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"CAUGHT IN THE MIDDLE": PPSA REQUIRES FULL NAME



When registering a security interest against an individual under the *Personal Property Security Act, Regulation 20(1)* **requires the inclusion of the debtor's middle name** as part of the registration. The failure to include a debtor's middle name could compromise the security, particularly if the debtor subsequently declares bankruptcy.

PPSA registrations can be corrected prior to a debtor declaring bankruptcy. If you have done a PPSA registration and you are unsure if you included the debtor's middle name, it would be prudent to check the registration and make any necessary corrections.

Here is Section 20 of the *Personal Property Security Act*, General Regulations, NS Reg 129/97:

Debtor (individual) name information

20 (1) Where the debtor is an individual, the registrant shall enter the last name followed by the first name followed by the middle name, if any, of the debtor.

(2) Where the debtor is an individual whose name includes more than 1 middle name, the registrant shall enter the first of the middle names.

(3) Where the debtor is an individual whose name consists of only 1 word, the registrant shall enter that word in the field for entering the last name of the debtor.

(4) Where the debtor is an individual who carries on business under a name and style other than the individual's own name, the registrant

(a) shall enter, in accordance with this Section, the individual's own name as a debtor (individual); and

(b) may enter, in accordance with Section 21, the individual's business name and style as a debtor (enterprise).

(5) Where the debtor is an individual, the name of the debtor shall be determined, for the purposes of this Section, by the following rules:

(a) where the debtor was born in Canada and the debtor's birth is registered in Canada with a government agency responsible for the registration of births, the name of the debtor is the name stated on the debtor's birth certificate or equivalent document issued by the government agency;

(b) where the debtor was born in Canada but the debtor's birth is not registered in Canada with a government agency responsible for the registration of births, the name of the debtor is

(i) the name stated in a current passport issued to the debtor by the Government of Canada,

(ii) if the debtor does not have a current Canadian passport, the name stated on a current social insurance card issued to the debtor by the Government of Canada, or

(iii) if the debtor does not have a current Canadian passport or social insurance card, the name stated in a current passport issued to the debtor by the government of a jurisdiction other than Canada where the debtor habitually resides;

(c) where the debtor was not born in Canada but is a Canadian citizen, the name of the debtor is the name stated on the debtor's certificate of Canadian citizenship;

(d) where the debtor was not born in Canada and is not a Canadian citizen, the name of the debtor is

(i) the name stated on a current visa issued to the debtor by the Government of Canada,

(ii) if the debtor does not have a current Canadian visa, the name stated on a current passport issued to the debtor by the government of the jurisdiction where the debtor habitually resides, or

(iii) if the debtor does not have a current Canadian visa or a current passport, the name stated on the birth certificate or equivalent document issued to the debtor by the government agency responsible for the registration of births at the place where the debtor was born;

(e) despite clauses (a) to (d) and subject to clause (f), if the debtor changes his or her name after marriage or in accordance with change of name legislation, the name of the debtor is the name adopted by the debtor after marriage, if that name is recognized under the law of the jurisdiction where the debtor habitually resides, or the name stated on the debtor's change of name certificate or equivalent document, as the case may be;

(f) where the law of the jurisdiction where the debtor habitually resides allows a person to use both the name adopted after marriage and the name that person had before marriage, and the debtor uses both names, clauses (a) to (d) continue to apply and both the name of the debtor determined in accordance with those clauses and the name adopted after marriage shall be registered as separate debtor (individual) names; and

(g) in a case not falling within clauses (a) to (f), the name of the debtor is the name stated on any 2 of the following documents issued to the debtor by the Government of Canada or of a province or territory of Canada:

(i) a current motor vehicle operator's licence,

(ii) a current vehicle registration,

(iii) a current medical insurance card.

(6) For the purposes of subsection (5), the name of the debtor shall be determined as of the date of the event or transaction to which the registration relates.

(7) In addition to entering the name of a debtor who is an individual determined in accordance with this Section, the registrant may enter any other name of the debtor of which the registrant has

knowledge as a separate debtor (individual) name.

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ADD HOLIDAY HOURS TO YOUR FIRM'S GOOGLE BUSINESS LISTING

Planning on taking some time off during the holidays or for other special events? If you plan to close your practice for time outside of your regular business hours, simply edit your Google "My Business" profile to be sure your clients are in the know:

1. First, log into your [Google "My Business" profile](#) and select your firm's business listing.
2. Click the "Info" tab on the left-hand side menu, and below the hours section, click "Add special hours".
3. Finally, choose the date of the closure and modify the hours as necessary. Repeat for any additional upcoming closures.

Any regular business hours will display again once the dates you specify have passed.

For more advanced settings and additional information, visit Google's ["Set special hours"](#).

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AUTOMATED DECISIONS AND LEGISLATION UPDATES FROM CANLII

An RSS feed sends current news and updates from various information and blog websites. It can also deliver images, audio or video messages, including podcasts, or recorded audio broadcasts that can be downloaded to your MP3 player or your computer.

CanLII (an open access database for Canadian legislation and case law) offers a comprehensive list of [RSS feeds for decisions and legislation](#) from federal and provincial courts and tribunals. Select the "RSS" link under the desired column to subscribe to that feed.

To receive current news and updates from an RSS application, locate and select this orange symbol which will prompt you to "Subscribe to this feed". Once completed, automatic updates will appear in your subscribed feeds folder.

Any questions on RSS feeds, contact Cynthia Nield cnield@lians.ca.



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BRIGHT SIDE OF LIFE: NSLAP AND RESILIENCE

One of the topics at the recent LIANS Small Firm conference was resilience, the speaker coming from Homewood Health, the service provider of the Lawyers Assistance Program who described her personal experiences. At another recent seminar, the speaker defined resilience as the capacity to bounce back from adversity and cope effectively with future challenges that arise.

We all know that practicing law involves dealing with adversity and facing unexpected challenges. To respond to challenges we need, what both speakers called, a resilient mindset, an aspect of which is the ability to distinguish what we can influence and control from what we cannot. Resilience is important, not just for our work but also because it is rooted in the quality of our relationships. But for professionals in particular, research has shown that a resilient mindset leads to more cooperative client relationships and a reduced risk of a professional liability claim.

The Lawyers Assistance Program, available to all lawyers and firms in the province, can provide assistance in this and other personal development areas. Visit the NSLAP website at www.nslap.ca. For more information and support with building resilience, along with resources and counselling to improve your health and wellness, register with Homewood Health™ <https://www.homeweb.ca>. Please note that NSLAP is your “company” name when you register.

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FRAUD ATTEMPTS BEFORE THE HOLIDAYS

You should always be vigilant to fraud, but particularly so around the holiday season. Scammers frequently target firms just before the holidays, hoping that the extra banking closure days will further delay detection of a scam.

While each scam attempt presents slightly different details and scenarios, in bad cheque schemes a lawyer is retained by a bogus client and receives funds into their trust account by way of a cheque or bank draft that appears legitimate. A sense of urgency with the transaction is often implied by the client. As a result, within days of receiving the funds and depositing them to the trust account, the lawyer pays out funds from the account before learning (sometimes many weeks later) that the cheque was fraudulent, causing their trust account to be debited.

In another type of scam, before wiring the funds to the client, a firm receives an email purportedly from the client, but is actually from the fraudster, directing that the funds be wired to a different bank account. Take appropriate steps to confirm, perhaps by phone, that emailed fund transfer instructions you receive from a client, especially if they seem odd or are significantly different from your original instructions, (which could include a wire transfer to a foreign country) are correct.

Scammers frequently target firms just before the holidays, as they know that this is a time when offices are often short staffed and transaction details might not be checked as closely as they

might otherwise be. Also, the extra banking closure days will result in delays in the return of counterfeit cheque or bank draft to the firm.

Remember that you must always confirm a prospective client's identification in accordance with the [Client ID Regulations](#) of the Nova Scotia Barristers' Society.

Be vigilant with every request for services that you receive, not just those received via the Internet. Fraudulent requests for services can be made by mail and courier, as well as by individuals who arrive in person to retain you and to use your trust account to receive and disburse funds. Be cautious with all cheques received, especially if they exceed the agreed upon amount.

If you do decide to proceed with a transaction where the funds are received and are to be paid out within a short period, be sure to go to the bank website to verify branch transit number, address and phone number on the cheque. Wait until the bank confirms that the funds are legitimate and are safe to withdraw from the deposit. Where possible, use the [Large Value Transfer System \(LVTS\)](#), an electronic funds transfer system that allows large payments to be exchanged securely and immediately.

For tips to avoid being victimized, visit the Fraud section on [lians.ca](https://www.lians.ca), and to report or seek advice on dealing with fraud and scam attempts, contact Cynthia Nield at cnield@lians.ca or 902 423 1300, x346.

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GET CAUGHT UP WITH RESOURCES FROM THE LIANS & NSBS 2019 CONFERENCE

We covered a lot of ground at the recent annual conference, from Cyber Security to Client Capacity, Succession Planning to Working Smarter with Outlook, and much more.

You can get caught up on [lians.ca](https://www.lians.ca) under '[Presentations](#)', or visit the following session resources directly:

[Practical Cyber Security for Small Firms](#) with Stephen Manley

[Trust Accounts Basics](#) with NSBS Director, Finance and Administration, Kate Shewan

[Risk Management for Lawyers and Law Firms](#) with LIANS' Director of Insurance, Lawrence Rubin

[Working Smarter with Outlook – Your Time Matters](#) with Tonya Lundrigan of Priority Management Atlantic

[Succession Planning from the Successor's Point of View](#) with NSBS Legal Services Support Officer, Rob McCleave

[Building Resilience: Understanding Challenges, Learning Strategies, and Accepting Change](#) with Andria Hill-Lehr of Homewood Health™

[Privacy & Data Security](#) with NSBS Legal Counsel, Bernadine MacAulay



11th Annual
Solo & Small Firm Conference
hosted by LIANS and NSBS

November 7th, 2019 - Hotel Halifax
Sessions may be eligible as CPD hours

Visit LIANS.ca and NSBS.org for more details

[Introducing the NSBS Equity Toolkit with NSBS' Equity & Access Manager, Angela Simmonds](#)

[Client Capacity and Competence: How do we assess our clients? with Jeanne Desveaux](#)

[New Anti-Money Laundering and Terrorist Financing Rules with Frank DeMont QC](#)

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ONCE MORE UNTO THE BREACH: WHERE WAS YOUR DATA COMPROMISED?

If you've used LinkedIn, Gmail, DropBox, Hotmail, and/or Adobe in recent years, you've been made to change your passwords for these sites – and for good reason. Almost everyone has been affected by a site/server breach, and any personal information captured on those sites (e.g. email or civic addresses, birthdate, etc.) can be released by hackers.

Companies are generally quick to recognize a breach, recapture that data, and instruct all of its users to change their passwords after they've re-secured their site. How can you determine whether your credentials have been compromised? Visit "Have I Been Pwned" (<https://haveibeenpwned.com/>) and type in your email. Created and maintained by a Microsoft Security Developer, this site will let you know if your account has been compromised in a data breach, and there is a need to change the password for the indicated website. Law firms and businesses can also do a domain search, to track which email addresses using a certain domain name have been seized in any of the known data breaches.

Users can also register to receive free email notifications for if (or when) their account is compromised.

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SIGNIFICANT SCC DECISION ON VARIATION OF CHILD SUPPORT

Family law practitioners will want to watch for written reasons following a recent Supreme Court of Canada Decision – [Michel v. Graydon](#) (SCC Docket 38498).

On November 18, 2019, the SCC released a brief summary of the Court's oral decision rendered November 14, stating:

The appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA44543, [2018 BCCA 449](#), dated November 30, 2018, was heard on November 14, 2019, and the Court on that day delivered the following judgment orally:

The Chief Justice — We are unanimous to reinstate the order of Judge G. Smith of the Provincial Court of British Columbia dated September 26, 2016.

Therefore, the appeal is allowed with costs throughout. Reasons to follow.

The headnote from the BCCA decision (2018 BCCA 449 (CanLII)) summarizes the underlying case:

The appellant Ms. Michel seeks a retroactive variation in child support payments under the [Family Law Act](#) on the ground that the income of the respondent Mr. Graydon was in excess of the

amounts assumed for the original support order. By the time the application was brought, the subject of the support order was no longer a child within the meaning of the Act. A trial judge gave effect to the application and made a retroactive variation in the support order. An appeal to the Supreme Court of British Columbia was allowed on the ground that the trial judge did not have the jurisdiction to vary a child support order after the subject of the order was no longer a child. Held: Appeal dismissed. The trial judge did not have the jurisdiction to make the variation, as the subject of the child support order was no longer a child at the time the application to vary was made.

The SCC has reinstated the Provincial Court Order under which the trial judge ordered the respondent Mr. Graydon to pay retroactive child support for his daughter who, at the time the order was granted in 2016, was 24 years old, living independently, and was no longer a child of the marriage. The retroactive amount of support was sought on the basis Mr. Graydon had substantially underpaid child support while his daughter was a child of the marriage.

This is a significant change to the law on variation of child support.

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SUPPORTING THOSE IN RECOVERY DURING THE HOLIDAYS

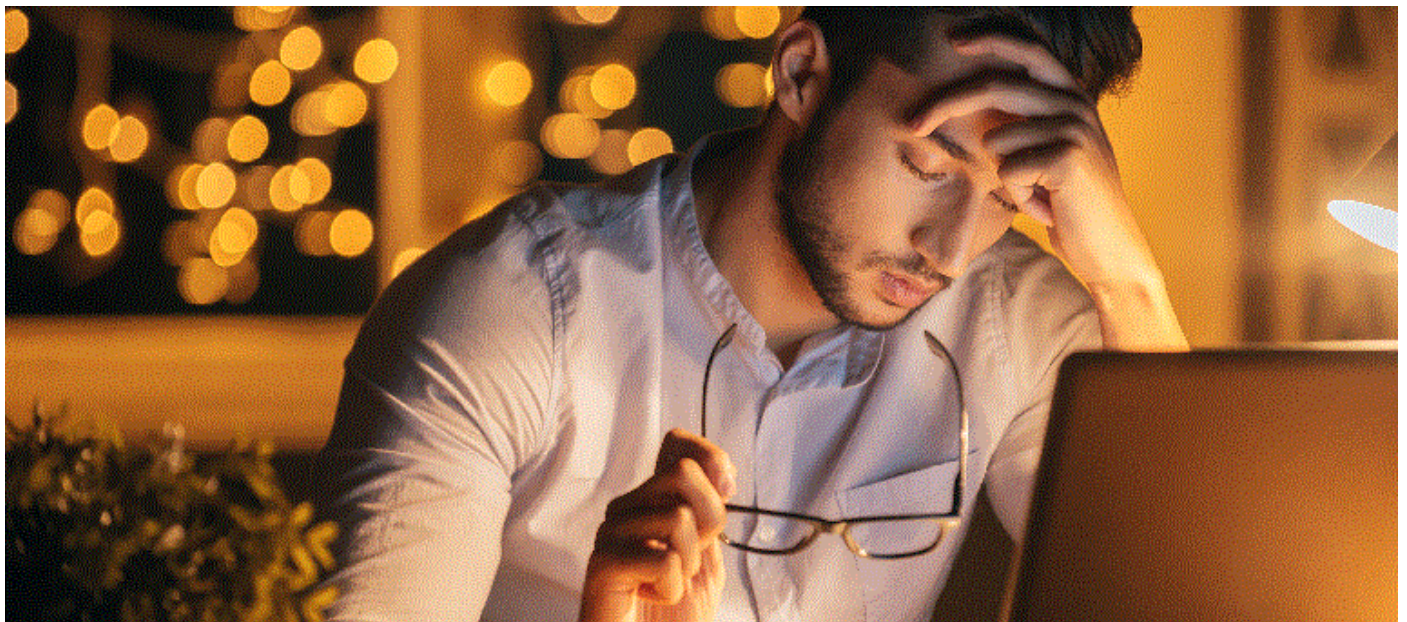


Photo credit: © 2019 Homewood Health™

It's the time of year where invitations to gather with family, friends and co-workers are often plentiful. Seasonal celebrations and holidays can be wonderful times for people to come together.

Families, workplaces and community organizations often host events that can be fun to attend, but they can also be sources of stress for many people. For someone in recovery, the memories and celebrations attached to the season can be particularly challenging as they often include tempting environments and social scenarios that may create conditions that increase the risk of relapse. Here, we offer advice on supporting those in recovery during this time and making them feel safe, secure and well connected to family and people within their communities.

Read "[Supporting those in recovery during the holidays](#)" from Homewood Health™.

Visit the NSLAP website at www.nslap.ca. For more information and support with those in recovery, along with resources and counselling to improve your health and wellness, register with Homewood Health <https://www.homeweb.ca/> Please note that **NSLAP** is your “company” name when you register. Call in confidence, 24 hours a day: **1 866 299 1299 (within Nova Scotia)** | (Visit the NSLAP website for details about [calling from outside Nova Scotia](#)) | 1 866 398 9505 (en français) | 1 888 384 1152 (TTY).

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