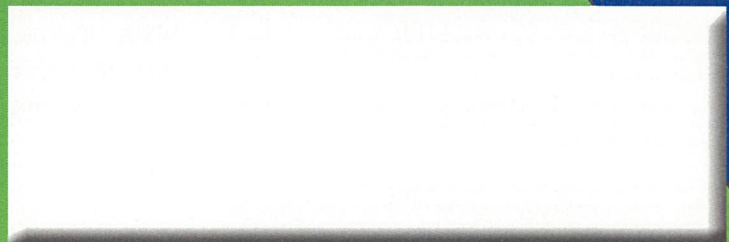
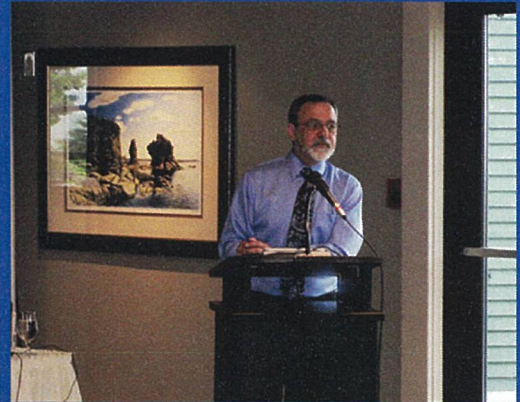


# SQUID PRO QUO

THE VOICE OF THE LEGAL PROFESSION

CANADIAN BAR ASSOCIATION - NEWFOUNDLAND & LABRADOR BRANCH

SUMMER 2011





# Squid pro quo

Published by the Canadian Bar Association  
Newfoundland & Labrador Branch

Box 16, Suite 107  
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Members are encouraged to submit articles for publication, though articles submitted may, at the discretion of the Editorial Board, be edited for brevity and clarity, in which case the author will be consulted prior to publication.

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## Letter from the Editor



**Janet Grant**

This is my last edition as editor of *Squid pro quo*. Jeff McDonald will be assuming the editor's role in September and I would like to wish him all the best as he takes on his new responsibilities. Jeff has been a member of the Editorial Board and has contributed several articles to the Magazine. His past experience with the Magazine will serve him very well in his new position as editor.

I would like to take the opportunity to thank all of the volunteers who have given their time to the Magazine during the last two years. The Magazine relies on the enthusiasm and dedication of the volunteers to get the articles written, edited and produced in a readable format. I have been fortunate to work with many great people over the past two years and it was a wonderful chance to get to know my colleagues outside of the work environment.

I would especially like to take the opportunity to thank Ashley Woodford, our Executive Director. Ashley has a tremendous work ethic and commitment to the CBA, and in particular, the NL Branch. She anticipates tasks that need to be accomplished and takes care of them in an efficient and effective manner. It has been quite a pleasure to work with her!

The In Personam in this edition of *Squid pro quo* focuses on Bruce Grant, Q.C., the winner of the CBA's Distinguished Public Service Award. The article, written by Sheri Wicks, provides a snapshot of Bruce's commitment to public service and his genuine interest in helping others.

Regular features in the Magazine include the President's Report, Case Digest and Section Update. In her President's Report, Janie Bussey provides an overview of the successful CBA-NL AGM which was held July 14<sup>th</sup>-16<sup>th</sup>. In the Case Digest, Dan Glover summarizes the Court of Appeal's decision in *Sikorsky Aircraft Corporation v. Lloyd's TSB General Leasing (No. 20) Limited*, 2011 NLCA 49, which dealt with preliminary jurisdictional issues. The Section Updates include reports from the Aboriginal Section, the Health Law Section and the Intellectual Property Section. All of these updates highlight the tremendous work that is being completed by each of the Sections and the collaborative nature of CBA initiatives.

As you may recall, elections for positions on the CBA NL Executive and committees of the CBA were held in July. We are pleased to provide the results of those elections in this edition of *Squid pro quo*. These individuals have graciously volunteered to give of their time in order to advance the aims of the CBA. Their work is assisted by your input, so please do not hesitate to contact a member of the Executive or a member of one of the committees if you would like to raise any issue for consideration.

# President's Report

By Janie Bussey



It has been a very busy year for the Branch and has been quite rewarding for me on a personal and professional level. As my Presidency draws to a close, I would like to thank the Branch Executive, Section Chairs, and Committee members with whom I have had the pleasure of working. I would also like to extend my thanks to the membership, it has been a privilege to serve as your President. I would encourage all of our members to get involved with the CBA and I look forward to working with future Executives and volunteers and with Susan Gover, who will be assuming the Presidency in September. As always we welcome your comments and feedback so please feel free to contact me by phone or email.

## 2011 Branch Annual General Meeting

Since the last issue of *Squid pro quo*, the 2011 Branch Annual General Meeting was held in St. John's from July 14<sup>th</sup>-16<sup>th</sup>. The AGM events were very well attended and enjoyed by all. The AGM began on Thursday, July 14<sup>th</sup> with the meeting of Council where, among other things, the 2011-12 Branch budget was passed. On Friday, July 15<sup>th</sup>, a Professional Development session was hosted at Clovelly Golf Course. The session featured sessions on technology and practice, Small Claims Court practice and employment issues in commercial transactions.

Christopher Pike, Benson Myles, was the first speaker of the morning and provided a practical session on technologies and electronic resources that can be used by practitioners to assist them in their practice. Chris also discussed some of the potential pitfalls of such technology and ethical issues to be avoided.

The Honourable Lois Skanes, Provincial Court of Newfoundland and Labrador, discussed the recent changes to the *Small Claims Act*, including the increased limit for damages claims. She also discussed key aspects of practice before the Small Claims Court, and the main differences between an action in Small Claims and an action at the Supreme Court of Newfoundland and Labrador, Trial Division.

The final session focused on employment issues in commercial transactions, with speaker Michelle Willette, Cox & Palmer. Michelle discussed employment issues arising in a share or asset purchase, how to spot these issues early on and how to resolve them to ensure that the transaction closes on time.

I would like to thank all of the speakers for taking the time out of their busy schedules to participate in the Professional Development session and the Branch Professional Development committee: Steve Scruton, Chair, Richard Collins, Brenda Grimes, Susan Gover, Tracy Pasley and Sheri Wicks for their hard work in putting these sessions together.

Immediately following the Professional Development session there was a luncheon at Clovelly Golf Course with special guest speakers Rob Blackie and Perry Chafe of *Republic of Doyle*. Rob and Perry were able to take time out of their busy filming schedules to talk about the show and give us some interesting insight on how it all comes together.

The 2011 Distinguished Public Service Award was presented to Bruce Grant, Q.C., during the Awards Dinner on Friday, July 14<sup>th</sup> at the Gypsy Tea Room. The Distinguished Public Service Award is given in recognition of extraordinary contribution to the community.

You can read more about Bruce and his extensive contributions to the community in his In Personam, written by Sheri Wicks, featured in this issue.

The AGM wrapped up on Saturday, July 16<sup>th</sup> with a family brunch and activities at Pippy Park. Our members and their families were treated to a wonderful brunch, along with face painting, games and the ever popular bouncy castle. Many thanks to Hughie Shea



# President's Report

and CBIA for sponsoring this event and for their generous support of the Branch throughout the year.

## Pro Bono

As mentioned in the last issue of *Squid pro quo*, the Branch Pro Bono Committee has been meeting over the last number of months to develop a plan for a pro bono initiative in Newfoundland and Labrador. In consultation with the Judiciary of Newfoundland and Labrador, as well as with CBA Pro Bono Committees from across Canada, the Branch is commencing a pilot project for pro bono services which is anticipated to begin in September 2011.

The pilot project will involve pro bono lawyers providing legal advice to self-represented litigants who have already appeared in court and have been referred to the CBA-NL pro bono service for legal advice by the presiding justice. As such, the justice would adjourn the matter for a short period so that the self-represented litigant could obtain pro bono legal advice on a specific issue before returning to court. A court appearance by the pro bono lawyer will not be expected or required. It is anticipated that the pro bono service associated with each self-represented litigant would be 2-4 hours in length.

If you are interested in participating in this project, please contact the Branch office at [cba-nl@cba.org](mailto:cba-nl@cba.org), or (709) 579-5783, or contact Christina Kennedy, Pro Bono Chair at [ckennedy@nape.nf.ca](mailto:ckennedy@nape.nf.ca), or (709) 754-0700.

## CALLS TO BAR

JUNE 2011

Megan C. Alexander\*  
Steven M.T. Degen  
Pamela K. Earle\*  
Antoinette A. Fekete  
R. Thomas Forsyth  
William A.F. Hiscock  
Richard K.L. Li\*  
Jennifer L. Madore  
Daniel S. Murphy  
Barbara A.E. Oley  
Natalie A. Payne  
Koren A. Thomson\*  
M. Gerard Quigley

\*Denotes CBA Member

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The Canadian Bar Association – Newfoundland & Labrador Branch is pleased to announce our partnership with Provincial Airlines Limited (PAL) as the official Exclusive Provincial Preferred Supplier for air travel within Newfoundland and Labrador. The CBA-NL Branch is confident that this new membership benefit will be of value to you and your practice. As part of the new partnership, Provincial Airlines Limited will be offering CBA-NL Branch members preferential discount rates. The Branch has developed this Exclusive Provincial Preferred Supplier agreement with tailored savings to enhance members' professional and personal bottom lines.

**To find out how to obtain CBA-NL Branch member discounts with Provincial Airlines, please contact the CBA Branch office at 709-579-5783 or email [cba-nl@cba.org](mailto:cba-nl@cba.org).**



# In Personam

By Sheri Wicks



## 2011 Distinguished Public Service Award Recipient Bruce C. Grant, Q.C.

I recently had the pleasure of sitting down with Bruce Grant, Q.C. to chat with him about his career and his volunteer activities over the years. I had never had any dealings with Bruce before, and so I wasn't sure what kind of personality I was going to encounter. I quickly realized that Bruce is a very sincere individual who looks for the best in every situation. Bruce described himself as a small "I" liberal with a firm belief in tolerance, as well as the importance of education and culture in our society. Those ideals have shone through in the impact he has had on the organizations that he has assisted.

I listened with amusement as Bruce told me that he grew up in a professional household, his father being a professional engineer, who for many years, operated a consulting business out of the family residence. Bruce told me that he always knew that he wanted to be a professional, but a couple of summers working in the field with his father cured him of any inclination he might have had to follow in his father's footsteps! Bruce's initial career aspirations were torn between law and architecture, and while the law clearly won out, he continues to have an interest in architecture. In fact, he designed the summer home that he and his wife, Sheila Singleton, have in Mount Carmel. Despite the initial debate over careers, Bruce tells me that by the time he reached high school he knew he wanted to be a lawyer, and has never regretted that decision. He enjoys the practice of law immensely, and the expanded sphere of colleagues he has through Atlantic Canada as a result of the regional nature of his firm, Stewart McKelvey. Bruce joked that he could be anywhere in Atlantic Canada and if he got a flat tire there would be someone from his office he could call to come help him out.



*Bruce C. Grant, Q.C.*

Of course every success story has sprinklings of sorrow as well, and one of the first things Bruce spoke to me about when we met was the fact that his youngest son Devin was turning 19 that day. Bruce was very proud, and also grateful to see his son turn 19; in his mind the "age of adulthood". Bruce and Sheila also have a daughter who is in her early 20's, but their first born child, Liam, passed away from cancer at the age of 4. Bruce couldn't help but think of their first son as his youngest son became an adult, and communicated to me a sense of joy and pride that he and his wife had been able to raise two fantastic children into adulthood.

On the topic of volunteerism, Bruce said that he believed it to be a selfish pursuit because you get far more out of it than you ever put into it. Bruce's volunteerism has included the Anglican Charitable Foundation of Children, 6 years as the Chair of the Art Gallery of MUN, 20 years in various positions with Scouts Canada, including that of Chair of the National Board of Governors (the first Newfoundlander to assume that role), and more recently, the Board of the Wreckhouse International Jazz & Blues Festival; and that's just to name a few!

What struck me about the various volunteer roles Bruce has assumed over the years is that he is a man whose input is valued and sought after. Many of the leadership roles he assumed came at times of turmoil for those organizations. Bruce saw Scouts Canada through a comprehensive review of its policies, structure, governance and methods of operation. The current Chair of the Board of Governors for Scouts Canada noted that "this was a difficult time for a historical and culturally bound organization but Bruce and his task group persevered and showed great leadership." One of those fundamental changes was converting the scouting movement to a truly co-ed program.

*(Continued on page 10)*



# Canadian Bar Association

## National News

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### **The American Bar Association and the CBA sign historic agreement to promote stronger ties**

The American Bar Association and the Canadian Bar Association have signed a historic agreement that will lead to enhanced cooperation and information exchanges between the two organizations, their in-house counsel constituencies, and the U.S. and Canadian legal professions.

A signing ceremony with the associations' presidents and witnessed by other bar leaders was held on August 6<sup>th</sup> in Toronto. The ceremony was followed by the ABA Annual Meeting Opening Assembly featuring remarks by the Chief Justice of Canada, Beverley McLachlin, and U.S. Supreme Court Justice Stephen Breyer.

Internationally, the protocol encourages the ABA and CBA to engage in dialogue and exchange information on programs to advance human rights and the rule of law, through groups such as the organizations' Sections of International Law, the CBA International Development Committee, the ABA Center for Human Rights, the ABA Section of Individual Rights and Responsibilities, and the ABA Rule of Law Initiative.

Domestically, the protocol calls for cooperation to advance legal ethics, pro bono and support for legal aid programs. It also calls for enhanced interaction between the bar associations on issues such as diversity, attorney-client privilege, conflicts, access to justice and other key issues as identified by both organizations. The two Associations will also explore opportunities for joint professional development programming and credits.

News release

[http://www.cba.org/CBA/news/2011\\_Releases/2011-08-03-ABA-CBA-eng.aspx](http://www.cba.org/CBA/news/2011_Releases/2011-08-03-ABA-CBA-eng.aspx)

### **Leadership, volunteerism and advocacy top priorities for CBA President Trinda Ernst**

Trinda Ernst, Q.C. of Kentville, Nova Scotia received the chain of office from outgoing President Rod Snow at the closing luncheon of the CBA's Canadian Legal Conference in Halifax, August 14-16. She brings to the presidency a threefold commitment: to encourage leadership in the profession, to promote volunteerism at the CBA and in the community, and to support advocacy on behalf of the profession.

"I want to build on lawyers' leadership skills – not just through our successful online Skilled Lawyer Professional Development Series, but by other leadership initiatives including our RARE Finds diversity initiative that showcases success stories, our Canadian Corporate Counsel Association mentoring program for young lawyers and our annual leadership training workshop that brings together the best techniques for managing partners."

News release

[http://www.cba.org/CBA/News/2011\\_Releases/](http://www.cba.org/CBA/News/2011_Releases/)

### **Geoffrey Creighton, new Chair of Canadian Corporate Counsel Association**

Geoffrey D. Creighton of Toronto has been named Chair of the Canadian Corporate Counsel Association (CCCA) for 2011-2012, a post he takes over from current Chair Robert Patzelt, Q.C., of Halifax, on August 13<sup>th</sup>. Mr. Creighton is senior vice-president, general counsel and secretary and chief compliance officer at IGM Financial Inc.

"This is an exciting time for CCCA as we embark on new initiatives and expand our advocacy for in-house counsel," says Mr. Creighton. "I am delighted to take up the position of chair in what is clearly a time of growth of the in-house counsel bar across the profession."



# Canadian Bar Association

## National News

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News release

[http://www.cba.org/CBA/News/2011\\_Releases/](http://www.cba.org/CBA/News/2011_Releases/)

### **“Mega trials” Bill receives royal assent**

On June 26, Bill C-2, Criminal Code amendments (mega trials) received Royal Assent. The CBA's National Criminal Justice Section had presented a submission to the Standing Senate Committee on Legal and Constitutional Affairs on June 22 welcoming the legislation to promote the effective and efficient use of resources, and calling for some priority improvements to make the Bill more operationally effective.

The CBA recommended that a definition of “mega trial”

be included in the legislation to avoid overuse of case management, and suggested that criteria be established to ensure that resources are used most appropriately. Suhail Akhtar of Toronto, a member of the National Criminal Justice Section Executive, presented the CBA submission to the Senate Committee.

News release

[www.cba.org/CBA/News/2011\\_Releases/2011-06-22-megatrials-eng.aspx](http://www.cba.org/CBA/News/2011_Releases/2011-06-22-megatrials-eng.aspx)

Submission

[www.cba.org/CBA/submissions/pdf/11-31-eng.pdf](http://www.cba.org/CBA/submissions/pdf/11-31-eng.pdf)

### **CBIA MOVES TO NEW INSURER FOR HOME AND AUTO PROGRAM**

**Effective Jan. 1, 2011, The Personal General Insurance Company (The Personal) will replace TD Insurance Meloche Monnex (Meloche Monnex) as the insurer of The Canadian Bar Insurance Association (CBIA) sponsored Home & Auto Insurance program.**

CBIA believes that members could pay substantially less for home or auto insurance because of its negotiated rate discounts. Members can also benefit from exceptional customer service, CBIA's involvement if assistance is ever required, and the ability to share in positive financial results that exceed the requirements of the program.

Members with insurance under the old program with Meloche Monnex or through a different insurer are encouraged to contact The Personal for a comparison quote on any policies renewing on or after Jan. 1, 2011. Members who want to wait can give The Personal their current policy expiry date and they'll be contacted 60 days prior to their 2011 renewal with a reminder that it's time to get a quote.

**For more information, call 1-877-314-6274 or visit <http://www.barinsurance.com/html/plans/home-and-auto/introduction.html>**





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# Case Digest

By Dan Glover



## International Litigation Raises Jurisdictional Issues in NLCA

In *Sikorsky Aircraft Corporation v. Lloyd's TSB General Leasing (No. 20) Limited*<sup>1</sup> the Court of Appeal considered preliminary jurisdictional issues in tort claims arising from the Cougar helicopter crash in March, 2009 which killed seventeen crew and passengers who were being ferried to the offshore oil platforms.

Cougar and the insurer of the helicopter, filed a Statement of Claim against Sikorsky alleging negligence in the design and manufacture of the helicopter, as well as fraud and negligent misrepresentation related to information regarding the safe operation of the helicopter. Sikorsky Aircraft Corporation ("Sikorsky") designs and manufactures helicopters, is located in Connecticut, U.S.A., and has no corporate presence in this province. Cougar Helicopters Inc. ("Cougar") uses helicopters to ferry workers to the offshore oil platforms, operates from and has a corporate presence in this province.

The appeal concerned preliminary applications by Sikorsky regarding Cougar's failure to obtain leave to file a discontinuance and leave for service *ex juris*, whether Newfoundland and Labrador had territorial jurisdiction over the claim and whether Sikorsky had attorned to the jurisdiction.<sup>2</sup> Prior to the hearing of the

appeal, the Court received a judgment from the District Court of Connecticut which dismissed Sikorsky's action in that jurisdiction for a declaratory Order that the action should be heard in Connecticut and for an injunction preventing the claim from being heard in Newfoundland and Labrador.<sup>3</sup>

In its analysis the Court focused on the manner in which fairness should be assessed and on whether the onus of proof in the inquiry should shift to the defendant.

The Court concluded that the fact that the case may involve an international party does not alter the fundamental principles to be applied.<sup>4</sup> Although the lower Court judge applied a presumption and shifted the onus of proof, an approach recently rejected<sup>5</sup>, the Court held this did not materially affect the result. The lower Court found that while the design and manufacture of the helicopter may have taken place in Connecticut, the helicopter in question was based in this jurisdiction and used by Cougar to further its own commercial enterprise here. This finding was upheld as being consistent with the real and substantial connection test set out by the Supreme Court of Canada.<sup>6</sup>

The Court rejected the submission that because Cougar's claim was for pure economic loss, the real and substantial connection test should not apply. The court held that

1 2011 NLCA 49, heard April 6<sup>th</sup>, 7<sup>th</sup>, released on June 30, 2011. Sikorsky was represented by Ron Noseworthy, Q.C. and Robert Bell. Cougar Helicopters and its insurers were represented by Kevin Stamp Q.C. and Patrick Saul. Justices Welsh, Rowe and Harrington sat on the panel and the judgment was delivered by Justice Welsh.

2 *Ibid.*, at para. 6-8.

3 *Ibid.*, at para. 5.

4 Following *Beals v. Saldanha*, [2003] 3 S.C.R. 416 and *Moran v. Pyle National (Canada) Ltd.*, [1975] 1 S.C.R. 393.

5 *Fewer v. Ellis*, 2011 NLCA 17

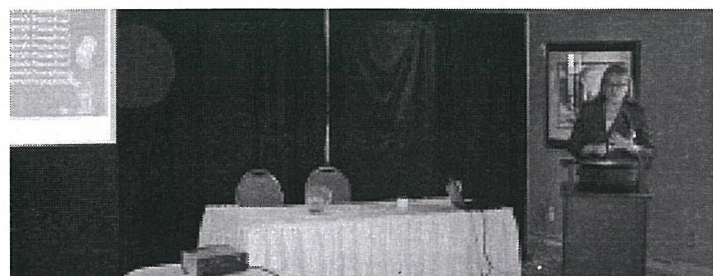
6 *Morguard Investments Ltd. v. De Savoye*, [1990] 3 S.C.R. 1077.



its application would depend on the facts. In this case the lower Court judge found that that Sikorsky “knew, or reasonably should have known, that their S-92 helicopters were being operated by Cougar in this province to service the offshore oil industry.” The Court emphasized the allegation in the claim that Cougar relied, in this jurisdiction, on Sikorsky’s representations regarding the dry run time should the helicopter’s gear box lose oil pressure, and that Sikorsky failed, particularly following an incident in Australia, to warn Cougar of the danger of delay in replacing the titanium bolts on the gearbox.<sup>7</sup> This resulted in the Court upholding that at least part of the tortious acts alleged have a substantial link and did occur in this province.<sup>8</sup>

The Court went on to uphold the decision that Sikorsky would not suffer any particular unfairness if the claim were adjudicated here and that Newfoundland and Labrador is a convenient forum applying factors such as comparative convenience and expense for parties and witnesses.<sup>9</sup> These findings rendered the attornment question irrelevant.

7 Paragraph 25.  
8 Paragraphs 34, 35.  
9 *Teck Cominco Metals Ltd. v. Lloyd’s Underwriters*, [2009] 1 S.C.R. 321.



Above: Speaker Michelle Willett at the AGM Professional Development Session, Clovelly Golf Course, July 15.

Right: Vice President Susan Gover at the 2011 Distinguished Public Service Awards Dinner, Gypsy Tea Room, July 15.

## In Personam with Bruce Grant

*(continued from page 5)*

Similar accolades came from the Rector of Bruce’s church. When I asked Bruce about these leadership roles, Bruce indicated that he takes great satisfaction in becoming involved in an organization, fixing things that need to be fixed, and then being able to pass things on to others to continue the organization’s good work; in essence, “leaving the campsite better than you found it”. Bruce also noted that while many of his volunteer hours have been spent at the leadership level, he viewed his contributions as minimal compared to that of the rank and file volunteers who are on the ground every day doing the good work of the organizations he has been involved in. Bruce believes that they are the true heroes, and he always, always, made a point of thanking them for their efforts whenever he could.

I spent an hour and a half chatting with Bruce, and at the end neither of us could believe we had been talking for so long. At the start of our conversation Bruce was a stranger to me, and at the end, I felt the warmth of friendship. I expect that most people who have the pleasure of meeting Bruce leave his company much the same way. I thank Bruce for taking the time to meet with me and provide members with some insights into his life. I most especially thank him for all of the time he has devoted over the years to his community.





# **UPCOMING CBA PROFESSIONAL DEVELOPMENT PROGRAMS**

## **INPERSON:**

### **Seventh Annual Pan-Canadian Insolvency and Restructuring Law Conference**

September 23, 2011  
Hyatt Regency, Toronto, ON

### **Privacy and Access to Information Conference**

October 3-5, 2011  
Westin Hotel, Ottawa, ON

### **2011 Annual Fall Competition Law Conference**

October 6 - 7, 2011  
Hilton Lac Leamy, Gatineau, Québec

### **Law Firm Leadership Conference**

October 23-25, 2011  
Four Seasons Hotel, Vancouver, BC

### **Business Basics in Changing Times**

November 18, 2011  
Westin Harbour Castle, Toronto, ON

### **National Administrative Law, Labour and Employment Law Conference**

November 25-26, 2011  
Westin Hotel, Ottawa, Ontario

## **ONLINE:**

### **Legal Project Management for Litigators**

September 14, 2011  
Time: 1:30 - 3:00pm (Newfoundland)

### **Cross-Canada Check-up on Pension Reform**

October 25, 2011  
Time: 1:30 - 3:00pm (Newfoundland)

*For more information, or to register for any of the above programs,  
visit <http://www.cba.org/pd/index.aspx>,  
email: [pd@cba.org](mailto:pd@cba.org), or call: 613-237-2925; 1-800-267-8860.*



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# Section Update

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## Aboriginal Law Section



**Steve Scruton, Chair**

The Aboriginal Law Section has once again had an active year at the national level. In February 2011, the Section published another edition of its newsletter, entitled *Aboriginal Writes*. The newsletter contained case law updates, as well as articles regarding proposed legislation and other matters impacting on aboriginal law issues. The newsletter remains available to members on the Canadian Bar Association website at [http://www.cba.org/CBA/newsletters-sections/2011/2011-02\\_aboriginal.aspx](http://www.cba.org/CBA/newsletters-sections/2011/2011-02_aboriginal.aspx).

The Section's activity with legislation and law reform has continued over the past year. On February 15, 2011, the National Section Chair wrote to the Senate Committee on Aboriginal Peoples to provide comments regarding the proposed Bill S-11 — *Safe Drinking Water for First Nations Act*, and in particular, language which would allow the regulations under that legislation to abrogate or derogate from aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*.

The Section followed up on its prior request to be consulted on the development of rules for the federal Specific Claims Tribunal and provided more extensive commentary regarding the rules and procedure. This commentary was in the form of a detailed 34 page letter, with specific recommendations on various procedural rules.

The Section also wrote to the Federal Government again in May 2011 to follow up on Resolution 09-

02-A, which had been passed in 2009 at the Canadian Legal Conference in Dublin. This Resolution asks the government to expand the scope of the Residential Schools Dispute Resolution Independent Assessment and Common Experience Payment processes to include additional categories of claimants, including those persons housed at boarding houses or other alternative residences, but who experienced similar treatment as those housed at residential schools. This expansion would be budget neutral, as the amount set aside for payment is fixed, and would potentially avoid future litigation to resolve these claims. Nonetheless, the Federal government remains the only party to the Settlement which is not agreeable to the expansion.

Most recently, on April 28 and 29, 2011, the Section held its annual Aboriginal Law Conference in Winnipeg on the topic of "Perspectives on Treaties between Aboriginal People and the Crown". The Conference was once again a success, and drew attendees from all across Canada.

Following the Conference, the Section held its annual National Meeting, which included reports on the various Section activities to date, budgeting and planning for the next year, as well as elections for the National Executive. Another key feature were the updates from each provincial Branch. While things were relatively quiet in Newfoundland and Labrador this past year, I was nonetheless able to provide an update for the province, which included:

1. An update on the environmental assessment legislation passed by the Nunatsiavut Government and the work being done to develop a land use plan;



# Section Update

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2. The status of the Labrador Innu land claim agreement and other documents contemplated in the New Dawn Agreement, including the impact of the Lower Churchill development in advancing the Labrador Innu claim; and

3. A discussion of the recent decision in *Nunatukavut Community Council Inc. v. Nalcor Energy* (2011), 2011 NLTD(G) 44 (CanLII), wherein Justice Handrigan dismissed the Labrador Métis' (Nunatukavut) application for an interlocutory injunction to prevent public hearings on Lower Churchill until the courts dealt with its claims.

The foregoing summarizes some of the key Aboriginal Law Section activities over the past year. As always, I am happy to hear from any CBA members interested in becoming involved in the Section, and would welcome the chance to chat at greater length about our activities and the legal changes in this practice area.

## ***Squid pro quo* Letters to the Editor**

*Squid pro quo* welcomes letters to the editor from members of the Canadian Bar Association wishing to express observations, opinions, corrections, very brief reports, or comments on previously published articles.

Please note the following:

1. Your letter must be single spaced, Times New Roman font, point size - 12 with one inch margins.
2. Letters must not exceed 250 words in length; Published letters will be edited for clarity and length without the prior approval of the author. Unpublished letters will not be returned.
3. Signatures of all authors are required (by fax will be acceptable), together with the author's full mailing address and daytime telephone number. Pen names and anonymous letters will not be published
4. Letters referring to a recent *Squid pro quo* article must be received within one month of its publication
5. *Squid pro quo* will not accept responsibility for statements made by contributors.



# Section Update

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## Health Law Section



**Jessica Dellow, Chair**

The National Health Law Executive meeting was held in Montreal on May 28, 2011. The Health Law Section had just hosted the two-day Professional Development program "2011 National Health Law Summit: Critical Issues in Health Law" and much of the discussion at the Executive meeting focused on the completed PD program and ways to improve this biennial event in the future. The discussion focused on reviewing the program topics (which included disruptive behaviour in health care, damages, mental health advocacy, patient safety and experts) and on the location of future PD programs hosted by the Section. If any of the local Section members have any input regarding the location of any future PD programs or, for those members who attended the program, any comments they wish to have shared with the organizing committee for future events, please contact me at 579-4000 or by email at [jdellow@chescrosbiebarristers.com](mailto:jdellow@chescrosbiebarristers.com).

The Section, nationally, is assisting the Canadian Hospice Palliative Care Association (CHPCA) with respect to an initiative for developing and implementing a National Framework for Advance Care Planning in Canada. The Section's participation to date has included reviewing the proposed framework, providing comments and assisting in publicizing the inaugural National Advance Care Planning Day (held April 12, 2011). This is an ongoing project and Section members who have an interest in this area and who wish to be involved are encouraged to contact Lonny Rosen at

[lrosen@gardiner-roberts.com](mailto:lrosen@gardiner-roberts.com).

Various professional development initiatives undertaken at the provincial level were also discussed at the meeting. Common themes across the country centred on mental health issues, aging and health law, and the intersection between privacy law and health law.

## Intellectual Property Section



**Erin E. Best, Chair**

2010-2011 has been a very busy and exciting time for intellectual property lawyers in Canada. The rise and fall of Bill C-32, a bill to amend the *Copyright Act*, resulted in a lot of controversy. Along with my colleague Stephen Seiferling in Saskatchewan I co-chaired the CBA National Copyright Working Group tasked with drafting the CBA submission on the Bill. This process took almost a year of long conference calls and many evenings of drafting and editing. It was a challenging experience but well worth it as I got to work closely with some of the best copyright lawyers across Canada. I was finally able to meet some of those lawyers face to face when I attended the National CBA IP Section Annual meeting in Ottawa. While in Ottawa I also attended the IP Professional Development program on cross-examination, the Judges' Town Hall meeting and the Federal Court Judges' Dinner where I was pleased to be seated next to the Honourable Elizabeth Heneghan, a native Newfoundlander and Labradorian who was appointed as a judge to the Federal Court in 1997 and currently hears a large docket of IP cases. The practice of IP law in Newfoundland and Labrador is gaining momentum and I hope the upcoming year is as exciting and rewarding as 2010-2011.



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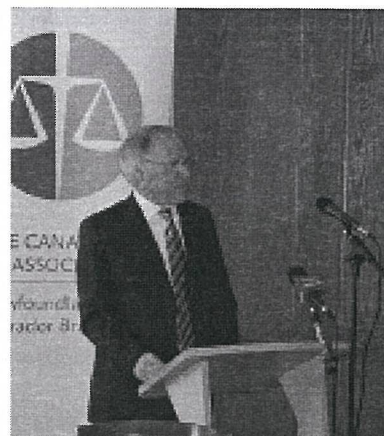
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# 2010-11 Events



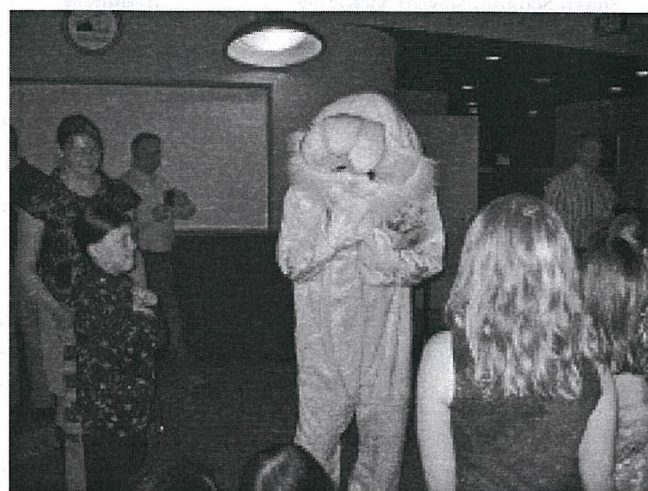
*Women Lawyers Forum Event, "In Her Shoes"*



*2011 CBA-NL Mid Winter Meeting Luncheon with Guest Speaker The Honourable Felix Collins, Minister of Justice and Attorney General*



*2010 Canadian Legal Conference, Niagara Falls, ON*



*2011 Easter Egg Hunt and Brunch*



*2010-11 CBA President Rod Snow at the 2011 CBA-NL Mid Winter Meeting*



*Chris Pike with the 2011 Excellence in Journalism Award Winner, Pam, Frampton, The Telegram*



## Canadian Bar Association - Newfoundland and Labrador Branch

### 2011-12 Executive Committee

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**Labrador Regional Representative**

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**Western Regional Representative**

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**Alternative Dispute Resolution**

Christian Hurley, Ottenheimer Baker

**Bankruptcy**

Mark Russell, Cox & Palmer

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**Environmental, Energy and Natural Resources**

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**Sexual Orientation and Gender Identity Conference**

Michael Ladha

**Taxation**

Pamela Earle, McInnes Cooper

**Wills & Estates**

Jennifer Gorman, Benson Myles

**Women Lawyer's Forum**

Andrea Murphy, Johnson Inc.

**Awards Committee**

Sheri Wicks, Ottenheimer Baker, Chair

**Elections Committee**

Janie Bussey, Stewart McKelvey, Chair

**Pro Bono Committee**

Christina Kennedy, NAPE, Chair



# People and Places

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**Michelle Davis**, formerly with *Stewart McKelvey*, has joined *Johnson Inc.*

**Debbie Hutchings**, formerly with *McInnes Cooper*, has joined *Benson Myles*.

**Sarah Learmonth**, formerly with *Ottenheimer Baker*, has joined *Learmonth, Dunne & Boulos*.

**Cheryl Mullett**, formerly with *Curtis, Dawe*, has joined *City of St. John's*.

**Andrea Murphy**, formerly with *French, Noseworthy & Associates*, has joined *Johnson Inc.*

**Daniel Vavasour**, formerly with *O'Brien & Anthony*, has joined *Department of Justice, Crown Attorney's Office*.

**Derrick White**, formerly with *Wayne White Law Office*, has joined *O'Brien & Anthony*.

## Moving?

Let us know, by email at [cba-nl@cba.org](mailto:cba-nl@cba.org) and we will publish in the next edition of *Squid pro quo*

*The Canadian Bar Association – Newfoundland and Labrador Branch congratulates the following Queen's counsel appointments, awarded on June 2, 2011*

KATRINA A. BRANNAN  
SANDRA M. BURKE  
SHAWN C. A. COLBOURNE  
ANNE M. FAGAN  
RACHEL A. HUNTSMAN  
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