funding on the radar by contacting their local members.

On a provincial branch level, the CBA – Nova Scotia has met with the Federal Minister of Justice and representatives of the Federal and Provincial Departments of Justice.

During these meetings, the CBA – Nova Scotia has specifically advocated for funding for legal aid services for refugee claimants in this province. Nova Scotia, unlike many other provinces, does not provide legal aid services to refugee claimants. While non-profit organizations like the Halifax Refugee Clinic and pro bono lawyers try to fill the gaps, this is not a long-term sustainable approach.

We focused on this particular issue as it has the opportunity to provide tangible near-term results, and it is one where Nova Scotia lags behind other Canadian provinces. An individual coming to Canada to make a refugee claim should be in no worse position simply because they happen to make a claim in Halifax or Truro rather than, say, Winnipeg or St. Johns.

At the CBA – Nova Scotia, we know that lawyers and judges in Nova Scotia work every day, on an individual and systematic level, to provide access to justice. The CBA – Nova Scotia would like to thank you for those efforts and, if you think it might be helpful, to offer our assistance. So, please feel free to contact us if you believe that the CBA – Nova Scotia can assist.

EDITORIAL BOARD

Tammy Wohler, Nova Scotia Legal Aid

Victor J. Ryan, Burchells LLP

Michael Murphy, McInnes Cooper

Damien Barry, Louisbourg Seafoods Group

Special thanks to everyone who contributed to the magazine and CBA-NS staff for their assistance.



Agnes MacNeil,
Department of
Justice

VICE PRESIDENT

I am a senior litigator with the Nova Scotia Department of Justice and have been a CBA member for (literally) decades. I appreciate receiving the opportunity to give back to the Association, which has provided me with so much legal education and support over the years. This year, in addition to being Vice-President of our Branch, I am Chair of our Professional Development Committee, which I have been a member of for several years. I am looking forward to planning another great conference next year and am happy to receive any feedback or suggestions our members may have anytime.



Terry Shepperd,
BoyneClarke

SECRETARY - TREASURER

I am grateful for the opportunity to serve the CBA-NS in the role of Treasurer for the next year and to be working with the Executive Committee and Executive Director to find new and cost-efficient ways to increase membership and provide valuable continuing professional development and benefits to our members. The branch is in solid financial shape and I look forward to another year of continued growth.

PAST PRESIDENT

I am very much enjoying the role of Past President! While it's been sad to see outstanding leaders such as Past President Jean Beeler, QC, former Equity Chair Jack Townsend and former Communications & Public Relations Chair Jennifer Keliher roll off the Executive, it is exciting to witness



Gail Gatchalian, QC
Pink Larkin

the strong new leadership taking the helm. As Past President, I Chair the Branch's N o m i n a t i n g Committee and the CBA-NS Sexual Harassment Work Group, which is developing bystander intervention training to address sexual harassment in legal workplaces.

EQUITY



Matthew Moulton,
Cox & Palmer

I am very excited to be joining the CBA-NS executive for this year! While I am new(ish) to Nova Scotia, I am not new to the CBA having served in various capacities in the CBA-NL branch. Coming off of a busy summer which included a strong showing in Halifax Pride, I am looking forward to gearing up for the year ahead, which will include working on ways by which the Branch can help to implement the Truth and Reconciliation Commission's Calls to Action. We are also working with each of our sections to ensure we have a diverse and inclusive membership across the board. If you have any questions or comments on how the Branch can improve diversity and inclusion in the profession, please reach out to me.



Jennifer Taylor,
Stewart McKelvey

YOUNG LAWYERS

This is my second (and final) year as Chair of the Young Lawyers Section. I will be passing the torch to Vice-Chair Courtney Barbour later in

2020. In the meantime, I look forward to continued work at the CBA-NS Executive Committee table, including advocacy regarding unpaid law student and articling positions, and to exciting national events like the Young Lawyers Conference coming up in June 2020. (See you in Toronto?!)

Fall 2019 was busy with section meetings and the CBA-NS Annual Conference. The Young Lawyers Section had the pleasure of hosting the Bench & Bar Reception, as part of the Conference. It was a definite highlight to welcome national CBA President Vivene Salmon to this event, where she presented the Zöe Odei Young Lawyers Award to Morgan Manzer – look at page 8 for more about Morgan's inspiring story. Our first session in 2020 will cover Mediation Best Practices. Stay tuned for more details on that and other events! As always, please let me and Courtney know if you have any suggestions for how the Section can best serve young (and young-at-heart) lawyers.



Janet Curry,
Workers'
Compensation
Board of Nova
Scotia

MEMBERSHIP & MEMBER SERVICES

I am pleased to be a part of the CBA-NS executive for the 2019-2020 year. I have enjoyed all of my engagement with the CBA over my 25 plus years of membership and have been fortunate to participate in many professional development and section activities throughout that time. I have had the pleasure of being involved in various capacities in the very active CBA-NS branch and I understand the benefits of having a CBA membership and the connections that it can provide. As the current Membership and

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Membership Services Chair, I am looking forward to the year ahead. This will include working on ways by which the NS Branch can help to enhance membership and benefits, as well as improving connections with our busy members to help them better understand the benefits available to them as members of the CBA and the Nova Scotia Branch in particular. If you have any questions or comments in how the Branch can improve membership value or have an interest in becoming involved in this area, please reach out to me.



Tammy Wohler,
Nova Scotia Legal
Aid

COMMUNICATIONS & PUBLIC RELATIONS

This fall, I became the new Chair of the Communications and Public Relations Standing Committee.

I am excited about the coming of 2020, with all the opportunities a new year provides. I look forward to serving the CBA membership and providing a voice to our members. With a renewed focus on social media, we will keep you updated on what we are doing at the CBA-NS Branch level and the CBA Nationally, as well as on issues that impact the legal profession. Professionally, I am the Managing Lawyer for the Social Justice Office of Nova Scotia Legal Aid, having been with Nova Scotia Legal Aid for 12 years. In my administrative law practice, the professional development provided by the CBA has been invaluable. I hope you enjoy this issue of Nova Voce. I would love to hear from any CBA members with a story to share in upcoming issues.

WELCOME TO THE NEW EXECUTIVE DIRECTOR

The Executive Committee would like to thank Tina Tucker on her support and dedication to the Branch over the last ten years as she moves on from her position as Executive Director and wish her the very best in her new ventures. The Executive Committee extends a very warm welcome to the incoming CBA-NS Executive Director, Jane Elise Bates.

With 16 years' experience working as an in-house counsel across multiple countries, Jane is familiar with the joys and pressures of life as a lawyer. She has volunteered as the Divisional President and Board Member of the Association of Corporate Counsel (Australia), and is uniquely placed to help CBA members succeed in the legal profession, individually and collectively as a professional group.

On a personal level, Jane recently relocated to Halifax from Canberra, Australia with her husband. She is a world-traveller, self-confessed chocoholic, owner of too many shoes, and recent convert to yoga.

Jane is enjoying the abundance of seafood in the province and finds the lobster pool at the airport a constant source of amusement. She is also well progressed in her one woman challenge to taste test every lobster roll in the city.

Jane is also on the Board of Directors of the Blue Nose Marathon – so you may



**Jane Bates, new Executive Director of
CBA-NS.**

see her pounding the pavement over the coming months in preparation for race day. But never early, because she's not a morning person!

Jane looks forward to assisting members to develop the connections, knowledge and skills they need to successfully practise law in Nova Scotia. If you haven't yet met her, feel free to contact Jane at jane.bates@cbans.ca or drop by the CBA-NS offices and say "g'day"!

AN UPDATE FROM THE CBA NATIONAL BOARD



JASON
COOKE

Burchells LLP

I am happy to provide an update to my fellow CBA-NS members on the activities of the national CBA Board. In September, I entered my second year of the two-year term as a Director from Nova Scotia.

The last few months have been busy as a Board, and much of our focus revolves around membership. Our goals are multiple on this front: inducting new members, bringing former members back into the fold, and ensuring our current members are satisfied. Much of the recent work involves learning who our members are and how we can provide members with the maximum value from their membership. In my observation, we are seeing increases in new members and more engagement from existing members which is great news.

In terms of advocacy, our focus has been on access to justice, along with addressing issues related to solicitor-client privilege. On the former, the CBA has been at the forefront in advocating for increased support for legal aid across the country. Legal aid is obviously a critical component of meaningful access to justice in Canada. To that end, the CBA this year initiated the #legalaidmatters campaign which occurred in tandem with the Federal election. I expect you encountered the campaign on social media and it was very well received in all circles.



An ongoing endeavor is implementing the recommendations of our Truth and Reconciliation Task Force. The Calls to Action remain a priority for the CBA as they should be for all stakeholders, including individual members, firms, governments, and other actors. Please visit <https://www.cba.org/Truth-and-Reconciliation/Home> to learn more about CBA's advocacy efforts, tools and resources, and educational offerings.

On a more personal note, much of my time on the Board is devoted to work on the Governance and Equality Committee. As it has now been a few years under a new governance framework, a Governance Review Task force has been convened and the committee will begin detailed work this month.

One of the pleasures of Board leadership has been serving on the Awards Sub-Committee which reviews and recommends recipients for the CBA Awards. We were very pleased this year with the amount and quality of applicants for the awards including the Ramon John Hnatyshyn Award for Law,

Jack Innes Award, and the Douglas Miller Rising Star Award. It was also fantastic to see Nova Scotia's Clary Beckett, QC of Patterson Law nominated for the Louis St-Laurent Award of Excellence, and I would strongly encourage members to think about nominations for 2020 as I know there are many CBA-NS members worthy of recognition.

Looking ahead, the 2020 Young Lawyers Section will be having its Annual Conference in Toronto on June 4th and 5th. Closer to home, the National Aboriginal Law Section will be having its annual conference here in Halifax on June 24 to 26. Those are just a couple of examples of a great calendar of CBA events planned for 2020.

Finally, my term as director will expire in September 2020. I strongly encourage any members with interest in serving on the national Board to reach out to me with any questions. I can say that although it is a significant commitment of time and effort, serving on the Board is a very rewarding and enjoyable experience.

CBA INTERVENES IN NS JUDICIAL COMPENSATION CASE AT SCC

Prepared with the assistance of Kim Covert, Editor of CBA Influence

The CBA recently appeared as intervenor at the Supreme Court of Canada in two appeals heard together: *Nova Scotia (Attorney General) v. Judges of the Provincial Court and Family Court of Nova Scotia* and *Attorney General of British Columbia v. Provincial Court Judges' Association of British Columbia*.

The appeals, arising from a dispute on the determination of judicial compensation, represent the third time that the CBA has appeared before the Supreme Court on this issue, arguing for the larger principle of judicial independence. Both cases stemmed from the provinces not accepting the recommendations of their respective Judicial Compensation Commissions (“JCCs”).

The appeals do not concern the merits – that is, the ‘rationality’ – of BC’s and NS’s responses to the recommendations. Rather, at issue is the proper scope of the record on a judicial review of the state’s refusal to accept a JCC’s recommendations.

Of import are two earlier Supreme Court of Canada decisions, in which the CBA had also intervened, on similar issues. Those decisions, *PEI Reference* and *Bodner*, together establish the framework for recommendations



@BLGLaw team Guy Pratte, Ewa Krajewska and Neil Abraham, who appeared for the CBA in NS and BC appeals. Seen with John Stefaniuk, Chair, CBA Judicial Issues Committee.

regarding judicial compensation. *PEI Reference* sets out the process by which judicial compensation ought to be determined in order to safeguard judicial independence. *Bodner* clarifies that there needs to be a “public and open process of recommendation and response” in order for the recommendations of the JCCs to have meaningful effect – the state may reject the recommendation, but must give rational reasons for doing so, reasons that are not meant to influence or manipulate the judiciary.

The Supreme Court of Canada is now

being asked to rule on the production of confidential Cabinet records in a judicial review of the provinces’ decisions. At first instance, the British Columbia and Nova Scotia provincial court judges asked for a judicial review of the provinces’ decisions to reject recommendations by their respective Judicial Compensation Commissions.

The judges’ associations of both provinces brought motions to their Supreme Courts to have the reports and recommendations to the respective governments included

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in the record. In Nova Scotia, the judges' associations also moved to include an affidavit, written by the Hon. James H. Burrill, providing information about the history of judicial compensation and related matters.

The Supreme Court of each province, followed by their respective Courts of Appeal, largely ruled in favour of the production of the reports and recommendations for judicial review, subject to the redaction of any passages covered by solicitor-client privilege. In Nova Scotia, Judge Burrill's affidavit was largely admitted, excluding irrelevant passages. Both provinces appealed to the Supreme Court of Canada.

The intervention proposal of the CBA was approved after robust consultation

with Branches, National Sections, and Committees with a policy mandate, as per the CBA's [Intervention Regulation](#). Guy J. Pratte, Nadia Effendi, Ewa Krajewska and Neil Abraham of Borden, Ladner and Gervais in Toronto and Ottawa, appeared for the CBA on a *pro bono* basis.

"In PEI Reference, the CBA started at first principles to explain why the process itself must flow from strict deferral to judicial independence", the CBA intervention proposal states. "In Bodner, the CBA applied those first principles in assessing the role of the JCC as the guarantor of that independence. In the present appeals, the question is how those principles inform disclosure obligations."

"The constitutional principle of judicial independence demands that transparency, rather than secrecy, ought to guide judicial compensation proceedings," the

CBA's legal team argued in its factum to the Supreme Court. "Whether or not the government's decision was ill-intentioned, a secret process reasonably causes the public to speculate about the government's motivations and question whether the decision was political rather than objective."

Doubts about judges' financial security could compromise the public's perception of the judiciary, the factum argues. "As it is a constitutional imperative that the public be able to satisfy itself that judicial compensation is not managed in a manner that undermines judicial independence, failure to do so must be the threshold where judicial compensation processes cease being neutral and become political."

The Supreme Court of Canada heard arguments on December 9, 2019 and has reserved its decision.



TACKLING HOMELESSNESS TOOLKIT

Homelessness is a serious problem in Canada. At least 235,000 Canadians experience some form of homelessness each year and an estimated 35,000 Canadians experience homelessness on a given night.

Despite being the level of government that most often interacts with people without adequate housing, municipalities often do not have enough resources or expertise to address its challenges. To assist, the CBA Municipal Law Section – lawyers

from across Canada with expertise in municipalities, land use control and town planning and the intersection of municipal issues with provincial and federal laws – has put together a toolkit that will help municipal governments develop a strategy to tackle homelessness.

At a local level, CBA-NS has supported this initiative by reaching out to municipal leaders across Nova Scotia to share the [Tackling Homelessness: A Legal Guide for Municipal Governments](#) available on

the CBA website. This is an opportunity to remind municipal governments that a strong strategy to address homelessness can result in many benefits for the community and for homeless individuals, and that CBA members can help.

If you would like more information on this important initiative, contact Marc-André O'Rourke (Staff Lawyer to the CBA Municipal Law Section) at marcao@CBA.org.

LAW & POWER

REFLECTIONS FROM 2019'S ZOË ODEI YOUNG LAWYERS' AWARD WINNER

On November 21, 2019, CBA-National President Vivene Salmon presented Morgan Manzer with the Zoë Odei Young Lawyers' Award. CBA-Nova Scotia established the award in 2003 in memory of the late Zoë Odei. This award honours and recognizes young lawyers who, like Zoë Odei, exemplify distinguished or exceptional service to the CBA, the community or charitable causes.

Morgan Manzer is a lawyer with Nova Scotia Legal Aid in Halifax and, as of December 16th, will be seconded to the Nova Scotia Barristers' Society as the new Equity and Access Advisor. Additionally, Mr. Manzer is the Chair and Governance Lead of Halifax Pride and a former Board member of the Legal Information Society of NS. He is passionate about social justice, mental health and politics. In his words, Mr. Manzer shares what he has learned working with marginalized individuals and families in the family justice system:

Over the past five years, I have worked as a child protection and family law lawyer with Nova Scotia Legal Aid. This work put me on the frontlines of the legal system and led me to reflect on how the legal system functions and how power is distributed within the system.

Recently, a client sat across my desk and put this power distribution into sharp focus for me. He simply stated, "you have more power than me and the judge has more power than you." That moment

reminded me that it is a tremendous privilege to be able to practise law. That privilege comes with responsibility: the responsibility to empower those who feel powerless. At times, it is easy to feel like a cog in the wheel of the legal system but it is necessary and important to speak up and to give voice to those who feel voiceless.

My practise allows me to work with some of the most marginalized and vulnerable populations in society: those with a history of trauma, addiction, mental illness, and those living in poverty. I know people's lives involve multiple interrelated identities and people may experience marginalization and exclusion based on the intersection of those identities. In providing legal representation, it is imperative to consider all of an individual's identities in their historical, social, and political context. I use an intersectional and trauma-informed lens throughout my work at Nova Scotia Legal Aid and will continue to do so in my role with the Nova Scotia Barristers' Society.

The cornerstone of my approach to practising law has been relationship building. I have taken care to foster positive relationships with colleagues and opposing counsel. I find myself frequently repeating an old adage my great-grandmother told me: "you get more with honey than you do

with vinegar." While we work in an adversarial legal system, I strike a notable conciliatory tone where possible because it better serves my clients, the legal profession and the justice system.

In my day-to-day work with clients, I also strive to use a compassionate, relational approach to assist them in navigating the legal system and crafting solutions that meet their needs. I take care to ensure my clients feel truly heard. It can be challenging in a fast-paced, demanding practice to carve out time to hear a client's full story but I make it a priority. For instance, I schedule longer client meetings to give my clients the time they need to share their experiences, concerns, and questions.

I view the legal system as a tool to better people's lives and build stronger communities. I often find myself considering whether the legal system is meeting these aspirations. Unfortunately, I believe too many have been failed too often. I acknowledge that I benefit from the structure of the current legal system but I refuse to be complacent because I know many are systemically disadvantaged by it. I have questioned and challenged the *status quo* and will continue to do so as I fight for equity and justice in our legal system. I remain optimistic that positive change is occurring and will continue to occur.



Congratulations to **Aleeta Cromwell**, the well-deserved recipient of our **2019 Community Service Award** in recognition of her valuable contribution to the community and to charitable causes. Ms. Cromwell has served as past Chair of the NSBS Racial Equity Committee, Distinguished Service Award Committee and currently sits on their Hearing Committee. She has also spent countless hours volunteering with the Boys and Girls Club of Dartmouth and is currently the President of the Nova Scotia Chapter of the Canadian Association of Black Lawyers.



Our **2019 Constance R. Glube Spirit Award** recipient is **Tara Miller**, in recognition of her strong CBA spirit, and outstanding effort and contribution to women in law. Ms. Miller is a board member of the Lawyers' Insurance Association of Nova Scotia and a past Executive Member of the CBA's National Women Lawyers' Forum.



Dennis James, Q.C. is our incredibly deserving **2019 Distinguished Service Award** winner. From his long-standing membership on the Professional Development Committee, to Chairing Sections and serving as our provincial CBA-NS president during a year of transition, Mr. James, Q.C. has been a dedicated volunteer and tireless advocate for the Canadian Bar Association.



Morgan Manzer, pictured here with CBA National President, Vivene Salmon, is our **2019 Zöe Odei Young Lawyer Award** recipient, honouring his exceptional service to CBA-NS, the community and to charitable causes. Among other activities, Mr. Manzer has previously served on the Board of the Legal Information Society of Nova Scotia and currently sits on the Board of the Mental Health Foundation of Nova Scotia. Since 2016, Mr. Manzer has been the Chair of Halifax Pride, including overseeing not only the Pride Parade but dozens of other activities and advocacy events.

A PERSPECTIVE OF DIVERSITY AND INCLUSION IN THE WORKPLACE



**BARTON
SOROKA**

Merchant Law
Group LLP

***Previously published in BarNotes
(Spring 2019, Vol. 33.2) for the CBA
Saskatchewan Branch***

My name is Barton Soroka. I am a white, queer, cisgender man who graduated from the Schulich School of Law at Dalhousie University in 2017. I was the LGBTQ representative on the Dalhousie Student Union, a member of OUTLaw (our LGBTIQ2SA+ campus group) and served on our Law Student Society Executive as first year exec rep, VP External, and President.

I was surrounded by incredible people from all sorts of backgrounds. Black and Indigenous People of Colour, non-binary folk, trans people, queer men and women across the spectrum. I could spend every word of this article giving thanks, so I will single out Lee Steps. She was instrumental in radicalizing the way I exist. Thank you.

This is written to ask for introspection. Look at your firm, and yourselves, and think about what “diversity and inclusion” – three words plastered on every hiring notice in this country – mean to you.

Jaime Burnet (credited as Mary Burnet) wrote an excellent piece while articling at Pink Larkin about “professional presentation” (Link: <https://bit.ly/2Yvvelp>) and its specific effects on queer legal professionals. I asked a group of lawyers during a “Dress for Success Event” how they adjusted for their bias against individuals who dressed in a way that was unexpected. I will forever appreciate the honesty that I received: “I don’t. I hire people who fit my client’s culture.”

My résumé is full of Queerness. I’ve represented and advocated for queerness and LGBTQ+ initiatives for years. I’m thankful – most firms won’t throw out a résumé because I’m a queer man anymore. I’m not sure if that was true ten years ago. When I submit a queer resume, I worry that people will assume I won’t fit in with their client, or their firms’, culture.

Lawyers need to eat and advocate, and in about equal measure. Without clients, we wouldn’t be able to do either. We think we know what our clientele will be. We think that the average client is going to balk at the idea of Jon Lawsmith doing their intake with a fresh manicure of brightly painted nails. I’ve never seen the data to back it up, but studies are expensive and risk is risky. The traditional look has worked for so long, change seems like an unnecessary gamble. When the person

you’re interviewing clarifies that they use gender-neutral pronouns, the person you code as a woman corrects you and says “it’s he”, or you see the side of the head shaved with a pattern tattooed under it, you know that they just won’t fit in.

It is not exclusively queer people who are asked to dress differently in a professional environment. Nobody wants to see the partner in a bathrobe. But look at your firms hiring guidelines. If they talk about Diversity and Inclusion, ask yourself what that means. That you would be happy to hire someone who was LGBTQ+, but only if you couldn’t tell? Does that mean that you’ll stand by the new lawyer if the client says they don’t want to work with a “fag”? There’s no magic checklist here. There will always be people saying you haven’t gone far enough. But be honest about how far you’re willing to go. Do you accept diversity and inclusion, or do you encourage it?

While in law school, I was surrounded by people who not only accepted my Queerness, but celebrated it. In first year I wore makeup, tights, and heels to a major law school event. I was surrounded by peers I had known for a few months, professors from my classrooms, and members of the administration. After a few shocked looks, the rest of the night was full of kindness. Then my peers elected me to represent

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them as their VP External. Not once did I have to deal with anything mean-spirited. I credit that to a bit of “crowd control” – people who might have wanted to say something rude, mean, or cruel saw other people staying positive and kept their thoughts to themselves.

I am asking you to think about what you’d do if someone you perceived as a man applied with rainbow painted nails, or someone you thought was a woman in a suit and tie, or someone who indicates their preferred pronouns during their interview – especially if they’re “they/them”. What if your Articling Student suggested putting a “pronoun” section on your intake form. Or if Adam came to your office in a skirt and told you her name was

Eve, and correspondence should reflect that from now on.

Diversity and inclusion are not – in my opinion – accepting people who are different from you when you can’t tell. I stand in thanks for every man who brought their male partner and woman who brought their female partner to events in the past. But to me, diversity and inclusion mean work. They mean going above and beyond candidates you would normally hire and accepting someone who might not win on your “softs” – someone who’s qualified, intelligent, and hardworking, but otherwise does not fit in with what you’d traditionally consider to be in your client’s “culture”.

I do have an economics background. I understand looking at every potential

employee as a bundle of billables. Look at your current lineup of talent in the bullpen – what kind of clients your lawyers bring in. I’d suggest to you that there’s a growing group of sexual/gender diverse folk who are looking for lawyers who respect their identities and support their community. Not to mention all the talented LGBTQIA+ people graduating from law school every year. In my opinion, it’s not only right to make room for genuine diversity. It’s a competitive advantage.

I’ve spoken a lot from personal experience in this article. If you think there might be something I’m exaggerating, maybe your local LGBTQIA+ colleague could give you their thoughts. I bet they disagree with something I have to say. And if there’s nobody in your office that can offer that perspective, ask yourself why not.



2020 CCCA National Conference

April 26-28, 2020 in Montreal

Save the dates and don't miss this largest annual gathering of in-house counsel in Canada. Join us for three days of accredited, timely PD, valuable networking opportunities and important conversations. This year's conference theme is *Focus on the Future: In-House Counsel in 2020 and Beyond*. Consider adding a few days to your conference to enjoy the sights and sounds of Montreal and the luxury of the Fairmont Queen Elizabeth Hotel, the official conference venue for 2020.

Business Leadership Program for In-House Counsel, 2020-2021

One smart investment. Endless possibilities. For 2020-2021, the [Business Leadership Program for In-House Counsel](#) starts May 29, 2020, however, enrollment is limited. To apply, please complete and submit this [application form](#) as soon as possible. [LEARN MORE...](#)



TRANSGENDER PEOPLE AND PRISONS



JAIME
BURNET

Pink Larkin

Previously published by The Lawyer's Daily, a division of LexisNexis Canada

A panel discussion on transgender people and prisons took place on July 16, 2019 during Halifax Pride, intended to help lawyers better serve trans clients remanded or sentenced to provincial custody in Nova Scotia, and to promote understanding of some of the issues trans people face in the prison system.

The panel was organized by the Sexual Orientation and Gender Identity Community (SOGIC) section of the Canadian Bar Association – Nova Scotia (CBA-NS), and presented with the support of the CBA-NS's Criminal Justice Section, the Nova Scotia Barristers Society, the Elizabeth Fry Society of Mainland Nova Scotia, and Women's Wellness Within.

The panel focused on the implementation in 2017 of a Nova Scotia Correctional Services policy, which provides that trans and gender-variant people are to be placed in a women's or men's unit in a provincial correctional facility according to their gender identity or where they

feel safest, regardless of their physical anatomy or the sex designation on their identification documents. The policy was developed in accordance with the *Nova Scotia Human Rights Act*, which prohibits discrimination on the basis of gender identity and expression. It changed Nova Scotia Correctional Services' previous practice of incarcerating trans people on the basis of genitalia. Other Canadian provinces have similar prison policies that focus on trans people's gender identity when making decisions about where they will be incarcerated, including Ontario, British Columbia, and Saskatchewan. Correctional Services Canada has also recently changed its practice from incarcerating trans people on the basis of genitalia alone.

The panel featured representatives of Nova Scotia Correctional Services Jill McCarthy, Manager of Policy & Program Services, and Director John Scoville. Taylor, a young trans woman, spoke about her recent experience of incarceration in a Nova Scotia provincial prison, and Emma Halpern, Executive Director of the Elizabeth Fry Society of Mainland Nova Scotia, spoke about what the organization learned through supporting Taylor. The panel was moderated by Jack Townsend, civil litigation lawyer with the Nova Scotia Department of Justice and Chair of the CBA- NS's Equity Committee.

McCarthy drafted the policy for the province, but she and Scoville explained that the process of developing it was deliberately slow and collaborative. Drafts were sent to the Dalhousie Legal Aid Service and the provincial Human Rights Commission for review before it was implemented. Five months later, in May 2017, the policy was revised, based in part on feedback received from incarcerated trans and gender-variant people.

The policy is detailed. It provides, among other things, that self-identification is the sole measure of an incarcerated person's gender identity, and that a person's self-identified name is to be used in all cases, except in rare circumstances when their legal name is required. It recognizes trans people may not have access to identification documents that reflect their gender identity and self-identified name, and that such documents are not to be relied on to confirm or verify their identity. It provides that, prior to all searches, trans and gender-variant people will be asked to identify whether they would prefer to be searched by a man or woman correctional officer, or to have a split search.

McCarthy and Scoville said training is necessary to educate staff regarding the policy, human rights considerations, and

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respectful workplace conduct.

Taylor also noted a need to educate incarcerated cisgender* people about trans identities and issues. McCarthy agreed, but expressed concern that, if Correctional Services were to hold an educational session, it could unintentionally out a trans person housed in the unit and put them at risk of violence.

The provincial policy provides that, though trans and gender-variant people are not to be placed in segregation, referred to as “administrative close confinement”, solely on the basis of their gender identity or expression, they may be confined “for their own protection”, subject to certain protocol and with an available process for appeal. Trans and gender-variant people are also sometimes held in segregation pending a decision about where to place them.

In her tips for lawyers representing trans and gender-variant clients facing prison, Halpern recommended lawyers ask the judge at sentencing to include in their order that the client not be placed in segregation “for their own protection”. She also recommended lawyers ask the judge to order which prison the client be sent to, particularly if the client is given a federal sentence, as the federal policy for placement of trans and gender-variant people is less clear. To help ensure clients are placed in a unit that aligns with their gender identity, Halpern also recommended lawyers assist clients in

having their identity documents changed to reflect this, if clients have not already done so. The Elizabeth Fry Society of Mainland Nova Scotia has established a small clinic to assist incarcerated people in changing the sex designation on their documents, and will pay the administrative fees.

Another issue trans and gender-variant people may face in prison is heightened gender dysphoria. The provincial policy states that trans and gender variant people will be provided with underwear and supplemental clothing based on self-identified needs. However, many trans people also need access to items such as gaffs, binders, packers, and breast inserts to affirm their gender identity. These items are not provided by Correctional Services, though the policy provides that trans and gender-variant people “may request or require prosthetic devices to express their gender and reduce distress, anxiety and/or depression”, and that, upon completion of a search, they will be allowed to retain these items “unless there are safety reasons, as determined by the superintendent or designate, that cannot be resolved.” Trans women and trans feminine people in particular may also experience increased dysphoria and distress due to sporadic access to razors to manage facial hair growth.

Halpern said the Elizabeth Fry Society has worked to advocate for daily access to razors for trans women, and to provide gaffs, binders, packers, and breast inserts with the support of the Youth Project, a non-profit, charitable organization in Nova Scotia that provides support

and services around issues of sexual orientation and gender identity.

Halpern said that for non-binary** clients, the prison system is especially difficult to navigate, as it adheres firmly to the gender binary. McCarthy explained that, given the choice of two binary options, some non-binary people (as well as some trans men) have asked to be placed in a women’s unit for their own safety. Scoville noted that the computer program into which correctional workers enter information about incarcerated people has only “male” and “female” options. He said he has been questioning how to create processes that are inclusive of non-binary people within a binary system.

Though Halpern said the provincial policy is a step toward improving the treatment of trans and gender-variant people in Nova Scotian provincial prisons, she called for greater change. “Prison is not the place for most people,” she explained. “But it has become a catch-all for our social problems.” Particularly for someone like Taylor, whose conviction arose in the context of homelessness and addictions, Halpern said what is needed is not a more trans-friendly prison, but safe housing, social programming, and counselling for addictions and trauma.

* *Cisgender: a word to describe people whose gender identity aligns with their sex assigned at birth.*

** *Non-binary: a word to describe people who do not identify as either men or women.*



Coloured Bear by Debra Vincent, a bear clan member of the Mohawks of the Bay of Quinte

CBA'S NATIONAL TRUTH AND RECONCILIATION INITIATIVES

The Nova Scotia Branch is committed to working collaboratively with community partners to provide educational programming for our members and advancing reconciliation initiatives.

The new microsite from the Canadian Bar Association is a resource for lawyers and others on Truth and Reconciliation, as well as a showcase for work by Indigenous artists. It was developed by the CBA's Truth and Reconciliation Task Force to further the Calls to Action from the Truth and Reconciliation Commission.

The Truth and Reconciliation Task Force made a number of other recommendations, including increasing cultural competency by educating lawyers

about Canada's history with residential schools, and its cascading effect on the country's Indigenous populations.

Visitors to the microsite will find information about the CBA's advocacy efforts, tools, and educational offerings, as well as links to resources – the history and legacy of Indian residential schools in Canada, what people are doing to promote the Calls to Action, and educational resources.

They will also find a website that pops with colour and movement through its featured artwork. Paintings are included from three Indigenous artists: Debra Vincent, a bear clan member of the Mohawks of the Bay of Quinte who resides on the Tyendinaga Mohawk

Territory; Colleen Gray, a Métis artist and the founder of The Art For Aid Project; and Tracey Metallic, a Mi'gmaq artist born and raised on the shores of the Restigouche River. The website includes links to sites where people can buy artwork by each of the artists.

To view the website and updates on the work of the Truth and Reconciliation Task Force's work, please visit: www.cba.org/Truth-and-Reconciliation.

CBA-NS is also pleased to be welcoming the National CBA Aboriginal Law Conference to Halifax in June, just ahead of the 2020 North American Indigenous Games which Nova Scotia is hosting for the first time in July 2020!



TRC BLANKET CEREMONY

CBA-NS were honoured to welcome Elder Debbie Eisan, Community Events Planner with the Mi'kmaw Native Friendship Centre, and her assistant, Emily, at the December 2019 Council Meeting.

Debbie led participants through a Blanket Ceremony, an interactive exercise that explored the history of Indigenous Peoples in North America, including the diverse Nations that existed before settlers arrived, the original purpose and ongoing significance of treaties and the intergenerational trauma caused by colonialism that continues to this day.

Council members and staff stood on large blankets, representing land, which were reduced in size as the ceremony progressed through historical events such as colonization, segregation and attempted assimilation, residential schools, the '60's Scoop' and the current overrepresentation of Indigenous children in the child welfare system, among many other events. Some members were asked to step off the blanket at various points to represent the many Indigenous People who died from European diseases, those who lost their official status as a result of policies rooted in colonialism and the

children who lost their family, language and cultural identity after being removed from their communities.

After the exercise, Debbie led members through a sharing circle where various personal and professional sentiments were expressed. There was a deep consensus that the legal and justice systems, including individual lawyers and judges, have an important role in the journey to reconciliation and this Blanket Ceremony served as reminder that it is a road we must all walk together.

Wela'lin, Elder Eisan!



TANNER MCINNIS

Called to the Bar

Nova Scotia – 2019

Ontario – 2017

Firm/Company Cox & Palmer

Areas of Practice Commercial Litigation, Insurance Litigation, Administrative Law, Intellectual Property & Technology Law

Describe your professional experience to date After graduating from the University of Ottawa’s Faculty of Law, I completed my articles as a law clerk to the judges of the Ontario Superior Court of Justice in Ottawa. I then served as a law clerk at the Federal Court of Canada before practicing law with a leading full-service law firm in Ottawa. In 2019, I moved to Nova Scotia and joined the litigation group at Cox & Palmer’s Halifax office.

Describe your current practice I maintain a broad commercial and civil litigation practice, including in the areas of insurance law, administrative law, and intellectual property and technology law.

Describe the unique qualities you bring to your practice Having worked with and provided legal support to a number of judges over the years, I often approach and assess legal disputes from the decision-maker’s perspective. This allows me to provide more creative, practical,



and results-driven legal solutions where appropriate. I also understand the importance of written advocacy and strong legal research and writing skills. With a background in editing, and as a former Editor-in-Chief of the Ottawa Law Review, I strive to communicate in a way that is clear, concise, and consistent. Words I live by: “Don’t write so that you can be understood, write so that you can’t be misunderstood.”

What activities and volunteer pursuits occupy your time? I have a deep interest in innovation within the legal sphere and how law firms can leverage technology to provide more effective and efficient legal services. Before moving to Halifax, I was a member of the Technology Committee of Ottawa’s County of Carleton Law Association, and worked with the Committee to evaluate the technology needs of the local bar in order to provide information, resources, and opportunities that supported the provision of legal services and access to justice. I hope to advance similar

initiatives here in Halifax, whether on a large scale or at the individual level.

What do you consider to be the greatest challenges facing young lawyers? The mindset that causes young lawyers to doubt their own accomplishments and capabilities, often referred to as the “Imposter Syndrome”, can be a difficult challenge to overcome. This can be especially difficult for those within marginalized communities who may not see themselves represented among the majority. I firmly believe that it is because of young lawyers’ unique backgrounds and life experiences — and not in spite of them — that they will flourish in this profession. The landscape is changing, and important conversations around diversity and inclusion within the legal workplace are happening. Now is the time for us to recognize and address the systemic obstacles that make it harder for some to overcome their feelings of self-doubt or that they do not belong.

What words of wisdom do you have for new lawyers? Find people that you can reach out to — whether they are friends, family, colleagues, lawyers in the community, or community groups — that share your core values. It is important to regularly ground yourself: it will not only improve your mental health, but will also help you achieve your personal and professional goals.

What are your goals for your career as you become a more seasoned lawyer? I have always enjoyed developing new skills and techniques, and learning novel and innovative ways to accomplish everyday tasks. As I become a more seasoned lawyer, I hope to continue to do so and broaden my experience. I also look forward to giving back to the community and providing support and guidance, legal or otherwise, to those in need.

THE HONOURABLE CHIEF JUSTICE MICHAEL J. WOOD ASKS 'HOW DO WE MEASURE UP?'



MICHAEL J.
WOOD

Chief Justice of
Nova Scotia

The authority of government institutions is dependant on the public having confidence in them. This comes from a belief that they are carrying out their roles independently, free from improper influences and in accordance with the rule of law.

The judiciary, as one of three equal branches of government, relies on having the confidence of members of the community, other branches of government and the Bar. The question is, how do we obtain and maintain that confidence in a climate where many institutions are increasingly subject to criticism – some fair and some less so?

I believe there are four key ways in which the Courts can demonstrate they deserve the important role given to them. These are transparency in all aspects of the decision-making process, judicial integrity, a commitment to understanding and being representative of the community at large, and providing meaningful access to justice for everyone.

In Nova Scotia, the Judiciary is working

hard in all these areas. The open court principle is alive and well here. We have policies designed to make it easier for the media and members of the public to see and understand what we do. These include permitting live tweeting from court, webcasting court proceedings and increasing the number of decisions being released in writing. During the school year, there is a steady stream of students visiting our Courts.

As well, the process for appointing judges ensures that only well qualified individuals are selected, after careful vetting. In addition, the Executive Office of the Judiciary is in the process of developing a respectful workplace policy and the Canadian Judicial Council has just released a draft of the updated Ethical Principles for Judges. These resources provide guidance on issues such as judges' participation in public engagement and service, social media, and fostering equality in the judicial system.

Nova Scotia judges have engaged extensively with the African Nova Scotian and Indigenous communities since 2017, and more is planned for 2020. These represent important opportunities for judges and the community to increase understanding of each other and eliminate potential barriers for

meaningful participation in the justice system.

Finally, access to justice can be easily stated but is sometimes hard to describe. It means different things to each person. Judges need to be constantly looking for innovative ways to ensure access to the services offered by our Courts. We need to reduce cost, shorten timelines, improve communication, eliminate physical and societal barriers, all while maintaining the independent and unbiased delivery of justice.

In Nova Scotia, we continue to work hard to improve all these areas and have achieved some progress. We are in the early stages of developing a new Courts' website, as well as new resources to better support the rising number of self-represented litigants. Remote telephone and video access to court is common. Pro bono legal clinics are found in many of our courthouses.

I am very proud of the work of our judges and supporting staff. I think we have earned the public's confidence that we are independent, unbiased and committed to providing justice to our fellow citizens. The challenge that we all face is to continue to do so. We can never rest on our laurels – there is always more work to be done.

JUSTICE KARAKATSANIS WOWS AT 2019 BENCH AND BAR DINNER

As a law student, I had a preconceived notion that a Justice of the Supreme Court of Canada may be stoic, withdrawn, and tight-lipped. As the guest speaker at CBA-Nova Scotia's Bench and Bar Dinner held at the Halifax Convention Centre on November 21st, the Honourable Justice Andromache Karakatsanis proved to be quite the opposite. In her speech, she quipped about the standard of review issue currently before the Supreme Court, joked about the types of persuasive tactics that lawyers use, and cleverly compared duck hunting to the levels of court in Canada. Justice Karakatsanis shared her personal connection to Halifax, as her parents immigrated to Canada through Pier 21. In her closing remarks, she reminded the audience that judges are people, too. Once the dinner ended, I had the opportunity to meet Justice Karakatsanis and introduce myself. She was friendly, funny, and showed an interest in hearing about my legal education.

I am grateful that the CBA-NS reserved tickets for its student members. The event served as an excellent opportunity for me to meet judges and lawyers to discuss the legal profession, different areas of practice and potential opportunities. What stood out to me was how collegial



Second Year Student at Schulich School of Law, James Whittier, and the Honourable Justice Andromache Karakatsanis at the Bench & Bar Dinner.

the Nova Scotia Bar is, which makes me excited about joining the legal profession in the future. I have enjoyed every CBA-

NS event I have attended and I highly encourage my peers to become more involved in the future!

2019 CBA-NS ANNUAL CONFERENCE

NOVEMBER 21-22, 2019 | HALIFAX CONVENTION CENTRE

With over 250 lawyers from diverse practice areas in attendance, this year's Annual Conference was a tremendous success! We would like to thank the following organizers and speakers for their outstanding contributions to our 2019 Annual Conference:

ORGANIZERS

Mary Anne MacDonald, Department of Justice Canada
 Agnes E. MacNeil, Nova Scotia Department of Justice
 Dale Darling, Q.C., Health Association of Nova Scotia
 Kathleen McManus, Department of Justice Canada
 Jack Townsend, Nova Scotia Department of Justice
 Brian W. Stilwell, Burchell MacDougall LLP
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 Courtney Barbour, Wickwire Holm
 Jennifer Taylor, Stewart McKelvey
 Daniel Wallace, McInnes Cooper
 Jessica L. Lyle, Touchstone Legal
 Danika Beaulieu, MDW Law

SPEAKERS

The Honourable Chief Justice Michael J. Wood, Nova Scotia Court of Appeal
 The Honourable Chief Justice Deborah Smith, Nova Scotia Supreme Court
 The Honourable Justice James Chipman, Nova Scotia Supreme Court
 The Honourable Justice Duncan Beveridge, Nova Scotia Court of Appeal
 The Honourable Justice Gerald R.P. Moir, Nova Scotia Supreme Court
 The Honourable Justice John Bodurtha, Nova Scotia Supreme Court
 The Honourable Justice John A. Keith, Nova Scotia Supreme Court
 The Honourable Judge Laurie Halfpenny MacQuarrie, Provincial Court of Nova Scotia
 The Honourable Judge Ann Marie MacInnes, Provincial Court of Nova Scotia
 The Honourable Judge Alan Tufts, Provincial Court of Nova Scotia
 The Honourable Justice Joel Fichaud, Nova Scotia Court of Appeal
 The Honourable Justice C. LouAnn Chiasson, Supreme Court Family Division
 The Honourable Justice Theresa M. Forgeron, Supreme Court Family Division
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 Jean Flynn, Co-Chair of the NS Home for Colored Children Restorative Inquiry
 Tony Smith, Co-Chair of the NS Home for Colored Children Restorative Inquiry
 Mike Dull, Valent Legal
 Erin O'Brien Edmonds, Q.C., Crowe Dillon Robinson
 Robyn Schleihauf, Nova Scotia Barristers' Society
 Lauren Grant, Province of Nova Scotia Land Titles Initiative
 Curtis Whiley, Province of Nova Scotia Land Titles Initiative
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Thanks also go to Jessica Lyle for organizing our hands-on Taming Technology Conference in September, hosted at McInnes Cooper.





TIPS FOR SUCCESSFUL TECHNOLOGY ADOPTION IN LEGAL TEAMS



PAUL V.
SAUNDERS

Stewart McKelvey

The practice of law is changing. Legal service providers, whether they are law firms, solo practitioners, in-house legal departments, legal aid, crown attorneys or government lawyers, are increasingly expected to get more done in less time while maintaining quality. There are many reasons for this, but regardless of the cause, there is often a push to embrace technology to meet the increased demand.

Too often, legal teams want to jump to a technology solution to address their challenges before they fully understand the problem or the various solutions available to them. Lawyers are problem solvers by nature. Successful lawyers are generally able to quickly spot an issue, analyze it, and then develop a creative solution based on experience. However, with technology, the right solution is often not immediately apparent. Moving too fast will often result in failure. The following are some tips for legal teams looking to embrace technology and avoid common pitfalls:

Know your customer – It's important for legal teams to understand who

they are serving as a first step. If you are a law firm lawyer this is likely your client. For in-house lawyers it may be operational departments within your organization. Regardless of who it is, knowing your client and empathizing with their point of view is essential to success. Any technology solution must be focused on enhancing service from the customer's perspective. There are times where, for example, an organization's IT department may select technology without meaningful engagement by the people who it serves. This can often result in the development of flawed solutions and missed opportunities. It's important to know who your customer is and involve them in the development process as much as possible to ensure you are solving the right problems.

Secure buy-in on a clearly defined goal – You need to know what you're trying to accomplish from the outset. A lack of clear direction will doom a project. The goal shouldn't be to successfully select and install a new technology, but rather to achieve some meaningful benefit to your customers and stakeholders. An effective goal might be to reduce the amount of time, cost or effort it takes to resolve a frequent service request like drafting a contract or resolving a dispute. Once a clear goal is established, ensure you've secured buy-in on that goal from all key stakeholders. If they aren't bought in to

what you are trying to accomplish, you'll struggle with adoption down the road. Without a clear direction you also won't be able to course correct and prioritize needs and wants when times get tough.

Prepare for resistance – We often assume that the right solution will sell itself and that the benefits of new technology will be immediate. This is rarely the case. The natural human reaction to change is resistance. Even the most brilliant solutions will go unused and fail if the people side of change isn't properly managed. Leaders must assume their people will resist and prepare for it. Try to involve your people as much as possible in the process. They must feel that they "own" the solution rather than having it forced on them. The more time that is spent on communicating the need for the change and why it is necessary to achieve the organization's objectives, the greater likelihood it will result in success. Resistance is inevitable; how you prepare and respond to it is what matters.

Embrace technology at the right time – Meaningful change is a process. It is often better to start with a simple solution first before embarking on a larger, more timely and complicated undertaking (often involving new technology). Legal teams will often benefit by starting with more easily implemented

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solutions such as: leveraging existing technologies, visualizing their workflow using white boards and sticky notes, or developing standard work practices and checklists. These quick wins can generate momentum and success stories that can help secure buy-in from the team. This can also help build the business case for more challenging technology solutions that follow. Start with the solutions with the biggest potential benefit and least amount of effort. Those are generally not comprehensive technology overhauls, but simple common-sense solutions co-created by the team. When you are ready, embrace technology with some early victories under your belt once you've developed that foundation for success.

Develop sponsors – One of the most important steps you can take in launching a new technology is to develop a coalition of sponsors in your team that can champion the change. Your people are more likely to embrace it if someone they trust has already bought in. Your sponsors should represent a cross-section of your people. This wouldn't just include leadership, but rather influential individuals at all levels of the organization including lawyers, staff and managers. Sponsors will enable your teams to ease in to the change and help support organic growth and adoption. Rather than mandating compliance from on high, sponsors can help nudge people along and address the inevitable resistance. Just be sure to communicate to your sponsors what is expected of them and be specific on the role they are expected to play.

There is no guaranteed way to ensure your technology projects succeed, but if you follow the above tips, you'll increase the likelihood that they do.

CBA IN THE MEDIA A 2019 ROUNDUP

The CBA, both nationally and provincially, is an advocate and ally for the legal profession. This includes speaking out to advocate when issues arise which impact the profession and the justice system.

Throughout 2019, the CBA and CBA-NS issued public statements on a range of issues. In May, CBA-NS issued an important release applauding the statement of Hon. Justice Clément Gascon of the Supreme Court of Canada which shared his 20 year history of dealing with depression and anxiety disorders. The release included important information on the mental health of the legal profession and how to access support, including [CBA Wellness](#). Also in May, CBA-NS showed its support for the expansion of unified family courts across the Nova Scotia, and the extension of services in these court for litigants. The expansion of a province-wide unified family court has been a priority of the CBA-NS. The statement called on the federal government to fill judicial vacancies as quickly as possible to support the expansion.

In August, the CBA continued its advocacy for a fair justice system and issued a statement on legal aid for refugees, applauding the federal funding to support legal aid for refugees. The statement included a reminder that in June 2019, the CBA launched its #LegalAidMatters

campaign.

More recently, in October, the CBA-NS issued a statement calling for the Nova Scotia government to reconsider Bill 203, legislation that would to remove the right of Crown Attorneys to send any collective bargaining disputes with government to a fair, impartial, and binding arbitration process.

November 2019 was also busy, with the CBA-NS President providing media comment to CBC News on the impact that Halifax Regional Police officers facing criminal charges may have on eroding public trust.

The Sexual Harassment Working Group was also featured in the Chronicle Herald for its ongoing work to develop bystander intervention training for legal workplaces. A related press release issued by the CBA-NS explained that the training will empower participants to identify sexual harassment and give them the skills and confidence to take positive action. Interested legal workplaces are invited to register their interest in the training by contacting the CBA-NS offices.

You can read all of these public statements (and more) at <https://cbans.ca/News-Media>. In 2020, CBA-NS will continue to be a vocal advocate and ally for the legal profession and the justice system.



TOO MANY LAWYERS ARE ENTERING RETIREMENT WITH INADEQUATE SAVINGS

According to a report released by the Broadbent Institute, half of Canadian couples between 55 and 64 have no employer pension and of those, less than 20 percent of middle-income families have saved enough to adequately supplement the Canada Pension Plan. Canada's legal community is also underserved by workplace pension arrangements. But that could change for Canadian law firms very soon.

Most teachers, government employees and union workers in Canada all have something in common – they enjoy guaranteed lifetime retirement income through defined benefit (DB) pension plans. The rest of us, if we're lucky, may have an employer-sponsored defined contribution (DC) pension plan. But, actually calling a DC plan a 'pension plan' is a misnomer. A DC plan is basically a savings plan; the member has to figure out how to grow it and then turn it into lifetime retirement income. Let's look at both in a bit more detail.

Defined Contribution Plan (DC)

In a DC plan, an employer contributes money to an employee's account to provide retirement income. The amount of money is usually a percentage of earnings. Employees often contribute to the plan as well. The retirement benefit is the total of the accumulated contributions, together with any investment growth on the contributions. With most plans, employees have responsibility for

selecting investments. Employees also have the responsibility to choose what to do at retirement – buy an annuity, manage and draw down the bucket of savings, or some combination. Under a DC plan the contributions are always known, but the retirement benefit never is.

Defined Benefit Pension (DB)

DB plans provide a defined monthly benefit at retirement that lasts for life, often with survivor benefits. The retirement benefit is known up front, defined by a formula – say five percent of career or final average earnings, or a percentage of contributions. Like DC plans, both employers and employees contribute a percentage of the employee's earnings. The biggest advantage of DB plans is for the employee because they provide predictable lifetime retirement income.

If they're so great, why do so few employers offer a DB Pension?

The primary reason is that the employer must ensure that at any point in time, the assets of the plan are sufficient to provide the retirement benefits. This makes these types of plans financially risky. We all know financial markets and interest rates go up and down. This can create unacceptable or even fatal cost volatility in contributions and in financial statement reporting, not to mention steady increases in life expectancy that also affect the cost

of providing lifetime defined benefits.

Most workplaces have no pension arrangement

Most employers in Canada are small to medium sized enterprises that just do not have the resources to implement and monitor a retirement arrangement, let alone take on the extra cost of administration and fiduciary governance. In fact, most law firms have no pension arrangements at all – DC or DB.

A Defined Benefit Pension Plan for Law Firms

In 2016, a task force established by the Canadian Bar Insurance Association ("Lawyers Financial") and comprised of leading pension and actuarial experts, began investigating pension options. The resulting decision was to leverage the DBplus Plan, established by CAAT (an \$11 billion not-for-profit trust that has been delivering secure lifetime pensions for over 50 years).

The Bottom Line

To provide predictable and sustainable lifetime pensions for Canada's legal community, DBplus combines the best features of DC plans (cost certainty) with the best features of DB plans (predictability and cost efficiency for employers and valuable lifetime benefits for members). Members participating in DBplus earn a guaranteed lifetime pension, equal to 8.5

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CHANGES TO THE NSBS BAR ADMISSION PROGRAM

Change is coming to the NSBS Bar Admission Program for new clerks starting articles in June 2020 and for clerks who begin articles after November 1, 2019.

The Society will move forward with a new Bar Admission Program, called the Practice Readiness Education Program (PREP), created and administered by the Canadian Centre for Professional Legal Education (CPLED).

There will no longer be a Bar Examination once the Society fully transitions to this program. However, the Society will continue to run three more exams into 2020 for those applicants who are already registered as of November 2019.

What is the new Bar Admission Program?

CPLED created the new Bar Admission Program with the involvement of staff from all the participating law societies.

CPLED's program, PREP, is very different from the current Bar Admission Program however all of the same skills

and competencies will be taught and evaluated.

How is PREP different from the current course?

The current Bar Admission Course includes three weeks of in-person class time, 10 weeks of online assessment and a Bar Examination.

In the new Practice Readiness Education Program, clerks will:

- work through the program together in cohorts;
- be away from the office for two weeks (one week in November and one week in April);
- work through a client file from beginning to end; and
- work to demonstrate entry-level competency.

What will the new Bar Admission Program look like?

1. Clerks that begin their articles in June will start with a one-day orientation early in July. They will complete 13

Foundation Modules online between July and October.

2. In November, the clerks will attend a one-week in-person Foundation Workshop where they will practice the skills they learned about in the Foundation Modules.

3. After a short break in December, clerks will return to working online for three rotations in a Virtual Firm where they will work through files from beginning to end.

4. Finally, in April they will attend a one-week in-person Capstone that will determine if they have demonstrated sufficient competence to begin the practice of law.

Learn more about this change at nsbs.org/society-news

Questions? Please contact the NSBS Director of Education and Credentials, Jacqueline Mullenger, at jmullenger@nsbs.org.

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percent of total (employee and employer) contributions, accumulated with inflation. On average, a member who participates over their entire career in DBplus is expected to receive approximately \$8 in benefits for each \$1 they contribute.

Lawyers Financial is currently working with CAAT to enable law firms of all

sizes to provide predictable, cost certain, cost effective, adequate and sustainable workplace pensions through DBplus. The result will be a pension plan available to all Canadian law firms that has none of the legal or financial risks associated with managing their own plans. The main law firm obligation will be to set up payroll deductions and remittances, just as they do now for CPP.

DBplus is expected to launch for the legal community in 2020. To be kept informed about this unique offering for Canada's legal community, sign up to receive updates at www.lawyersfinancial.ca/pensionforlawyers. Or, if you'd like a presentation for your law firm, contact Dawn Marchand, President & CEO, CBIA at d.marchand@lawyersfinancial.ca or 416-221-8305.

SELF CARE TIPS FOR THE FESTIVE SEASON FROM OUR MEMBERS

“For me, this holiday season is the first where I will be finding ways to cope with grief. My family and I will be starting a special project in memory of my mother, Sue, who passed away earlier this year. She taught us this time of year is about giving, not receiving, so we’ll be providing turkey dinners to those in need in my parents’ community in her memory. I am excited for this year to be a holiday season of healing and reflection, and hope those feeling a loss this holiday season know they are not alone”
– **Anne McFarlane, Estate and Trust Consultant, ScotiaTrust.**

“When the holiday becomes hectic, I take a solo drive around the city to see the lights and decorations. I find that it helps to clear my mind”
– **Morgan Manzer, Lawyer, Nova Scotia Legal Aid.**

“At this joyful, yet busy, time of year it is important to make time to care for yourself as well as those around you. This holiday season I invite others to engage in 12 Days of Kindness. To get you started, here are some ways to spread a little kindness throughout your day:

- Pledge a regular or one-time donation to a local charitable organization
- Support a small business and buy local
- Send a handwritten letter to someone you haven’t seen for a while
- Feed someone’s parking meter

- Pay for the person behind you in line at the coffee shop

Kindness and caring can be shown in many different ways and there’s really no limit on what we can do. Happy Holidays!”
– **Selina Bath, Partner, Wickwire Holm.**

“With the escalating cost of gift giving each Christmas, my grandparents were struggling to keep up. So, we implemented ‘Secret Santa’ across my extended family almost 15 years ago – one present, to a maximum \$50 value, for your designated family member. It has certainly cut down the cost, stress and potential wastage during this time of year. Any other gifts that I give are experienced-based, so that we get to spend quality time together – this year I’ll be taking my parents to see Cirque du Soleil in Montréal!”
– **Jane Elise Bates, Executive Director, CBA-NS.**

“I find physical activity in the form of running or swimming good, as well as doing something where you can see the immediate results of your labours, such as cleaning a car, throwing out old papers, etc. Plus, given that it’s that time of year, heading to church is a good way to re-connect spiritually”
– **Douglas Lloy, Lawyer, Nova Scotia Legal Aid.**

“With all of the receptions, gatherings and parties, I try to decide before I attend

an event how much I am going to drink. That way, if I decide I am only going to have one glass of wine at a cocktail party, I stick to it and wake up the next day feeling energetic and healthy. I also decide ahead of time how much time I am going to take off from work. There is always going to be work on your desk, and if you don’t commit to taking a week or two off, you might find yourself sitting behind your computer to take care of “just a few things”
– **Sarah McInnes, Lawyer, McInnes Cooper.**

“I try to structure my work so that I can take at least a week or more off entirely. I allow myself to be a little selfish over the holidays, doing things that I want to be doing and allowing myself lots of time to mentally rest.”
– **Cheryl Canning, QC, Partner, Burchells LLP.**

“Year-end can be a pretty hectic time for lawyers practicing corporate law, on top of all the other busyness that comes with the holiday season. I find it helps a lot to just accept that my day will probably get away from me and try to not beat myself up over that. I also try to get some physical activity first thing in the morning, so I make sure I fit that in no matter what.”
– **Meaghan Strum, Lawyer, Burchells LLP**

“This year I’m looking forward to spending lots of time with family, enjoying the Christmas spirit at Church and in the community, and getting outside as often as I can to enjoy the outdoors”
– **Dave Mahoney, Senior Staff Counsel, Nova Scotia Legal Aid (Truro).**

“The holidays are often a time spent with family and friends, so it is a great opportunity to review your will, and make sure that you are providing for

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the people you care most about. As is the case with our clients, it is easy for lawyers to defer our own estate planning for years amid the pressures of our daily work – so this holiday season, make those long-awaited updates to your will (or prepare your first one), and start 2020 off right... and don't forget your power of attorney and personal directive, either!" – **Sarah M. Almon, Associate, Stewart McKelvey.**

"I try my best not to fall victim to the hype of the holidays, and don't over commit myself. Respecting personal

time is important 12 months of the year" – **Cristina E. Firmini, Legal Counsel & Chief Privacy Officer, I.M.P. Group International Inc.**

CBA WELLNESS PROGRAMS AND RESOURCES

Since 1989, the Wellness Subcommittee (formerly the CBA Wellness Forum) has recognized the unique needs of the legal profession and worked to find solutions that allow CBA members to lead healthy, balanced lives. The [CBA website](#) contains a wealth of resources curated by the

Wellness Subcommittee to help legal professionals manage personal, emotional, health and wellness challenges.

And don't forget that the [Nova Scotia Lawyers Assistance Program](#) can be contacted by phone at 1-866-299-1299 and provides services to lawyers, articulated clerks, students and their families who may need support for all types of personal problems. [Homewood Health](#) also offers 24/7 counselling for personal and family-related issues or life events, including addiction, anxiety, depression and stress, as well as support for relationship and family issues.

A RESPONSIBLE LAWYER'S GUIDE TO THE WORK CHRISTMAS PARTY



SUSAN MACKAY
Nova Scotia Public Prosecution Service

Work-related Christmas parties can be a lot of fun. But most of us have been to gatherings where party-goers have crossed the line from being festive and social to allowing themselves to be "overserved". Apart from later embarrassment for having been drunk in front of colleagues, relationships can be damaged if inappropriate things then are said or done.

Good planning on everyone's part is important.

If you are organizing the party try to make sure there will be enough food on hand for

the number of guests expected, to reduce the likelihood of people drinking on an empty stomach. If it won't be a cash bar, consider giving out a reasonable number of drink tickets as each person arrives. As a good social host, you will want to keep a watchful eye on the festivities. If anyone seems like they shouldn't be driving, be sure they have a safe way home and that you feel confident they will use it.

If you are a guest and the party doesn't involve a meal, consider getting a group together for supper beforehand. Be sure you know when you arrive how you are going to safely leave the party. Keep a friendly lookout for the well-being of other guests while you are there. Alert one of the hosts if you notice something you think they should be aware of.

If someone seems possibly or certainly the

subject of unwanted attention by another party-goer, as an engaged bystander make a point of interrupting their interaction. Depending on the circumstances, a simple distraction such as, "oh, I want you to meet someone over here" may be enough to prevent an uncomfortable situation from continuing or worsening. But what if a more direct or firmer approach seems called for? And say you also happen to be a junior member of the firm and feel you would like help intervening in a situation involving someone more senior? Consider making a senior colleague aware and asking for their help.

A great party is one where everyone has a good time. All of us can play a part in ensuring respectful boundaries are the norm at holiday gatherings. So channel your inner Fezziwig and spread some benevolent joy this holiday season.

IS SANTA AN INTERNATIONAL CRIMINAL?



JANE ELISE
BATES

CBA-NS

It's that time of the year once again – where we encourage our children and pets to have photos taken with a strange man with a white beard (often conspicuously fake), wearing a red suit and just hanging out at the local mall. Sure, he's jolly and has been known to give out presents, but just who is this mystery man really? And what about all those international laws he's allegedly breached?

Let's break it down...

Identify concerns – Although commonly known as Santa Claus, this bearded stranger also goes by Père Noël, Father Christmas, Kris Kringle, Saint Nicholas, and various other pseudonyms. Not only does having multiple aliases look shady, they must surely create some complexities when crossing international borders. And given that the North Pole is not owned by any country under international law, what passport is Santa flashing in the wee hours of the night? And does he actually have the visas required to visit every country in the world?

Labour law non-compliances – Santa's toy workshop runs 364 days of the year, as do the elves within it. While every image



you see shows a smiling workforce, you have to ask yourself... are they there by choice or is Santa in breach of modern slavery prohibitions? What are the working conditions and is there a union to protect the workers against a 24-hour soundtrack of Mariah Carey Christmas songs? And have you ever noticed the lack of personal protective equipment in the toy workshop? Not a hard-hat or protective goggle in sight. It's hard to imagine that those bright curly shoes are steel-capped. Plus, let's not overlook the lack of representation by female and minority groups within Santa's workforce.

Unregulated Mode of Transport – Each year Santa manages to defy the laws of physics through his one-night circumnavigation of the earth. But – putting aside his military-grade sleigh-

stealth technology, likely violations of air sovereignty, and illegal importation of goods – let's focus on whether Santa has the appropriate permits to even own reindeers, let alone use these exotic animals as a means of transport. If so, how does he protect them from the heat generation of a rocket-speed journey and are carrots sufficient sustenance for the trip? And what shall we make of Santa's responsibility as a role model to our children: flying, in an open sleigh devoid of safety harnesses, under the influence of a few too many million glasses of beer, mulled wine, or other hard liquor that obliging families have left out.

Always Watching – How does Santa get his intel on whether we've been naughty or nice (and have the evidence to defend a potential defamation claim)? Not wanting to point the finger too aggressively in his direction, it does beg the question of whether millions are being subjected to illegal surveillance and violations of privacy. Plus – Santa's got a centuries-long rap sheet of breaking-and-entering into private residences on Christmas night. What's Interpol doing about this guy? Is he really the nice, jolly fella with a twinkle in his eye we always thought we knew? Or is that twinkle actually the villainous gleam of an international icon gone rogue.

Obviously, it goes without saying that Santa remains innocent until proven guilty. But one thing seems certain this Christmas season... Santa's going to need a good lawyer!

A MESSAGE FROM YOUR LAWYER



WHY DOING THE RIGHT THING MATTERS



LISA
PICOTTE-LI

Previously published in CCCA (Spring 2019, Vol 13, Issue 1) for the CBA Canadian Corporate Counsel Association

Expectations and trust have changed. Stakeholders, shareholders, regulators and customers now expect organizations and their leaders to not only comply with the law but also embrace standards of conduct that exceed even the spirit of the law. The external requirements to comply are still there, but a culture of integrity has become critical to being able to achieve sustainable growth aligned with the values and purpose of a business.

A culture of integrity means more than avoiding illegal practice. It means doing the right thing because it is the right thing to do and ensuring the people of the organization are more likely to make decisions that genuinely reflect the values of the business. A culture of integrity inspires confidence and respect, promotes trust within the organization, and instills a sense of responsibility that is core to its philosophy.

As more business leaders become aware of the importance of organizational integrity, lawyers are frequently asked to develop

corporate compliance programs to identify and prevent violations of regulatory requirements. These programs generally focus on increasing responsibility of senior management, improving communication and enforcement of organizational policies, and greater oversight through audits and monitoring. Emphasis on a program of deterrence is necessary but also presumes people need the threat of discipline to do the right things.

Most people have a strong moral belief in the legitimacy and correctness of following rules. There are also many examples of conduct that is legal but lacks integrity such as labour, environmental and safety requirements. Establishing legal compliance as a measure of integrity is a starting point. A culture of integrity is the next step.

A culture of integrity gives meaning to an organization's values and creates an environment of accountability. A culture of integrity enables responsible behaviour that goes to the core of an organization's purpose. It is what the organization stands for when the convenience and marginal costs of doing something wrong seem remarkably low.

In-house counsel have the opportunity to shape and design strategies for creating a culture of integrity so that it becomes ingrained into the fabric of the organization. From compliance to governance structures, in-house counsel are part of the cultural

ecosystem. We can—and should—prioritize integrity among business leadership:

Set the tone. Demonstrate integrity and professionalism, emphasize core values, and ensure there is clarity of purpose in regards to acceptable behaviour. It is not only the action but also the accountability and ownership of the action that drives behaviour and, ultimately, change.

Transform compliance into integrity. Although a strategy for legal compliance is without a doubt an important objective, there is opportunity in its implementation and maintenance to set the values of the organization as its frame of reference. Integrated internal channels of reporting and proactive management can protect an organization early on, even before a problem surfaces.

Engage and empower. The values of an organization might evolve, grow and change, but the way in which an organization conducts itself should reflect its culture of integrity. In-house counsel are in the unique position of shifting the question from “Is this legal?” to “Is this right?” They also provide their organizations with the tools to ask appropriate questions. Training, education and development of best practices can go a long way to fostering an environment of positive behaviour.

Integrity is essential to achieving sustainable growth. Changes in culture take time, but a culture of integrity attracts and retains talent, engages stakeholders and employees, reduces risks and tensions, and can even impress regulators. Exceeding the spirit of the law and raising the standard of what it means to do the right thing benefits everyone, moving us from good to great.

Lisa Picotte-Li is in-house counsel at a provincial regulator and adjudicates discipline of federal inmates. The views expressed are those of the author.

MENTORSHIP IN THE MODERN ERA



OMAR
HA-REDEYE

Previously published in JUST (August 28, 2019) for the Ontario Bar Association

I made the unusual choice when getting called to the bar to go solo from the outset. The reasons for this were complicated, but largely included uncertainty about the type of direct support I would receive from other lawyers in a firm.

Starting your own law practice is a daunting notion. I gathered a small group of friends who I knew were also interested in going solo, and introduced them to each other. We started participating in formal mentorship programs offered by professional and affinity associations, but quickly realized it wasn't enough.

So instead, we started sharing notes. This form of peer-mentoring is one of the most effective ways that lawyers can build supports into their careers. Slowly this group grew, changed, and developed to the point where we were able to assist calls that were even newer than us, including recent departures from large law firms.

What we quickly learned is that most junior lawyers don't get true mentorship within their law firms, and especially not

within a practice group. The economics of how work is billed simply doesn't allow for it. The relationships outside of these direct reports were typically much more useful.

Without internal champions, few junior lawyers succeed in climbing the ladder to the upper rungs of a large law firm. Although these champions come in different forms, the greatest deficit we observed was the lack of substantive skills in practising the law or operating a practice. Junior lawyers learn how to conduct excellent memos or do exceptional research, but their hands-on skills are often much more limited than that.

Junior lawyers need direct assistance on their files, accompanying other lawyers to court, or joining them in business negotiations. As a network of sole practitioners, we had the flexibility to arrange a cross-work lattice of contractual relationships that allowed for this, typically providing greater cost-savings to the client. The result could be better described as an incubator, allowing lawyers and their practices grow in many ways, rather than just mentorship.

What is clear is that the types of mentorship programs the bar employs need to be much more focused, and accompanied with supporting materials and specific goals. For larger firms, this typically means tracking the path

to partnership (and keeping your nose down and working harder isn't good enough).

In smaller and solo firms the supports lawyers are looking for include practice management, but also assistance on substantive aspects of their practice. Lawyers and organizations interested in supporting this can do so by recognizing what the challenges and issues are that lawyers face, instead of assuming they know what lawyers may need. That means that mentoring relationships will be as much about collecting information as they are about imparting it.

These days I've recently returned from parental leave, with new challenges and new needs for support as the Executive Director of a Community Legal Clinic. The Law Society's Parental Leave Assistance Program (PLAP) helped on the monetary end, but I still turn to my peers for the challenges with practice.

Incredible colleagues have already provided tips and insights. But the difference between this and applied mentorship is when they help directly with the childcare.

P.s. I'm still waiting for help on that last dirty diaper!

Omar Ha-Redeye is a Toronto lawyer and applied legal academic with a background in civil litigation who operates out of Fleet Street Law, an incubator in Toronto for new and young law firms.

LAW STUDENTS' SECTION UPDATE

The Canadian Bar Association – Nova Scotia Branch Law Student Section is proud to have received the 2019 CBA-NS Section Award of Excellence. Current section chair and 3L student at the Schulich School of Law, Sydney Hull, summarizes recent events hosted by the Law Student section below.

Connect: Women in Law

A staple in the Student section programming is a joint meeting with the Women Lawyers' Forum titled "Connect: Women in Law". This event provides women-identifying lawyers and law students the opportunity to chat and discuss career options. With a typical ratio of four students to one lawyer, the event is "speed networking": groups are given about twenty minutes to chat before students rotate to the next lawyer to repeat the process. One reason the event is so well liked is that many law students, especially those in their first or second year, do not know any lawyers personally. The welcoming, laid-back nature of the event gives students the ability to ask questions and have frank discussions with successful women lawyers. Many students have remarked that they come away from the event with a more nuanced understanding of careers in law. The 2019 event took place on November 5, had around 30 attendees, and was sponsored by the Schulich



School of Law Career Development Office (CDO).

Health Break

Anyone who has been through law school knows that the exam period is not a fun time. Students often forget

what fresh air feels like and opt for ready-made meals or takeout over homemade, healthy meals. Recognizing this, the CBA Student Section hosts "health breaks" each exam period where nutritious snacks and drinks are given

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to students on their way to the library. In addition to refreshments, pens, highlighters and sticky notes are also made available to replace those running dry during the back-end of the exam season. Plus, law students can never have too many sticky notes...

What to Do If?

Often, it is easy for students to be swept up into the law school narrative of jobs and linear career paths. While a career-focus is very important, working a non-legal summer job in 1L or 2L can leave students feeling uneasy and behind their colleagues who do find legal employment. In March 2019, the CBA Student section and CDO teamed up to create a panel on what students can do with their summers if they did not land law jobs. The session highlighted how skills gained from non-law roles can make students attractive to future legal employers. The panel featured upper-year students who had previously worked non-law summer jobs, CDO staff, and firm representatives. They discussed the subject from different angles, and shared resume and cover-letter writing tips.

Name tags

A new joint initiative between the CBA Student Section and the CDO in 2019 provided reusable metal nametags to the incoming 2019 1L class. Thanks to generous sponsorship by the CDO and CBA, all current 1L students received a nametag during their welcome week. The nametags have both environmental and professional benefits: they look sharp while simultaneously reducing

waste generated by school events. Through the CDO, which generally handles registration for networking events, the hope is that students can bring their own nametag for mixers at local firms. This will reduce the need for single-use lanyard nametags. 2L and 3L students also had the opportunity to purchase the tags for a subsidized cost. The Student Section hopes to continue providing the nametags to future Schulich Law classes in years to come!

Stress-Free Social

First held in March 2019, the “Stress-Free Social” developed from a desire to offer something different to CBA student members. The Student section decided to create a space where students can connect with their classmates in a laid back, casual environment. The only rule during the social was *no talking about law school* – including classes, exams, OCIs, articling, etc. Instead, students were encouraged to get to know other facts about their colleagues, such as non-law hobbies and interests. While friendships are quickly made in law school, the main connecting factor can easily become students’ shared concerns about school and finding employment. The first event in 2019 was well received, so now each semester has a planned event for the 2019-2020 academic year!

The 2019-2020 CBA-NS student section executive are Sydney Hull (3L), Katie Short (2L), Robbie Mason (1L) and Delani Thiel (1L). All are students at the Schulich School of Law. If you have an idea for a joint meeting or panel with the law student section, feel free to reach out to Sydney or Katie: sydney.hull@dal.ca; kathleen.short@dal.ca.


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SECTION EXECUTIVES 2019-2020

Aboriginal Law

Roy Stewart, Burchells LLP
Bryna Fraser Hatt, Fraser Hatt Law

Administrative Law

Kathryn Raymond, QC, BoyneClarke LLP
Jeremy Smith, NS Department of Justice

Bankruptcy Law

Tim Hill, QC, BoyneClarke LLP
VACANT (TBC)

Business Law

Jennifer Hamilton Upham,
Patterson Law
Roy Argand, Cox & Palmer

Canadian Corporate Counsel

Cristina Firmini,
IMP Group International Inc.
VACANT (TBC)

Charities & Not-for-Profit Law

Selina Bath, Wickwire Holm
Peter L'Esperance, McInnes Cooper

Citizenship & Immigration

Sarah McInnes, McInnes Cooper
Lana Roberts, EY Law LLP

Civil Litigation / ADR

Guy Harfouche, Intact Insurance
Jason Cooke, Burchells LLP

Constitutional and Human Rights

Kelly MacMillan (acting)
Jennifer Weston, Barteaux Durnford

Construction & Infrastructure Law

Jeff Aucoin, McInnes Cooper
Colin Taylor,
Halifax Regional Municipality

Criminal Justice

Douglas Lloy, QC, NS Legal Aid
Luke Merrimen, Merrimen Law

Elder Law

Peter Rumscheidt, Weldon McInnis
Grace MacCormick, Patterson Law

Environmental, Energy & Resources

Matthew Clarke, Nova Scotia Power
Ryan Brothers,
NS Department of Justice

Family Law

Laura Kanaan, MDW Law
Amber Penney, Lenehan Musgrave
Michelle Axworthy,
Blois, Nickerson & Bryson LLP

General Practice, Solo & Small Firm

Jennifer Schofield,
Kennedy Schofield Lawyers
VACANT (TBC)

Government and Public Sector Lawyers

Sean Foreman,
NS Department of Justice
Ryan Baxter, McInnes Cooper

Health Law

Mary Anne Persaud,
NS Health Authority
Ryan Baxter, McInnes Cooper

Insurance Law

Philip Chapman, Wickwire Holm
Lawrence Rubin,
Lawyers' Insurance Association of NS

Intellectual Property

Katie Paterno, McInnes Cooper
Anthony Rosborough, Wickwire Holm

Labour and Employment Law

Bradley Proctor, McInnes Cooper
Andrew Taillon,
NS Department of Justice

Law Students

Sydney Hull, Schulich School of Law
Katie Short, Schulich School of Law

Military Law

E. Arnold Hill, Barrister and Solicitor
Nicholas Burke, Nova Scotia Legal Aid

Municipal Law

Marc Dunning, Wickwire Holm
J.C. Reddy,
Power, Leefe, Reddy & Rafuse

Privacy and Access Law

David Fraser, McInnes Cooper
Matt Saunders, Cox & Palmer

Real Property

Jane Gourley-Davis, Patterson Law
Kristin Pike, Patterson Law

Securities Law

H. Jane Anderson,
NS Securities Commission
Chika Chiekwe, Cox & Palmer

Sexual Orientation Gender Identity

Jaime M. Burnett, Pink Larkin
Stacey Merrigan, Hicks Lemoine

Taxation Law

Eric Feunekes, PwC Law LLP
Amy Gibson Saab, BoyneClarke LLP

Wills, Estates and Trusts

Sarah Almon, Stewart MacKelvey
Nicole Power, Weldon McInnis

Women's Forum

Anne McFarlane, Scotiatrust
Sydney Logan, Lenehan Musgrave
Lindsay Logie, Harris North Law

Young Lawyers

Jennifer Taylor, Stewart McKelvey
Courtney Barbour, Wickwire Holm

SECTION MEETINGS

Over 38 Section meetings were held in the first quarter of this program year, with more being planned for early in 2020. Some of our meetings included:

ABORIGINAL LAW SECTION MEETING

A Review of *Nova Scotia (Attorney General) v Nova Scotia (Utility and Review Board)*, 2019 NSCA 66. This session was held by the Aboriginal Law Section, and the session speaker/presenter was Victor Ryan, who was co-counsel for the intervenors, Kwilmu'kw Maw-klusuaqn Negotiation Office and Acadia First Nation. Victor is an associate with Burchells LLP. Victor began the session by providing an in-depth background of the events leading up to the decision, which was helpful in setting the context for the Court of Appeal's clarification regarding consultation with First Nations. The session provided detailed insight into why the Court dismissed the province's appeal of a Nova Scotia Utilities and Review Board (URB) decision that found consultation between the Crown and Mi'kmaq representatives regarding a dam refurbishment project to be inadequate; the Court of Appeal found that the URB had jurisdiction to rule on the adequacy of consultation.

JOINT ADMINISTRATIVE LAW and LABOUR & EMPLOYMENT SECTION

Karen Hollett, Chair of the Nova Scotia Labour Board provided a presentation respecting the procedure before the Labour Board and effective advocacy. Ms. Hollett provided an update respecting

procedural and other changes at the Board, highlighted the importance of case management and proper preparation, explained the opportunities for mediation, and reviewed her experiences with the process used for the various types of matters the Board determines. Her update included statistical information about the Board's timeliness and related matters. The attendees had an opportunity to ask questions and offer comments to Chair Hollett, which were well received, given the Board's interest in obtaining feedback.

REAL PROPERTY SECTION

Karen Killawee presented to the Real Property Section on issues at the intersection of property and matrimonial practice. Specifically the group discussed issues surrounding ILA as it relates to waivers of matrimonial claims, how parties release their interests in property under the MPA and the case of *BNS v Halef*, gifts of down payment from parents of one spouse (child), treatment of inheritances, business assets and other assets which are exempt from equal division and other matters. The group could plainly see how often these two areas converge and Karen's view from the family law side was appreciated by the group.

JOINT PUBLIC SECTOR and ENVIRONMENT, ENERGY & RESOURCES SECTION MEETING

Andrew Webber, Carbon Market Analyst with Nova Scotia Environment, presented to the Public Sector and

Environment, Energy & Resources Law Section to review Nova Scotia's Cap and Trade Program, how it impacts industry and how it compares to other jurisdictions. Specifically, Andrew discussed the Pan Canadian Framework and walked through why a Cap and Trade system was chosen for Nova Scotia, its mechanics and what things may look like moving forward. The session was well received, and participants were interested in receiving an update in the years to come.

SAVE THE DATE

THE CBA NATIONAL ANNUAL GENERAL MEETING

will take place Wednesday,
February 19, 2020.

Can't make it to Ottawa?

The CBA-NS Office will be hosting a local hub for this meeting in its Boardroom from 14:00-17:00.

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