



The *OsgoodePD* Webinar Series

# THE GUIDE TO BRINGING/DEFENDING CIVIL SEXUAL ASSAULT CLAIMS

7 webinars that will equip you with up-to-date information and best practices for managing these complex claims. Sessions include:

Session 1: Tuesday, January 20, 2015

**An Overview of a Civil Sexual Assault Claim from a Legal Perspective**

Session 2: Tuesday, January 27, 2015

**How Civil Sexual Assault Claims Differ from Other Maltreatment Claims: What You Need to Know**

Session 3: Tuesday, February 3, 2015

**What is the Standard of Care for Institutions?**

Session 4: Tuesday, February 10, 2015

**How Far Back Does Liability Go? Limitation Periods and Their Implications**

Session 5: Tuesday, February 17, 2015

**Investigations and Institutional Obligations After An Allegation is Made**

Session 6: Tuesday, February 24, 2015

**Resolving Sexual Assault Claims: What Are the Options?**

Session 7: Tuesday, March 3, 2015

**Emerging Trends in Civil Sexual Assault Claims: New Exposures, New Approaches to Preventing Claims**

Designed for institutions, employers, and counsel

Ask questions from your own desktop or design your own in-house session

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### Series Chair

**Gillian T. Hnativ**  
*Lerners LLP*

### Location

Webinar Series - Online Attendance

### Dates and Time

January 20 - March 3, 2015  
7 Sessions  
12:00 p.m. - 1:15 p.m. EDT/EST

Choose sessions to meet your specific needs or get the full picture by attending the entire series

Webinar - Online Attendance

## The OsgoodePD Webinar Series

### THE GUIDE TO BRINGING/DEFENDING CIVIL SEXUAL ASSAULT CLAIMS

A comprehensive overview of civil sexual assault claims, taught by Canada's foremost experts in the field.

This new webinar series is designed to provide those managing the claims - institutional representatives and lawyers - with a comprehensive overview of the key issues that arise in civil sexual assault claims.

For in-house counsel, human resources professionals and other institutional representatives, it is critical to have a sound understanding of the law, the potential pitfalls and issues, and your organization's obligations. This primer will provide you with the knowledge that you need to lead your organization through the challenging territory of complaints, investigations and next steps.

Even experienced counsel are often surprised by the nuances and unique challenges of this area of the law. Don't be caught off guard. Learn from a faculty of experts who will lead you through the critical issues of a sexual assault claim, from start to finish, so that you are prepared for the next file that crosses your desk.

Tune in from wherever you have an internet connection to watch and learn. You'll then have the opportunity to interact, share ideas and ask questions with faculty and participants in a live online forum. You can also choose one, several, or all of the sessions, depending on your needs. The complete series is a great learning opportunity and sessions are spaced apart to allow easy participation with minimal incursion on other commitments.

**REGISTER NOW BY VISITING [WWW.OSGOODEPD.CA](http://WWW.OSGOODEPD.CA),  
CALLING 416.597.9724 OR 1.888.923.3394,  
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#### Series Chair

**Gillian T. Hnatiw**

*Lerners LLP*

#### Faculty

**Grant Bowers**

*Toronto District School Board  
(Retired)*

**David Butt**

*Barrister*

**Andrea Gonsalves**

*Stockwoods LLP Barristers*

**Elizabeth K.P. Grace**

*Lerners LLP*

**Sarah Graves**

*Fasken Martineau  
DuMoulin LLP*

**Simona Jellinek**

*Jellinek Law Office  
Professional Corporation*

**Carole G. Jenkins**

*Smockum Zarnett LLP*

**Loretta P. Merritt**

*Torkin Manes LLP*

**Russell Raikes**

*McKenzie Lake Lawyers LLP*

**Kristina Reitmeier**

*Chief Counsel and Director  
Legal Services, Children's Aid  
Society of Toronto*

**Maria Scarfo**

*Blaney McMurtry LLP*

**Paul Torrie**

*Global Resolutions Inc.*

**Susan Vella**

*Rochon Genova LLP*



Are you up-to-date on how to manage these complex and difficult claims?



## AGENDA

**TUESDAY, JANUARY 20, 2015**  
12:00-1:15 P.M. EDT/EST

### Session 1

#### **Overview of a Civil Sexual Assault Claim from a Legal Perspective**

**Simona Jellinek**, *Jellinek Law Office, Professional Corporation*

**Carole G. Jenkins**, *Smockum Zarnett LLP*

Understanding how allegations could play out in court is vital to assessing how to manage a claim of sexual assault. Not all claims proceed through the legal system, but a sound knowledge of what legal actions are available to claimants and what defences are available to institutions is essential in assessing the risk associated with each allegation. This opening session will provide you with an in-depth overview of the legal anatomy of a civil sexual assault claim. Ms. Jellinek and Ms. Jenkins will lead you through some of the key issues, including damages, vicarious liability, and trial strategies.

- Types of legal actions available to claimants - when and why
- Legal protections available to institutions
- Heads of damage - financially, how much is on the line?
- When institutions are accountable for individuals' conduct - understanding vicarious liability
- Appreciating why many claims do not proceed to trial
- What you need to know about the evidence required to prove and disprove sexual assault cases
- Strategic considerations in proving and attacking cases that do proceed to trial
- Myths and stereotypes that impact how civil sexual assault claims are managed

**TUESDAY, JANUARY 27, 2015**  
12:00-1:15 P.M. EDT/EST

### Session 2

#### **How Civil Sexual Assault Claims Differ from Other Maltreatment Claims: What You Need to Know**

**Andrea Gonsalves**, *Stockwoods LLP Barristers*

Sexual assault claims are different than other types of claims. Understanding the nuances is critical, both for managing sexual assault claims in the workplace and advancing and defending a claim in court. Strategies that were successful in other contexts may actually result in major harm to your organizations' reputation or clients' case. Learn from Ms. Gonsalves' own experience with these differences, including:

- Recognizing how discovery, resolutions, and media relations in the civil sexual assault context differs from other contexts
- How civil sexual assault claims intersect with other areas of the law
- The impact of a criminal conviction or acquittal on a claim of sexual assault
- The expanded use of social science evidence in resolutions
- Choosing expert witnesses for resolutions - factors you need to consider
- Appreciating the implications of *The Victim's Bill of Rights*

**TUESDAY, FEBRUARY 3, 2015**  
12:00-1:15 P.M. EDT/EST

### Session 3

#### **What is the Standard of Care for Institutions?**

**Loretta P. Merritt**, *Torkin Manes LLP*

This session will include an in-depth and comprehensive survey of what is and what is not acceptable institutional activity in response to sexual assault claims. Our faculty will discuss and summarize a historical examination of cases where institutions were found liable for sexual assault claims, where damages were awarded against an institution or where an institution was found negligent. The result: a plain language explanation of the law and what the courts hold as acceptable and unacceptable.

# AGENDA (Cont'd)

Ms. Merritt will discuss:

- Analysis of where, when and why courts award damages against institutions
- A breakdown of how the courts have defined negligent institutions
- Discussion of trends - what the court holds as acceptable institutional activity, including checking up on complainants, looking into suspicious circumstances, investigations, and employee reference checks
- A plain language outline of what is expected of institutions
- A practical and straightforward summary of where the law stands

**TUESDAY, FEBRUARY 10, 2015**  
12:00-1:15 P.M. EDT/EST

## **Session 4** **How Far Back Does Liability Go? Limitation Periods and Their Implications**

**Elizabeth K.P. Grace, Lerner's LLP**

When is your organization liable for acts undertaken 10 years ago? What do you need to consider when advancing or defending a claim for historical abuse? Understanding the law of limitations is difficult. Being confident about where and when your organization's liability begins and ends when managing a sexual assault claim is even more difficult, especially as many claims are allegations of historical abuse. But, limitation periods make or break claims, so it is essential for professionals working in the area to understand the issue and how it impacts record keeping and internal policy. Ms. Grace will provide guidance on how to navigate this difficult and critical area.

- How the law of limitations is evolving:
  - where the law stands
  - an overview of recent important decisions
  - impact of recent changes to legislation governing sexual assault claims - what you need to know
- Legal protections available to institutions to thwart limitations claims
- Understanding historical assault allegations

**TUESDAY, FEBRUARY 17, 2015**  
12:00-1:15 P.M. EDT/EST

## **Session 5** **Investigations and Institutional Obligations After An Allegation is Made**

**Grant Bowers, Toronto District School Board (Retired)**

**Sarah Graves, Fasken Martineau DuMoulin LLP**

**Gillian T. Hnatiw, Lerner's LLP**

Whether you work for or represent an organization dealing with a claim, when a complaint crosses your desk, knowing what to do and when is critical. No two sexual assault claims are the same. Institutional obligations will vary widely, depending on the circumstances of each claim. In this session, experienced faculty will walk you through an institution's post-allegation obligations so that you have the information you need to effectively manage your organization's response.

- A guide to investigations: best practices in executing the investigation and examples of what not to do
- Understanding if and when you need to take next steps
- Best practices and obligations with respect to the complainants' safety
- Identifying if and how to implement measures to protect others
- Appreciating privacy issues
- Advice for managing the media

**TUESDAY, FEBRUARY 24, 2015**  
12:00-1:15 P.M. EDT/EST

## **Session 6** **Resolving Sexual Assault Claims: What Are the Options?**

**Maria Scarfo, Blaney McMurtry LLP**

**Paul Torrie, Global Resolutions Inc.**

**Susan Vella, Rochon Genova LLP**

You cannot resolve sexual assault claims without a comprehensive knowledge of the various resolution mechanisms available and the consequences for your organization. Understanding what needs to be in a settlement agreement is essential. And, whether in court or out, understanding how different resolution mechanisms expose institutions to various different types of liability is fundamental. OsgoodePD's expert faculty have extensive experience in resolution options - from healing circles to trials.

# AGENDA (Cont'd)

They will share their experience on this crucial phase of civil sexual assault claims, including:

- A comparison of resolution mechanisms, including court settlements, out of court settlements, mediations and judicial mediations
- Characteristics of civil sexual assault settlements
- Settlement agreements: what you should include, must include, and what shouldn't go in
- Confidentiality issues and their consequences
- Unique features of resolutions in the aboriginal context

**TUESDAY, MARCH 3, 2015**

**12:00-1:15 P.M. EDT/EST**

## Session 7

### **Emerging Trends in Civil Sexual Assault Claims: New Exposures, New Approaches to Preventing Claims**

#### **Moderator**

**Gillian T. Hnatiw**, *Lerners LLP*

#### **Panel**

**David Butt**, *Barrister*

**Russell Raikes**, *McKenzie Lake Lawyers LLP*

**Kristina Reitmeier**, *Chief Counsel and Director, Legal Services, Children's Aid Society of Toronto*

The law surrounding sexual assault claims is evolving rapidly. Class action suits currently threaten many large organizations; they are the fastest growing new area of civil sexual assault. This expert panel will help you understand the trends, considerations and risks, and prepare you to be able to respond effectively.

The panel will touch on:

- Civil sexual assault class actions - the residential school context and beyond
- The emergence of defamation issues in sexual assault claims
- The changing definition of sexual assault, *R. v. Hutchinson*
- Interplay between the criminal and civil cases
- Emerging issues plaguing institutional representatives - what you need to know to stay ahead of the trends

## WHAT YOU WILL LEARN

- When are institutions accountable for individuals' conduct?
- How discovery, resolutions, and media relations are unique in the civil sexual assault context
- Where and when your organization's liability begins and ends
- What the courts hold as acceptable and unacceptable institutional activity
- Best practices in executing institutional investigations of sexual assault claims
- Reporting obligations to the public and others
- Options for resolving claims
- Characteristics of typical civil sexual assault settlement agreements

## WHO SHOULD ATTEND

- In-house Counsel
- Lawyers advising on sexual assault issues
- Human Resources Professionals
- Institutional Representatives from the following sectors:
  - Educational organizations
  - Healthcare organizations
  - Religious organizations
  - Long Term Care organizations
  - Athletic organizations
  - Children's activity organizations (camps, tutoring, sports leagues)
  - Eldercare organizations

# REGISTRATION

## The OsgoodePD Webinar Series The Guide to Bringing/Defending Civil Sexual Assault Claims

### Fee Per Delegate

\$149 plus 13% HST for a total of \$168.37 per session.

\$995 plus 13% HST for a total of \$1124.35 for all 7 sessions.

Boardroom rate: Please inquire for pricing and tech requirements.

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We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### 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 2 days prior to the program date. No other refund is available.

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Webinar  
Online Attendance Only



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