



News & Updates

April 10, 2024

Election of Benchers

The Law Society received nomination papers for Benchers eligible to seek election in the Eastern District. As the Law Society only received three nomination papers for the three vacancies, the following have been acclaimed as Benchers:

Eastern District

- Steven Scruton
- John Whelan
- Johnathan Earle

Their terms will be effective 7 June 2024, following the Law Society's Annual General Meeting.

Appointment of Benchers

As no Nomination Papers for the one Benchers vacancy in the Western District were submitted, the Law Society of Newfoundland and Labrador is seeking **expressions of interest** from members interested in filling a Benchers vacancy in the Western District.

Any interested member in good standing, who is practicing and residing in the Western District, should submit their name and a brief outline of their qualifications by 30 April 2024. Subject to eligibility, Benchers will appoint one of these individuals to fill the vacancy until June 2025, at which time the person appointed can stand for election for a four-year term.

When considering whether to send an expression of interest, please consider whether you have some, if not all, of the skills and attributes identified in the [Skills Matrix](#). We also ask that you reflect upon the following key traits that contribute to effective decision-making:

- The ability to think strategically and analytically and to effectively communicate thoughts and the reasons for them;
- Possession of earned respect of key stakeholder group members, including, but not limited to, the public and the members;

- The ability to work well with others as a member of a collaborative group with group decision-making authority and an understanding of the duty to act with due care, diligence, and skill, honestly, in good faith, and in the best interests of the Law Society;
- Demonstrated understanding of the differences between “oversight” and “supervision”;
- Earned reputation for emotional maturity, personal integrity, and honesty; and
- A demonstrated familiarity with the body of knowledge related to both the Law Society’s mandate, governing legislation, policies, and procedures.

Any interested member in the Western District is asked to send their expression of interest to Erin Rowe at erowe@lsnl.ca by Tuesday, 30 April 2024.

Important **INFORMATION**

Holding Periods and Risk Mitigation for Paper-Based Payments

The Law Society advises members that financial institutions may apply holding periods to paper-based payments. Paper-based payment instruments such as cheques (including trust cheques), certified cheques, money orders, and bank drafts can be subject to forgery and fraud. They can also be returned due to insufficient funds, holds, restrictions on deposits or stop payments. As such, financial institutions have adopted strategies to minimize risks, which sometimes involve holding money until they can verify the funds.

A financial institution may hold money from a deposited cheque to:

- Ensure that the person or company who wrote the cheque has enough money to cover it;
- Ensure that the person or company who wrote the cheque has not put a stop payment on it;
- Check the details with the cheque writer to make sure that it has not been altered; or,
- Ensure that the account on which the cheque was written is still open.

We understand that a hold on a legitimate payment can cause potential issues with closings and lawyers’ undertakings, as it can take three to five business days to be validated, if not more. This holding process is the new standard, and members must prioritize client management and set their clients’ expectations accordingly. Before making a withdrawal from trust, a lawyer must ensure that the client has sufficient money in trust to cover the withdrawal and that the trust bank account has sufficient funds to permit the completion of the withdrawal. Failure to complete the second step is

a common source of inadvertent trust shortages, where a payment is made before the necessary funds have cleared the bank account. To prevent these types of shortages, members should consider:

- Allowing three to five business days for any paper-based payment instrument to clear the bank before making a withdrawal (the deposit slip from the bank does not guarantee that the funds have cleared or will clear the bank, and should not be solely relied upon); and
- Receiving funds by electronic funds transfer, as this method may be more expeditious, depending on your banking arrangements.

If you have questions regarding trust accounts, contact Nicole Miller, Trust Compliance Auditor at nmiller@lsnl.ca.



Our [practice resources](#) offer valuable insights for lawyers navigating the complexities of law practice management. Designed to demystify the mandates of the *Law Society Act, 1999*, Law Society Rules, and Code of Professional Conduct, they serve as supportive tools. While not exhaustive, they provide valuable insights.

Please remember that every practice management question should be considered within your unique context, and professional judgment is very important.

[Reading Suggestions for Practice Management](#)

COMPLAINTS

Disciplinary Matters

Through the disciplinary process, the Law Society of Newfoundland and Labrador reviews and assesses the professional conduct of its members. These assessments are made based on ethical standards outlined in the *Law Society Act, 1999*, along with the [Law Society Rules](#) and the [Code of Professional Conduct](#).



Legal Insights Notice: Malpractice Avoidance

The [Canadian Lawyers Insurance Association](#) (CLIA) is reintroducing certain articles from their Loss Prevention Bulletin series. In their latest post on the "[Not So Risky Business Blog](#)," they shed light on essential insights from the spring 2012 American Bar Association National Legal Malpractice Conference.

Presenters Ronald C. Minkoff, Laura Frankel, Richard A. Simpson, and Robert H. Moses discussed professional liability claims arising from family law practice. They identified common reasons for lawsuits against family lawyers, applicable across various legal areas:

1. Management of client emotions
2. Ensuring adequate pre-trial processes
3. Addressing perceptions of inadequate settlements
4. Proper retention of experts
5. Handling fee disputes effectively
6. Clarifying fee-shifting issues
7. Managing service withdrawals
8. Ensuring proper drafting of key agreements
9. Addressing multi-jurisdictional issues
10. Enhancing communication practices

These insights offer timeless guidance for lawyers aiming to mitigate malpractice risks. Read the full article [here](#).



Law Foundation 2024 Grant Program

The Law Foundation of Newfoundland and Labrador announces the launch of their 2024 Grant Program, extending an invitation for applications from individuals and organizations within the legal community.

The Foundation is looking for innovative projects and initiatives that will positively impact the legal landscape. This grant offers legal professionals an opportunity to contribute to the advancement of the legal profession in Newfoundland and Labrador.

For more information, or to apply before the deadline on 18 April 2024, please [click here](#).



THE CANADIAN
BAR ASSOCIATION

Canadian Bar Law for the Future Fund

If you're working on a legal research project in Canada, there's a chance you could receive funding. Applications are currently being accepted for the Law for the Future Fund. Since its establishment in 1984, this fund has supported endeavors such as advocating for environmental rights, enhancing access to justice in civil and family matters, promoting women's equality rights, simplifying fundamental human rights principles, and fostering accessibility in legal organizations for individuals with disabilities. See the list of the [2023-24 grant recipients here](#).

The Law for the Future Fund sponsors projects that are of national interest and/or are of benefit to the public in one of the following fields:

- Legal research
- Legal education
- Legislation and law reform
- Administration of justice

For more information or to apply before the deadline on 1 May 2024, please [click here](#).



Seeking Contact Information

The office of MacNab Fagan & Murphy is endeavoring to locate Stephen Roy regarding the estate of Clarence Barnes. Stephen Roy ceased practicing law in St. John's, NL, in 2009.

If you have any information about Stephen Roy's current contact details, please contact Anne Fagan, KC, at afagan@yourlegalteam.ca.



The Law Society of Newfoundland and Labrador website has an events section with updated CPD opportunities, events, conferences, and more.

Law Society Events

- Evidence Law Refresher: 5-Part CPD Seminar Series ([recordings are available](#) for the completed portions of this series):
 1. Back to Basics: Purposes, Sources & Fundamental Concepts of Canadian Evidence Law - *November 30*
 2. Shortcuts to Proof: How to Avoid Leading Evidence (or Lead Less of It) - *January 18*
 3. Opinion Evidence: Admissibility, Pitfalls - *February 20*
 4. Famous and Frustrating: The Law of Hearsay - *March 19*
 5. Documents, Electronic Documents, and Affidavits - *April 16*

Third-Party Events

- Hear the Child Webinar by the Family Dispute Resolution Institute Atlantic - *April 12*
- Lawyers Trivia Night by the Canadian Bar Association - *April 18*
- What Trial Lawyers Need to Know About Appeals by the Runnymede Society - *April 18*
- AI and Ethics in Access to Justice by the Commonwealth Lawyers Association - *April 18*
- Atlantic Immigrant Career Loan Fund Online Information Session by the Immigrant Services Association of Nova Scotia - *April 22*

- Privacy Investigations by the International Association of Privacy Professionals - *April 25*
- Emerging Issues in Elder Law by Osgoode Hall Law School - *May 9*
- Advanced Securities 2024: Combo by the Continuing Legal Education Society of British Columbia - *May 9*
- Diversity Trial Advocacy Program (Toronto) by the American College of Trial Lawyers - *May 10*
- Current Issues in Social Media and Copyright Law 2024 by the Continuing Legal Education Society of British Columbia - *June 17*
- Screening - Best Practices for Identifying and Managing Power Imbalances and Family Violence by MDW Mediation - *June 19*
- 2024 National Criminal Law Program by the Federation of Law Societies of Canada - *July 8*
- National Family Law Program by the Federation of Law Societies of Canada - *July 22*
- Family Mediation - Theory, Skills, and Practice by MDW Mediation - *September 19*

[VIEW ALL EVENTS](#)

Did you know that the Law Society of Newfoundland and Labrador website has a News section with updated information on job opportunities, professional development, notices, and more? Visit our website today to check out some of the great online resources available.



Current Opportunities

- Crown Attorney - Manitoba Prosecution Service
- Crown Prosecutor - Government of Alberta
- Legal Counsel - Nunatsiavut Government
- Lawyer - Goodland Buckingham Barristers & Solicitors
- Junior Lawyer - Forest Road Law Group
- Legal Assistant/Receptionist - Park Avenue Law Group
- Board Member - National Arts Centre
- Construction Adjudicators - Government of Canada
- Legal Appointments Board Member - Department of Justice and Public Safety

Search for a Will

Members are reminded that they may only disclose the contents of a will where authorized to do so. By sending this search for a will, the Law Society is not in any way authorizing disclosure to the individual initiating the request. Members must assess whether that individual is entitled to review or know the contents of the will.

Warrick Anthony

Born April 3, 1957; died February 18, 2022.

Last place of residence was Conception Bay South.

Any member with information regarding the Last Will and Testament is asked to contact Joanne Wall at (709) 749-5601 or jpwall2019@outlook.com.

Randy Michael Penney

Born November 30, 1968; died April 6, 2024.

Last place of residence was Portugal Cove-St. Phillips.

Any member with information regarding the Last Will and Testament is asked to contact Rodney Penney at (709) 691-8497 or rpenney01@outlook.com.

Nathaniel Roberts

Born January 21, 1938; died January 20, 2002.

Last place of residence was St. John's.

Any member with information regarding the Last Will and Testament is asked to contact Shawn Roberts at (709) 763-0748.

VISIT US



This is a mandatory communication.