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6th Annual Update Personal Injury Law and Practice

In one information-packed day, get a comprehensive review of the most critical recent developments in personal injury law and practice, including:

- The most significant judicial decisions affecting personal injury litigation
- Changes to the *Insurance Act of Ontario* and the implications
- Practice & procedure update: The new Ontario Rules of Civil Procedure
- Current and emerging issues in medical malpractice
- Tactics and strategies in the examination and cross-examination of an expert witness
- Current principles in the assessment of catastrophic impairment
- Long term disability claims: “dos” and “don’ts”
- Assessing future care costs

Chairs

Richard M. Bogoroch, Bogoroch & Associates
Cheryl M. Woodin, Borden Ladner Gervais LLP



DATE & TIME

Thursday, September 16, 2010
8:25 a.m. - 4:15 p.m. EDT/EST

LOCATION

Osgoode Professional
Development Centre
1 Dundas St. W., 26th Floor
Toronto, ON

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6th Annual Update Personal Injury Law and Practice

Are you prepared to handle this potentially complex and high stakes litigation?

Personal injury litigation has become an increasingly complex area of law. During the past 12 months, several new cases and significant changes to procedural rules have taken place, making it more important than ever that you stay up-to-date.

This *Osgoode Professional Development* annual conference was designed to bring you the latest key developments. A faculty of personal injury experts, led by Richard M. Bogoroch and Cheryl M. Woodin, will provide you with a thoughtful analysis of the very latest information, together with practical tips for winning strategies and tactics. Topics covered include:

- The top 10 accident benefit cases and their implications
- Mandatory mediation in personal injury litigation
- The law of causation: where are we now?
- Future care costs: A consideration of *Frazer v. Haukioja*
- Preparing an expert witness for chief and cross-examination
- Eligibility and coverage issues in long term disability litigation
- Avoiding a malpractice claim in personal injury and accident benefit litigation

Register now by visiting www.osgoodepd.ca, **calling** 416.597.9724 or 1.888.923.3394, **emailing** opd-registration@osgoode.yorku.ca or **faxing** 416.597.9736.

Chairs

Richard M. Bogoroch
Bogoroch & Associates

Cheryl M. Woodin
Borden Ladner Gervais LLP

Faculty

Walter Z. Aronovitch
Aronovitch Macaulay Rollo LLP

Robert H. Rogers
Evans Philp LLP

Stephen E. Firestone
Lackman, Firestone

Kevin L. Ross
Lerners LLP

Gordon Jermane
Counsel, Manulife Financial

Stanley C. Tessis
Laxton Glass LLP

Alfred M. Kwinter
Singer, Kwinter

Tamara Tomomitsu
Borden Ladner Gervais LLP

Nadine Nasr
Thomas Gold Pettingill LLP

Roderick S.W. Winsor
Blaney McMurtry LLP

8:00 Registration and Continental Breakfast

8:25 Welcome and Introduction from the Chairs

Richard M. Bogoroch, Bogoroch & Associates
Cheryl M. Woodin, Borden Ladner Gervais LLP

8:30 The Most Significant Recent Judicial Decisions Affecting Personal Injury Litigation

Stephen E. Firestone, Lackman, Firestone

Personal injury law continues to develop at a rapid pace. In this opening session, Stephen E. Firestone will highlight and analyze some of the most important cases of the past year, and assess their likely impact.

9:05 Practice & Procedure Update: An Overview of the New Ontario Rules of Civil Procedure and their Effect on Personal Injury Litigation

Nadine Nasr, Thomas Gold Pettingill LLP

- Overview and assessment of the new Rules
- Adapting and managing files efficiently and effectively
- Preparation techniques
- Tips with respect to:
 - litigation plans
 - documentary and oral discovery
 - summary judgment motions
 - retainer of experts and service of reports
 - mandatory mediation

9:40 Changes to the *Insurance Act of Ontario* and the Impact on Personal Injury Litigation

Walter Z. Aronovitch, Aronovitch Macaulay Rollo LLP

- The new SABS schedule
 - newly defined terms
 - reforms to claims practices
 - minor injury provisions and guidelines
 - changes to basic and optional benefits schedule
- Effect of recent legislative changes on tort claims
- Customized auto policies

10:15 Refreshment Break

10:30 Current and Emerging Issues in Medical Malpractice Litigation

Kevin L. Ross, Lerner LLP

- Wrongful life case update
- Expert witnesses and the new Rules
 - practical issues
 - the role judges are taking in determining a witness' qualifications
 - when is an expert's opinion necessary for the court to receive
- Psychological injuries and how the courts are handling them
- Recent cases based on allegations of battery and their implications

11:10 Preparation and Cross-Examination of the Expert Witness

Alfred M. Kwinter, Singer, Kwinter

- Finding the right expert
- Preparing your expert for chief and cross
- Neutralizing the opposition's expert
- Is the expert really an expert?
- Ensuring your expert doesn't cross the line into advocacy

11:45 The Latest Key Cases on Catastrophic Impairment

Cheryl M. Woodin, Borden Ladner Gervais LLP

- Current principles in the assessment of catastrophic impairment
- Dealing with combinations of impairments
- Problems posed by pre-existing injuries

12:15 Luncheon

1:00 The Very Latest on Causation: Where are We Now?

Roderick S.W. Winsor, Blaney McMurtry LLP

The Supreme Court of Canada's decision in *Resurfice v. Hanke* has been seen as controversial, difficult to understand and even more difficult to apply in practice. In this fascinating session, Roderick Winsor will shed light on where we currently stand on the key issue of causation.

- The *Resurfice* decision: clarity or just more confusion?
- Recent causation cases of note: how are the courts interpreting *Resurfice*?
- What is the primary touchstone for determining causation?
- When will the material contribution test be applied?
- Overcoming causation problems when there are multiple tortious causes
- Causation conclusions: where are we now?

1:40 The Top 10 Accident Benefit Cases and their Implications

Tamara Tomomitsu, Borden Ladner Gervais LLP

This session will highlight recent accident benefit cases of note, and assess their likely impact for personal injury law practitioners.

2:20 Refreshment Break

2:35 Quantifying Past and Future Care Costs:

Frazer v. Haukioja

Robert H. Rogers, Evans Philp LLP

- Future care costs: the nuts and bolts
- The implications on future care costs since *Frazer v. Haukioja*
- Assessing a claim for past attendant care
- Quantifying the cost of care

3:10 Key Issues in Long Term Disability Litigation

Gordon Jermane, Counsel, Manulife Financial

- Reading through the group and individual long-term disability policies
- Eligibility/coverage and misrepresentation issues
- Definitions of "total disability" - the importance of "functionality" over diagnosis

Agenda [Cont'd]

- Recent case law on “total disability”
- Exclusions
- Offsets
- Mitigation
 - what must the defendant establish when asserting the defence of mitigation?
 - what must the plaintiff do to meet the duty to mitigate?
- Mishandling an insurance claim for long-term disability benefits: recent case law on punitive and aggravated damages

3:40 Legal Minefields: What You Need to Know to Avoid a Malpractice Claim in Personal Injury and Accident Benefit Litigation

Stanley C. Tessis, Laxton Glass LLP

- Claims brought by phantom clients
- Claims arising from missed limitation periods: tort, accident benefits, uninsured/underinsured
- Mishandling of litigation/arbitration
 - failure to investigate and retain experts
 - failure to conduct detailed discovery and obtain answers and undertakings
 - failure to call or cross-examine witnesses
 - failure to get instructions to proceed
- Improvident settlement claims
 - failure to obtain or get detailed written instructions
 - failure to report to client

4:15 Closing Remarks

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Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$50 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

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Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

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