

2022 ANNUAL CONFERENCE

DECEMBER 1 & 2, 2022

HALIFAX MARRIOTT HARBOURFRONT HOTEL,
1919 UPPER WATER ST, HALIFAX, NS



THE CANADIAN
BAR ASSOCIATION
Nova Scotia Branch

AGENDA AT A GLANCE

TIME	THURSDAY, DECEMBER 1, 2022	FRIDAY, DECEMBER 2, 2022
8:00 AM - 8:30 AM	REGISTRATION OPEN	
8:30 AM - 9:30 AM	OPENING PLENARY: Access to Justice for Self-Represented Litigants Project in Nova Scotia HALIFAX ROOM	OPENING PLENARY: Litigating and Deciding Appeals Before the Supreme Court of Canada HALIFAX ROOM
9:30 AM - 10:45 AM	1A Document Management and Production: Tips and Traps RM A-B 1B CRA Updates, Tax Questions and Answers for Estate Planning and Estate Administration RM C 1C A Closer Look at Prompt Payment Legislation RM D	5A Obtaining and Interpreting Business Valuations and Guideline RM A-B 5B Civil Practice & Procedure at the Nova Scotia Court of Appeal RM C 5C Peeling Back the Layers of The Doctrine of Buyer Beware And Other Legal Maxim RM D
10:45 AM - 11:00 AM	BREAK FOYER	BREAK FOYER
11:00 AM - 12:15 PM	2A Written Advocacy RM A-B 2B Estates & Litigation – Are you Really Prepared? RM C 2C Worth It? Ransomware Demands, the Changing Legal Landscape, and Navigating Risk RM D	6A Problems of Proof – Evidence Issues in Family Law RM A-B 6B Privacy Law for Corporate Lawyers RM C 6C Landlord V Tenant: Different Perspectives on Negotiating a Commercial Lease RM D
12:15 PM - 1:30 PM	LUNCH HALIFAX ROOM	AWARDS LUNCH HALIFAX ROOM
1:30 PM - 2:45 PM	3A Best Practices in Small Claims Court RM A-B 3B The Importance of Marriage Contracts in Estate Planning: The Intersection of Family Law and Estates RM C 3C Meta Data: How to Make it Your Friend RM D	7A Primer on Islamic Law RM A-B 7B What's on the M&A Horizon? Legal Trends in Purchase and Sale Transactions RM C 7C Mortgage Fraud: Tips & Strategies for Loss Prevention RM D
2:45 PM - 3:00 PM	BREAK FOYER	BREAK FOYER
3:00 PM - 4:15 PM	4A Getting Your Evidence in (and Keeping it in): The ins and Outs of an Unobjectionable Affidavit RM A-B 4B Probate: What NOT to Do RM C 4C New Models of Legal Services RM D	8A How to co-Parent: 10 Tools to Recommend to Your Clients RM A-B 8B Navigating Supply Chain Disruptions: Beyond Force Majeure RM C 8C Rules 57 and 13.08 – Underused or Better Left by the Wayside? RM D
4:15 PM	NETWORKING RECEPTION (FOYER) & AGM (RM C)	

While there are no current Covid-19 restrictions at the conference venue, individuals may need to, or choose to, continue to wear a mask. Whichever you choose, kindness and respect are always the right choice.

FOR QUESTIONS ABOUT THE CONFERENCE AGENDA, CONTACT: cbainfo@cbans.ca, (902) 422-1905 (ext 1)



REGISTER ONLINE FOR 2022 ANNUAL CONFERENCE: cbans.ca

MESSAGE FROM THE PRESIDENT

Dear Colleagues,

Welcome back!

We are excited to return to a full two-day event filled with a wide range of interesting topics. As we continually evolve in a post-pandemic world, we have introduced the option to participate entirely virtually, allowing attendees to join us from across the province and beyond. For those joining in person, be sure to attend the networking break, which transitions into the AGM after the last session of the day on Thursday, December 1.

The 2022 agenda is the result of 12 months of meticulous planning and dedication by the CBA-NS Professional Development Committee. The Committee continues to grow each year as it attracts creative and forward-thinking members who identify speakers and topics that reflect the diversity of practice groups and backgrounds in our Nova Scotia legal community. I want to personally thank each member of the 2022 Committee for their commitment to developing a robust program that we can be proud to offer to our members.

Wishing you a successful conference.

Kathleen McManus, KC

President, Canadian Bar Association - Nova Scotia Branch

THURSDAY, DECEMBER 1, 2022

8:30 AM - 9:30 AM

OPENING PLENARY

WELCOMING REMARKS

KATHLEEN MCMANUS, KC, CBA-NS President

ACCESS TO JUSTICE FOR SELF REPRESENTED LITIGANTS PROJECT IN NOVA SCOTIA

DR. ILANA DODI LUTHER, Access to Justice & Law Reform Institute of Nova Scotia

Bringing the National Self-Represented Litigants Program to Schulich School of Law and Nova Scotia.

LOCATION: HALIFAX ROOM

SPONSORED BY



9:30 AM - 10:45 AM

1A

DOCUMENT MANAGEMENT AND PRODUCTION: TIPS AND TRAPS

JANE O'NEIL, KC, McInnes Cooper; **KELSEY DOWLING**, McInnes Cooper

Moderator: **AGNES MACNEIL, KC**, Nova Scotia Department of Justice

The potential mountain of information involved in modern litigation is enough to intimate any lawyer: whether they are junior and new to litigation or senior and new to technology. Jane O'Neill, KC and Kelsey Dowling, paraprofessional, will provide an overview of document management, production and presentation from the perspectives of both lawyers and those who support them. They will share tips and traps learned from gathering, producing and using documents at discovery and through to trial.

LOCATION: NOVA SCOTIA A-B

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THURSDAY, DECEMBER 1, 2022

9:30 AM - 10:45 AM

CRA UPDATES, TAX QUESTIONS AND ANSWERS FOR ESTATE PLANNING AND ESTATE ADMINISTRATION

MELANIE PETRUNIA, *Petrunia Law*; **JAMES RHODES**, *Taxation Lawyers*

In this seminar two tax litigators, Melanie Petrunia and James Rhodes, will be discussing the questions they get from estate planners and estate administrators in the course of their practice in dealing with the Canada Revenue Agency.

Topics to be Discussed Include:

1. Compliance Certificates and Executor Liability. Should Certificates be obtained, and the resulting CRA audits that may occur;
2. Discussion on section 160 ITA derivative assessments to beneficiaries. We will also discuss how to use CRA Collections to pay off estate debt from beneficiaries.
3. What if Deceased has made 'mistakes' in prior tax returns.
4. When a Price Adjustment Clause is not enough for valuation in transfers to trusts
5. Executor Gift vs Executor Compensation

LOCATION: NOVA SCOTIA C

A CLOSER LOOK AT PROMPT PAYMENT LEGISLATION

ANDREA MACNEVIN, *Barteaux Labour and Employment Lawyers Inc.*; **DUNCAN WILLIAMS**, *Construction Association of Nova Scotia*

The payment terms for construction projects are changing across Canada. Prompt payment legislation was recently introduced in Nova Scotia to include mandatory payment terms intended to increase the cash flow of contractors and subcontractors. Hear about how the legislation came to be in Nova Scotia, the opportunities it presents, and how the same or similar legislation has unfolded in other jurisdictions across Canada.

LOCATION: NOVA SCOTIA D

10:45 AM - 11:00 AM

BREAK SPONSORED BY  **stewart**
TIT L F

11:00 AM - 12:15 PM

WRITTEN ADVOCACY

CHRIS RUPAR, *Department of Justice (Canada)*

Moderator: **KATHLEEN MCMANUS, KC**, *Department of Justice (Canada)*

Tips and examples of effective written advocacy, including: point first writing, the purpose of the overview, structure and the dos and don'ts.

LOCATION: NOVA SCOTIA A-B

ESTATES & LITIGATION – ARE YOU REALLY PREPARED?

JESSICA LYLE, *TEP, Touchstone Law Inc.*; **KRIS DIXON**, *Patterson Law*; **PETER RUMSCHEIDT**, *Weldon McInnis*

In this panel discussion, two litigators and a (primarily) solicitor will consider what to look for and anticipate when estate litigation is on the horizon or already in full force. Topics covered will include: challenges presented by the will itself, capacity, the role of the proctor, wearing multiple hats (both lawyers and clients), interim remedies, powers of attorney, and recent case law.

LOCATION: NOVA SCOTIA C

WORTH IT? RANSOMWARE DEMANDS, THE CHANGING LEGAL LANDSCAPE, AND NAVIGATING RISK

MATT SAUNDERS, *Deloitte Legal Canada LLP*

Ransomware attacks on organizations big and small grow more sophisticated by the day. Newly proposed federal cybersecurity and privacy legislation is hoping to keep up. This timely and engaging presentation by Matt Saunders, a lawyer and member of Deloitte Legal's national data privacy team, will address new developments in the cybersecurity world. Paying particular attention to the significant legal, technical, and reputational risks arising from cyberattacks, Matt will outline how recent data incidents are being addressed by the courts, cybersecurity experts, and business leaders. From the complexities and impacts of new sanctions regimes when deciding whether to pay a ransom to the legal risks involved in "hacking-back", Matt will discuss practical ideas on how best to prepare for this ever-present threat (and protect privilege at the same time).

LOCATION: NOVA SCOTIA D

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12:15 PM - 1:30 PM

LUNCH BREAK

1:30 PM - 2:45 PM

BEST PRACTICES IN SMALL CLAIMS COURT

DALE DARLING, KC, *Health Association of Nova Scotia*; **AUGUSTUS (GUS) RICHARDSON, KC**, *AD+REM Alternative Dispute Resolution Services Inc.*; **NANCY ELLIOTT**, *Stockton Maxwell & Elliot*

3A Moderator: **KATHLEEN MCMANUS, KC**, *Department of Justice (Canada)*

A panel of Adjudicators reviews how to prepare for your pre-hearing appearance, requirements for Quick Judgements, and Taxations in Small Claims.

LOCATION: NOVA SCOTIA A-B

THE IMPORTANCE OF MARRIAGE CONTRACTS IN ESTATE PLANNING: THE INTERSECTION OF FAMILY LAW AND ESTATES

MICHELLE AXWORTHY, *Cox & Palmer*; **JONATHAN HOOPER**, *Cox & Palmer*

3B A primer for estate lawyers and family law counsel in drafting marriage contracts and estates documents simultaneously to ensure clients' needs are met in death and divorce.

LOCATION: NOVA SCOTIA C

META DATA: HOW TO MAKE IT YOUR FRIEND

RACHEL BARNES, *Department of Justice (Canada)*; **LARRY CAMERON**, *Anti-Human Trafficking Intelligence Initiative (ATII)*

3C What is it? Where is it? What you can look for. What you are giving away. Join Larry Cameron, a forensic investigator and instructor, and Rachel Barnes, a paralegal with 20 years experience with electronic evidence, and increase your awareness of the highlights and pitfalls of electronic evidence.

LOCATION: NOVA SCOTIA D

2:45 PM - 3:00 PM

BREAK SPONSORED BY **ALEXA**
TRANSLATIONS

3:00 PM - 4:15 PM

GETTING YOUR EVIDENCE IN (AND KEEPING IT IN): THE INS AND OUTS OF AN UNOBJECTIONABLE AFFIDAVIT

JEREMY SMITH, *Nova Scotia Department of Justice*; **JON SHAPIRO**, *Schulich School of Law*

4A Our panel will take us through the requirements of a proper affidavit with reference to both the NS Civil Procedure Rules and common law, to present your witnesses' affidavit evidence in the strongest form. Valuable for both newer lawyers and more senior counsel who want a refresher on ensuring that opposing counsel are left with nothing to object to.

LOCATION: NOVA SCOTIA A-B

PROBATE: WHAT NOT TO DO

JANE GOURLEY-DAVIS, *Patterson Law*; **CORA JACQUEMIN**, *Registrar of Probate, Province of NS*

4B Our panelists will provide an overview of the probate process from beginning to end, focusing on steps to take to avoid mistakes and delays. This seminar will highlight the interplay between solicitors in practice and the Registrars we work with and will provide a behind-the-scenes peek into the work of the Probate Court Office and its procedures. You are sure to come away with many practical tips for your estate practice.

LOCATION: NOVA SCOTIA C

THURSDAY, DECEMBER 1, 2022

3:00 PM - 4:15 PM

NEW MODELS OF LEGAL SERVICES

CARLA SWANSBURG, *Claryx*

4C

This session will focus on opportunities technology provides to create new models of legal services – how to create efficiencies, solve client/lawyer pain points, and generate tech-driven work streams that make the client experience better, including an overview of the primary kinds of technology being used in practice and what those capabilities are.

LOCATION: NOVA SCOTIA D

4:15 PM

NETWORKING RECEPTION & AGM *SPONSORED BY* COX & PALMER

FRIDAY, DECEMBER 2, 2022

8:30 AM - 9:30 AM

PLENARY

LITIGATING AND DECIDING APPEALS BEFORE THE SUPREME COURT OF CANADA

JUSTICE MAHMUD JAMAL, *Supreme Court of Canada*

LOCATION: HALIFAX ROOM

SPONSORED BY

BURCHELLS LLP
Lawyers | Avocats

9:30 AM - 10:45 AM

OBTAINING AND INTERPRETING BUSINESS VALUATIONS AND GUIDELINE INCOME REPORTS

NIKKI ROBAR, *PwC Canada*; **YVONNE LAHAYE, KC**, *Conrad Dillon Robinson Law*

5A

The speakers will engage in a lively discussion about working with valuations experts in family law matters, such as:

- knowing when it's time to bring in an expert
- identifying your need and what to look for in an expert
- understanding the expert's evidence, professional standards and reporting requirements

LOCATION: NOVA SCOTIA A-B

CIVIL PRACTICE & PROCEDURE AT THE NOVA SCOTIA COURT OF APPEAL

CAROLINE MCINNES, *Nova Scotia Court of Appeal*; **PETER MCVEY, KC**, *Cox & Palmer*

5B

This session will provide an overview of practice and procedure at the Nova Scotia Court of Appeal. Panelists will highlight the main *Rules* governing appeals, as well as practice considerations to guide you through the process. The session will also explore how appeal practice has changed since the onset of the pandemic, and where we are now.

LOCATION: NOVA SCOTIA C

PEELING BACK THE LAYERS OF THE DOCTRINE OF BUYER BEWARE AND OTHER LEGAL MAXIM

JUSTIN ADAMS, *Blois Nickerson & Bryson*; **IAN JOYCE**, *Blois Nickerson & Bryson*

5C

The purchase of a new home or property is for most clients an exciting time. The excitement, however, can be quickly overshadowed by the discovery post-closing of undisclosed or unknown problems.

In this seminar, the presenters will set out considerations to be borne in mind when deciding to pursue (or having to respond to) a claim, an overview of the current state of the law, and strategy development recommendations.

LOCATION: NOVA SCOTIA D

10:45 AM - 11:00 AM

BREAK *SPONSORED BY* **Patterson** LAW



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11:00 AM - 12:15 PM

PROBLEMS OF PROOF – EVIDENCE ISSUES IN FAMILY LAW

JUSTICE THERESA M. FORGERON, *Nova Scotia Supreme Court Family Division*Moderator: **JULIA CORNISH, KC**, *Conrad Dillon Robinson Law*

When negotiations fail, a Judge must determine the outcome of a family matter; even in the face of conflicting testimony and weak (or missing) evidence. Hear from Justice Forgeron about what Judges want from lawyers – and what evidentiary pitfalls prevent lawyers from making compelling cases.

LOCATION: NOVA SCOTIA A-B

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6A

PRIVACY LAW FOR CORP LAWYERS

DAVID FRASER, *McInnes Cooper*; **PROFESSOR TERESA SCASSA**, *University of Ottawa*

What business lawyers should know to advise their clients about the upcoming Consumer Privacy Protection Act and new Quebec privacy law amendments that have re-set the Canadian bar for privacy.

LOCATION: NOVA SCOTIA C

6B

LANDLORD V TENANT: DIFFERENT PERSPECTIVES ON NEGOTIATING A COMMERCIAL LEASE

MATT DORREEN, *Cox & Palmer*; **MITCH ELIASSON**, *The Armour Group Limited*

In this seminar, the presenters will examine important provisions that are commonly found in a commercial lease that should typically draw attention during lease negotiation. One presenter will provide analysis from the perspective of representing a tenant, and the other of representing a landlord. Tips from the trenches to help find a path forward.

LOCATION: NOVA SCOTIA D

6C

12:15 PM - 1:30 PM

LUNCH BREAK

1:30 PM - 2:45 PM

PRIMER ON ISLAMIC LAW

PROFESSOR YUSEF ALY, *University of Windsor*; **IBRAHIM DANIAL**, *Danial Law*; **SOUMIA ALLALOU**, *Allalou Law*

During this session, the presenters will provide you with an overview of Islamic Law, and its intersection with Canadian laws in the context of family law and will and estates.

LOCATION: NOVA SCOTIA A-B

7A

WHAT'S ON THE M&A HORIZON? LEGAL TRENDS IN PURCHASE AND SALE TRANSACTIONS

JAMIE ANGUS, *Touchstone Legal Inc.*; **CRAIG MALONEY**, *MNP*

A review of recent private M&A deal point studies in Canada and the U.S. and the most commonly negotiated and drafted provisions in acquisition agreements and the associated tax implications. This presentation will touch on market trends in several key provisions of purchase agreements, including holdbacks, purchase-price adjustments, earn-outs, representations and warranties of the seller, knowledge and material adverse effect qualifiers, closing conditions, indemnification, and COVID-19-specific provisions, and examine some of the language used in these clauses.

LOCATION: NOVA SCOTIA C

7B

MORTGAGE FRAUD: TIPS & STRATEGIES FOR LOSS PREVENTION

KELLY SHANNON, *Burnside Law*; **CAMERON MCINNES**, *Chicago Title*

Fraud in the context of real estate transactions is a real and continuously present concern for practitioners. The presenters will identify the primary areas wherein mortgage fraud could exist, and further discuss strategies for identification and addressing potential mortgage fraud.

LOCATION: NOVA SCOTIA D

7C

FRIDAY, DECEMBER 2, 2022

2:45 PM - 3:00 PM

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LAWYERS | LLP

3:00 PM - 4:15 PM

8A

HOW TO CO-PARENT: 10 TOOLS TO RECOMMEND TO YOUR CLIENTS

KELSEY HUDSON, *Conrad Dillon Robinson Law*; **LANA MACLEAN**, *Cultural Clinical Consultants*

LOCATION: NOVA SCOTIA A-B

8B

NAVIGATING SUPPLY CHAIN DISRUPTIONS: BEYOND FORCE MAJEURE

HEIDI SCHEDLER, KC, *Halifax Regional Water Commission*; **MELANIE GILLIS**, *McInnes Cooper*

This session will discuss the good and the bad of invoking force majeure in the face of recent geopolitical events impacting supply and cost of goods. The potential implications are an example of how legal analysis and business strategy overlap for in-house counsel and companies. Recent case law will assist in illustrating the potential pitfalls and opportunities.

LOCATION: NOVA SCOTIA C

8C

RULE 57 AND 13.08 – UNDERUSED OR BETTER LEFT BY THE WAYSIDE?

DANIELLE KEATING, *Burchells LLP*; **JACK TOWNSEND**, *Nova Scotia Department of Justice*; **JUSTICE JOHN KEITH**, *Supreme Court of Nova Scotia*
Moderator: **AGNES MACNEIL, KC**, *Nova Scotia Department of Justice*

This presentation will provide an overview of Rule 57 (actions under \$150,000), its purposes and particularities. It will then provide a summary of a few cases on the Rule in Nova Scotia, and end with a discussion on the Rule's benefits and drawbacks. This will be followed by a discussion of whether R. 13.08 (directions after summary judgment dismissal) could be used to strategic advantage to shape the remaining litigation where a summary judgment motion is unobtainable.

LOCATION: NOVA SCOTIA D

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Larissa MacKinnon, Executive Director,
Canadian Bar Association - Nova Scotia Branch
902-422-6028 | executivedirector@cbans.ca

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REFUNDS

Cancellations will be accepted by EMAIL until
Friday, November 18, 2022, subject to a 15%
administrative charge, including HST. **NO**
REFUNDS will be made if notification is received
after Friday, November 18, 2022.

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