

# MIDWINTER



**February 1-3, 2018**  
**Moncton, NB**



**THE CANADIAN  
BAR ASSOCIATION**  
New Brunswick Branch



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# Hotel Reservations



Reserve before January 12, 2018 – Please identify yourself as a CBA delegate

**Delta Marriott Beauséjour** - 750 Main St., Moncton, NB

Delta Standard Room \$149.00 + tax

For reservation call: 1-844-496-8551

Or make your reservation online at: <http://bit.ly/2AXr5e1>

## With thanks ...

### 2018 MidWinter Committee

Justin Robichaud, President of the Organising Committee

Hon. Tracey K. DeWare

Hon. Denise LeBlanc

Christa Bourque, Q.C.

Deloras O'Neill

Anne Hébert

Denise Doiron-Bourgeois

Enrico A. Scichilone

Renée Fontaine

Sylvie Michaud

Talia Profit

Tracy Peters

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In appreciation of the participation of PD speakers and chairs, the CBA NB will make a donation to the Law for the Future Fund.

# Social Program

Please indicate your attendance on the registration form.

The Annual MidWinter Meeting is recognized as a great opportunity to network while enjoying a wide variety of educational, cultural and social activities. Here are just a few of the scheduled events:

## Thursday, February 1<sup>st</sup>, 2018

### 3:30 pm Sections, Conferences & Forums Meeting

Some sections, conferences and forums will be hosting business meetings. These meetings will provide an opportunity for section members to come together, share ideas and collaborate for the coming year. The particulars will be made available when details are confirmed.

### 5:00 pm – 7:00 pm Opening Reception

The Opening Reception will be held at St. James Gate, Upper level (14 Church St.). Enjoy some of New Brunswick's finest delicacies and spirits.

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## Friday, February 2<sup>nd</sup>, 2018

### 6:30 pm President's Reception

Meet with your colleagues over a drink and hors d'oeuvres at the Delta Marriott Beauséjour Mezzanine.

**Admission is by ticket.**

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### 7:00 pm President's Dinner

Join your host, President Tina Lagacé-Rivard, for a special evening at the Delta Marriott Beauséjour in the Ballroom. Throughout the evening enjoy the beautiful music of les Troiselles.

Les Troiselles have performed on many of la Francophonie's major stages, both here and abroad, and have enriched Acadia's musical landscape for nearly 20 years. Known since 2013 as TROISELLES, a « musical therapy » they may say, but mostly a journey through the universe of tightly-knit vocal harmonies, they present a varied repertoire of original songs and popular covers, from pop to traditional. TROISELLES: three women, three mothers, three friends...three voices (accompanied on stage by musicians François Émond and Benoit Picard).

**Admission is by ticket.**

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### 9:30 pm Late Night Party

Don't want the night to end? Then stay on for the Late Night Party with Isabelle Ouellette in the Mezzanine of the Delta Marriott Beauséjour.

With over 3000 shows under her belt, Isabelle has been a staple in the New-Brunswick music scene for over 10 years. In 2012, she was runner up on the show Canada's Got Talent on citytv in front of over 1.4 millions viewers. Her group Angry Candy climbed to the top 7 on Itunes. In 2015, Isabelle released her self-titled french ep, where the first single "Caméléon" remained in first position in the pop rock category for 4 weeks.

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## BUSINESS MEETINGS

### Thursday February 1, 2018

1:00 – 5:00 Insurance Management Committee

Delta Marriott Beauséjour (Ballroom B)

10:00 – 3:00 CBANB Branch Council Meeting

Delta Marriott Beauséjour (Shediac AB)

2:00 – 6:00 Registration Opens

Delta Marriott Beauséjour

12:00 – 5:00 Law Society of NB Council Meeting

Delta Marriott Beauséjour (Ballroom C)

# PROGRAM AT A GLANCE

Friday February 2, 2018

7:30	<b>BREAKFAST</b> (Ballroom AB)	<b>Sponsored by: Actus Law • Droit</b>
9:00	<b>Professional Development</b>	
	<b>(FRENCH)</b> Proposed Criminal Code Amendments with Respect to Driving Under the Influence of Drugs and Alcohol	
	An Evidence-Based Approach to Expert Witnesses	
	Applying the New <i>Local Government Act</i>	
	<b>(SI)</b> An Overview of Section B Benefits	
10:15	<b>HEALTH BREAK</b> (Delta Marriott Beauséjour - Mezzanine)	
10:30	<b>Professional Development</b>	
	<b>(FRENCH)</b> Recent Developments in Equity Financing in New Brunswick	
	Judicial Interim Release - <i>Controlled Drugs and Substances Act</i>	
	Introduction to the <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i> (Canada)	
	<b>(SI)</b> Comprehensive Planning and Other Considerations for Your Clients	
12:00	<b>LUNCH</b> (Delta Marriott Beauséjour - Ballroom AB)	<b>Sponsored by: Bingham Law • Droit</b>
	Guest Speaker: The Honourable Madam Justice Suzanne Côté, Supreme Court of Canada, Ottawa	
1:30	<b>Professional Development</b>	
	<b>(FRENCH)</b> Psychological Evaluations – A Different Perspective	
	Roles and Responsibilities of Board Members	
	Cyber Security	
	<b>(SI)</b> Rule 22 of the Rules of Court – A Possible Shift in Culture?	
2:45	<b>HEALTH BREAK</b> (Delta Marriott Beauséjour - Mezzanine)	
3:00	<b>Professional Development</b>	
	<b>(FRENCH)</b> Social Media as Evidence	
	Legal Opinions in Commercial Lending Transactions	
	Bankruptcy and Insolvency for the Non-Specialist	
	<b>(SI)</b> The View From the Bench	
6:30	<b>PRESIDENT'S RECEPTION</b> (Delta Marriott Beauséjour - Mezzanine)	<b>Sponsored by: Cox &amp; Palmer</b>
7:00	<b>PRESIDENT'S DINNER</b> (Delta Marriott Beauséjour - Ballroom AB)	<b>Sponsored by: Stewart McKelvey</b>
<b>Saturday February 3, 2018</b>		
7:30	<b>BREAKFAST &amp; AGM</b> (Delta Marriott Beauséjour - Ballroom AB)	<b>Sponsored by: Forbes Roth Basque</b>
9:00	<b>Professional Development</b>	
	<b>(FRENCH)</b> Best Practices in Handling Cases with Self-Represented Litigants	
	Fundamentals of Family Mediation	
	Contentious Human Rights Issues in the Workplace	
	<b>(SI)</b> Pitfalls of the PPSA	
10:15	<b>HEALTH BREAK</b> (Delta Marriott Beauséjour - Mezzanine)	
10:30	<b>Professional Development</b>	
	<b>(FRENCH)</b> <i>Mechanics' Lien Act</i> – A Trap for Lawyers	
	Moving and Paying: Recent Issues in Relocation, Child Support and Spousal Support	
	Mastering Remedies in Human Rights Claims	
	<b>(SI)</b> Potential Pitfalls of Fixed-Term Employment Contracts and dealing with Motions for Summary Judgment in Wrongful Dismissal Cases	
12:00	Lunch to go (Delta Marriott Beauséjour - Mezzanine)	<b>Sponsored by: Bossé Viola LeBlanc</b>

## EDUCATION SESSIONS

9:00 - 10:15

<p>(FRENCH) Proposed Criminal Code Amendments with Respect to Driving Under the Influence of Drugs and Alcohol</p>	<p>Bill C-46, An Act to Amend the Criminal Code (Offences Relating to Conveyances) and to Make Consequential Amendments to Other Acts – Bill C-46 deals with the legislative framework governing driving under the influence of drugs and alcohol and would lead to a regime of criminal prohibition of impaired driving. <b>Chair:</b> Sylvie Michaud, Forbes Roth Basque, Moncton <b>Speakers:</b> James J. Matheson , Lawyer, Riverview; Pierre Gionet, Office of the Attorney General , Tracadie-Sheila</p>
<p>An Evidence-Based Approach to Expert Witnesses</p>	<p>This session will address the critical need for legal counsel to be able to effectively challenge expert witnesses on the underlying substance of their reports and methodology and their opinion evidence. <b>Chair:</b> Renée M. Fontaine, Stewart McKelvey, Moncton <b>Speaker:</b> Jack M. Blackier, FCA, Cox &amp; Palmer, Saint John</p>
<p>From Prescribed Powers to Enabling Authority – Applying the <i>New Local Government Act</i></p>	<p>Municipal lawyers will present an overview of some of the new features in the legislation governing municipalities in 2018. From enforcement to expanded authority, what does it all mean for practitioners? <b>Co-Chairs:</b> J. André Daigle, Droit Juris Law, Dieppe &amp; Nick Robichaud, City of Moncton, Moncton <b>Speakers:</b> . J. André Daigle, Droit Juris Law, Dieppe; Nick Robichaud, City of Moncton, Moncton; Scott A. Brittain, City of Saint John, Saint John</p>
<p>(Simultaneous Interpretation - SI) An Overview of Section B Benefits</p>	<p>The focus of this session is to learn what you know and don't know about Section B. The first 20 minutes is devoted to everyone completing a True/False Quiz on Section B. During the remainder of the session, answers to each question will be provided and discussed. Attendees with all the correct answers will receive a prize. <b>Chair:</b> Christa A. Bourque, Q.C., McInnes Cooper, Moncton <b>Speakers:</b> Brenda J. Lutz, Q.C., Canty Lutz Delaquis Grant, Saint John; Michel Boudreau, Canty Lutz Delaquis Grant, Saint John</p>

## Health Break

## EDUCATION SESSIONS

10:30 - 12:00

<p>(FRENCH) Recent Developments in Equity Financing in New Brunswick</p>	<p>Enhance your knowledge and expertise in securities law and gain a better understanding of the latest developments in securities laws relating to raising capital exemptions: the most commonly used prospectus exemptions (private issuer; family, friends and business associates; accredited investors), the offering memorandum, securities crowdfunding, the Community Economic Development Corporations and new electronic reporting requirements. <b>Chair:</b> Brian E. Maude, Financial and Consumer Services Commission, Saint John <b>Speaker:</b> Jason L. Alcorn, Financial and Consumer Services Commission, Saint John</p>
<p>Relevant Factors and Case Law Relating to Judicial Interim Release in the Context of Charges Under the <i>Controlled Drugs and Substances Act</i></p>	<p>An Act respecting cannabis and amending the <i>Controlled Drugs and Substances Act</i>, The Criminal Code and other Acts. <b>Chair:</b> Pierre Gionet, Office of the Attorney General , Tracadie-Sheila <b>Speakers:</b> Hazen L. Brien, Lawyer, Moncton; Nicole Angers, Public Prosecution Service of Canada, Moncton</p>
<p>Introduction to the <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i> (Canada)</p>	<p>During this session, the federal Department of Justice and Department of Indigenous and Northern Affairs will present a detailed overview of the <i>Family Homes on Reserves and Matrimonial Interests or Rights Act</i> (FHRMIRA), along with useful background about the issue of matrimonial real property in First Nation communities and other FHRMIRA information resources that may be of use to private practitioners representing First Nation communities or individuals with interests in real property on reserve. The session will also explain the procedural, practice and practical aspects of accessing the rights and protections available under the FHRMIRA from the courts. <b>Chair:</b> Jeffery Callaghan, McInnes Cooper, Fredericton <b>Speakers:</b> Andrew Ouchterlony, Legal Counsel / INAC Legal Services, Department of Justice Canada, Quebec; Dorothy Laplante, Manager / Department of Indigenous and Northern Affairs Canada, Quebec; LA Henry, LLB, Phd, LA Henry Law, Fredericton</p>
<p>(SI) Comprehensive Planning and Other Considerations for Your Clients</p>	<p>This presentation will focus on the major aspects and considerations for Canadians overall financial plans and how lawyers can start conversations to help their clients make important decisions. In addition to gaining insight into various tax implications in Settlements, other topics will include Business Succession, Joint Ownership, Beneficiary Designations, Marriage Breakdown and Blended Families, and Vacation Properties. <b>Chair:</b> Enrico Scichilone, Actus Law Droit, Moncton <b>Speaker:</b> Wade J. Hamilton, CFP RRC, Hamilton &amp; Associates, Moncton</p>

## EDUCATION SESSIONS

1:30 - 2:45

<p>(FRENCH) Psychological Evaluations – A Different Perspective</p>	<p>Based on her 20 years of experience as a psychologist, Kimberly Wilson, will describe her role in the evaluation of parental fitness for custody and of the degree to which the wishes of the child are taken into consideration. She will also offer her perspective on the differences between evaluations carried out by psychologists from the private sector and those carried out by the Ministry of Social Development (whether through provincial hospitals or social service centres). She will welcome questions from the audience, with a view to clarifying the role played by psychologists within the field of law in the province of New Brunswick.</p> <p>This presentation will also address the role played by lawyers with respect to assessments of fitness for custody; the challenges relating to incorporating, within court orders, the recommendations of certain experts; and the advantages and disadvantages to which the different types of evaluation carried out by private practitioners and through public authorities may lead in the context of family law litigation.</p> <p><b>Chair:</b> Tracy Peters, Tandem Law, Moncton <b>Speakers:</b> Kimberly Wilson, Restigouche Family Services Inc, Campbellton; Vanessa Comeau Gerrard, Drois Juris Law, Dieppe</p>
<p>Roles and Responsibilities of Board Members</p>	<p>This session will address the roles and responsibilities of Board members in the profit and non-profit sector. Further, the session will address the particular role of lawyers as Board members.</p> <p><b>Chair:</b> Maya Hamou, Co-chair of the Government Lawyer Section of the CBA-NB, Fredericton <b>Speakers:</b> Frédéric Duguay, Partner at Hansell LLP, Ontario; Professor Michael Marin, Assistant Professor at the UNB Faculty of Law, Fredericton</p>
<p>Cyber Security</p>	<p>This session will provide an overview of the applicable legislation to assist lawyers in providing advice to clients who collect, handle and disclose personal information. We will discuss what NB companies can do to manage regulatory and other cyber security risks.</p> <p><b>Chair:</b> Carole Chan, McInnes Cooper, Moncton <b>Speaker:</b> David Fraser, McInnes Cooper, Halifax</p>
<p>(SI) Rule 22 of the Rules of Court – A Possible Shift in Culture?</p>	<p>New Rule 22 of the Rules of Court has now become an integral part of the tools of civil litigation in New Brunswick. How has the legal landscape changed in a year? Is civil justice better served as a result? Is access to justice now easier for litigants? Do litigants now benefit from easier access to justice? As for the shift in culture that had been announced, is it reality or an illusion? This training session offers an overview of the major changes that were promised by the new Rule and of the resulting jurisprudence.</p> <p><b>Chair:</b> Justin Robichaud, Fidelis Law Droit Inc., Moncton <b>Speakers:</b> Hon. Justice Larry Landry, Court of Queen's Bench of NB, Campbellton; Basile Chiasson, Q.C., Chiasson &amp; Roy, Bathurst</p>

## Health Break

## EDUCATION SESSIONS

3:00 - 4:30

<p>(FRENCH) Social Media as Evidence</p>	<p>This session will provide a thorough overview of the law as it relates to social media both as tool for lawyers and a potential minefield which should be navigated with care.</p> <p><b>Chair:</b> Marc-Antoine Chiasson, McInnes Cooper, Moncton <b>Speakers:</b> Lucie LaBoissonnière, McInnes Cooper, Moncton; Mathieu Picard, Fidelis Law Droit Inc., Moncton</p>
<p>Legal Opinions in Commercial Lending Transactions</p>	<p>This presentation is intended for lawyers who are asked to prepare or review legal opinions in the context of commercial lending transactions. It will provide a practical overview of the purpose of the opinions and qualifications that commonly apply, with a particular focus on key elements such as due authorization and execution, enforceability of transaction documents and security.</p> <p><b>Chair:</b> Denise Doiron-Bourgeois, Department of Justice Canada, Moncton <b>Speaker:</b> Luc Elsliger, Stewart McKelvey, Moncton</p>
<p>Bankruptcy and Insolvency for the Non-Specialist</p>	<p>Introduction to and comparison of various insolvency procedures.</p> <p><b>Chair:</b> Edwin G. (Ted) Ehrhardt, Q.C, Bingham Law, Moncton <b>Speakers:</b> Anthony Richardson, McInnes Cooper, Fredericton; Joshua McElman, Cox &amp; Palmer, Saint John; Robert W. Powell, Powell Associates Ltd., Saint John</p>
<p>(SI) The View From the Bench</p>	<p>Practical tips to improve your advocacy skills and persuade your audience.</p> <p><b>Chair:</b> Talia C. Profit, Cox &amp; Palmer, Moncton <b>Speaker:</b> Hon. Justice Tracey K. DeWare, Court of Queen's Bench of NB, Moncton</p>

## EDUCATION SESSIONS

9:00 - 10:15

<p>(FRENCH) Best Practices in Handling Cases with Self-Represented Litigants</p>	<p>Self-represented litigants as become common occurrence in New Brunswick courts. This session will provide participants with a view from the bench and from practicing members on best practices to ensure a positive outcome for everyone. <b>Chair:</b> Hon. Judge Denise LeBlanc, Provincial Court of NB, Moncton <b>Speakers:</b> Hon. Justice Marie-Claude Blais, Court of Queen's Bench of NB, Saint John; Maurice C. Richard, Office of the Attorney General, Moncton</p>
<p>Fundamentals of Family Mediation</p>	<p>A practical overview of Mediation as an effective tool in family dispute resolution. This program will be of interest to Family Lawyers considering alternate dispute resolution for clients at all stages of the conflict process as well as those who are interested in learning more about the basics of building a successful Mediation business. <b>Chair:</b> Christa A. Bourque, Q.C., McInnes Cooper, Moncton <b>Speaker:</b> Dominique M. Harvey, Lawyer, Fredericton</p>
<p>Contentious Human Rights Issues in the Workplace</p>	<p>This panel will examine the duty of employers to accommodate, as well as issues or factors related to identify or analogous grounds of discrimination under the Canadian Charter of Rights and Freedoms in the context of employment. Panelists will explore grounds of discrimination such as mental health, disability, or the evolving concept of gender identity, and their intersections with the duty to accommodate in current employment law. <b>Chair:</b> Gavin Kotze, Office of the Child, Youth &amp; Seniors Advocate, Fredericton <b>Speakers:</b> Dominic Caron, Pink Larkin, Fredericton; Joel Michaud, Pink Larkin, Fredericton; Kelly T. VanBuskirk, Lawson Creamer, Saint John</p>
<p>(SI) Pitfalls of the PPSA</p>	<p>Refresher on the sections of the PPSA that are most often encountered in commercial transactions, with a special focus on those sections which have the greatest potential for error. Highlight of recent caselaw relating to the PPSA from New Brunswick and Atlantic Canada. <b>Chair:</b> Romain J. F. Viel, McInnes Cooper, Fredericton <b>Speakers:</b> Alanna Waberski, Stewart McKelvey, Saint John; George Cooper, Q.C., Cox &amp; Palmer, Moncton</p>

## Health Break

## EDUCATION SESSIONS

10:30 - 12:00

<p>(FRENCH) Mechanics' Lien Act – A Trap for Lawyers</p>	<p>An overview of the purpose of the Act, its requirements in terms of timelines, and the pitfalls to be avoided. <b>Chair:</b> Alexis V. Couture, Stewart McKelvey, Moncton <b>Speakers:</b> René J. Basque, Q.C., Actus Law Droit, Moncton</p>
<p>Moving and Paying: Recent Issues in Relocation, Child Support and Spousal Support</p>	<p>The speaker will discuss parental relocation and give an update on recent cases in child support &amp; spousal support. <b>Chair:</b> Tracy Peters, Tandem Law, Moncton <b>Speaker:</b> D. A. Rollie Thompson, Q.C., Dalhousie University, Halifax</p>
<p>Mastering Remedies in Human Rights Claims</p>	<p>This session will provide lawyers with a review of the remedies awarded in recent Canadian Human Rights Tribunal jurisprudence, and tips on how to maximize damages for their clients when making a human rights claim. <b>Chair:</b> Candice A. Pollack, AGE-WELL National Innovation Hub (APPTA), Fredericton <b>Speakers:</b> Josie Marks, Stewart McKelvey, Moncton; Matthew R. Letson, Lawson Creamer, Saint John; Sarina McKinnon, Human Rights Commission, Fredericton, Ryan Adams, Vestcor Services, Fredericton</p>
<p>(SI) Potential Pitfalls of Fixed-Term Employment Contracts and dealing with Motions for Summary Judgment in Wrongful Dismissal Cases</p>	<p>Thinking of using fixed term employment contracts for indefinite term employees? Don't. A lesson from the Howard v. Benson, 2016 ONCA 256 (CanLII). In this session will discuss how to properly structure truly fixed term arrangements, including tips and examples on how to draft enforceable termination clauses. We will also provide tips and strategies when bringing or responding to motions for summary judgment in wrongful dismissal cases. <b>Chair:</b> Timothy R. Bell, Stewart McKelvey, Moncton <b>Speakers:</b> Enrico Scichilone, Actus Law Droit, Moncton; Ryan Wozniak, Levine Sherkin Bousidan Barristers, Ontario</p>

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