



13TH ANNUAL UPDATE

PERSONAL INJURY LAW & PRACTICE

Important new cases, strategic insights and business challenges for personal injury counsel. With topics including:

- Trial judges' advice for resolving cases quickly and cost-effectively
- Best current approaches to summary judgment motions
- Rule 48's deemed dismissals: insights from LawPRO counsel
- What adverse inferences can be drawn when evidence is not proffered?
- Fee arrangements, contingency fees, adverse costs insurance: what's required to comply?
- Accident benefits: can the costs of the hearing be paid by the tort insurer?

Get practical guidance in successfully handling these cases – from top personal industry counsel and judges.

Register today at:

osgoodepd.ca/personal-injury-law

Program Chairs

Richard M. Bogoroch
Bogoroch & Associates LLP

Susan E. Gunter
Dutton Brock LLP

Program Details

DATE AND TIME

September 27, 2017

9:00 a.m. to 4:30 p.m.

In Person or Webcast

LOCATION

Osgoode Professional Development

1 Dundas St. West, 26th Floor
Toronto, ON

ONLINE REPLAY

October 27, 2017

“Incredibly insightful program by seasoned experts...useful for both the plaintiff and insurance defence bars.”

Amer Pasalic, Dentons Canada LLP

13TH ANNUAL UPDATE

Personal Injury Law and Practice

Personal injury continues to be an evolving, high-stakes area of law. Recent cases, practice changes and regulatory developments in a field increasingly under media scrutiny make it more important than ever to stay up-to-date.

This comprehensive conference brings you the latest information from a faculty of respected personal injury experts. They will guide you through the most pivotal recent decisions and legislative initiatives, yielding practical tips you can immediately apply. Reflecting developments as of September 2017, the discussion will include such issues as:

- The strategic importance of the examination for discovery and investigation in the summary judgment context
- What is the scope of the court's discretion if important evidence is not tendered?
- The *Hodge* decision and contingency fees: what are the consequences for the personal injury bar?
- How does the existence of adverse costs insurance affect settlement dynamics?
- The opportunities afforded by Ontario's revived electronic filing initiative
- What's the latest information on AB procedures at the LAT and are any trends emerging from LAT decisions?

Who Should Attend?

- Personal injury lawyers (plaintiffs' and defendants'/insurers')
- In-house litigation counsel
- Insurance professionals: claims examiners/managers, adjusters
- Litigation law clerks
- Licensed paralegals

What attendees said about the previous year's program

“Very informative, practical [on] the issues we deal with in personal injury practice.”

Rachelle Mitri, Grillo Barristers

“Terrific program. Great faculty... quality papers that address case law and legislative developments.”

Catherine Zingg, Flaherty McCarthy LLP

Agenda

8:30

Registration and Continental Breakfast

9:00

Chairs' Welcome and Introductory Remarks

Richard M. Bogoroch, Bogoroch & Associates LLP

Susan E. Gunter, Dutton Brock LLP

9:05

How to Resolve Your Case Effectively and Promptly: Insights from Experienced Trial Judges

The Hon. Justice Mark L. Edwards, Superior Court of Justice (Ontario)

Second Superior Court Judge (TBC)

Richard M. Bogoroch (moderator)
Bogoroch & Associates LLP

- Countering the 'culture of complacency'
- What are the impediments to resolution?
- Proactive approaches to achieve earlier resolutions:
 - File handling tools, discovery plans
 - Motions and Chambers Appointments
 - Mediation/settlement conferences
 - Mini-trials, agreements to shorten hearings
- Gathering the facts fast and cheaply

10:00

The Top Ten Personal Injury Cases of the Past Twelve Months

Charles E. Gluckstein, Gluckstein Personal Injury Lawyers Professional Corporation

Personal injury law continues to develop at a rapid pace. This perennially popular session will highlight and analyze the most important cases decided since last fall, and assess their likely impact on your practice.

10:40

Refreshment Break

Register today at:

osgoodepd.ca/personal-injury-law

10:55

Summary Judgment in Personal Injury Actions

Tanya A. Pagliaroli, Pape Barristers

Donna A. Polgar, Dutton Brock LLP

- Plaintiff and defence perspectives on when and how to bring the motion
- Strategies from the outset: the examination for discovery and investigation
- Cross-examinations on affidavits and documentary discovery on motions
- Tactical and cost consequences, offers to settle
- Recent case law granting/dismissing summary judgment motions in injury claims

11:35

Dealing With the Amendments to Rule 48

Cynthia F. Miller, Unit Director and Counsel, LawPRO

Ontario's *Rules of Civil Procedure* have changed to mandate a deemed dismissal of actions five years after issuance unless set down for trial.

- How have the courts interpreted the January 1, 2017 deadline?
- What effect has the Rule had on court backlog?
- Best strategies to protect your clients
- Consent timetables, case management
- Cross-claims and third party claims – Rule 48's implications for defendants
- A checklist to reduce claims against lawyers

12:15

Lunch

1:00

Adverse Inference: the Impact of the Supreme Court's Decision in *Benhim v. St. Germain* on Personal Injury and Medical Malpractice Litigation

James C. Morton, Morton Barristers

What if a critical witness isn't called at trial? What if important documents aren't produced?

What inferences can you ask the court to make when your opponent has neglected to proffer evidence? An expert understanding of the law of adverse inference is basic equipment for counsel.

- When should submissions be made?
- When does an adverse inference arise?
- What are appropriate responses?

1:30

Accident Benefits Update: SABS Coverage and Licence Appeal Tribunal Procedure

Yoni J. Silberman, Bogoroch & Associates LLP

Laura L. Emmett, Lerner LLP

Major changes have roiled the field of accident benefits litigation in Ontario in the last year. Plaintiffs' and defendants' counsel canvass key features of the new landscape:

- Can you sue the AB insurer? Update on the constitutional challenge
- How can plaintiffs' counsel get paid?
- Update on the LAT: procedure and decisions
- SABS changes June 1, 2016 in play
- Contingency fees in SABS cases after *Kwok v. State Farm*

2:15

Refreshment Break

2:30

Adverse Costs Insurance: A Minefield for Plaintiff's Counsel?

Susan E. Gunter (moderator), Dutton Brock LLP

Ian Hu, Counsel, Claims Prevention and practicePRO, LawPRO

Todd A. Reybroek, Reybroek Personal Injury Lawyers

A new insurance market has grown in personal injury – after-the-event insurance (adverse costs insurance). Products are available to litigants to protect against a cost award after a trial or motion, or to defray one's own lawyers' costs in the event of a loss.

- What products are available?
- Is it the applicable standard of care to offer this protection to injury clients?

- Are the costs policies disclosable in the litigation?
- Practical consequences of having the policy
- What do insurers say about adverse costs protection?
- Policy breaches: how is coverage affected?
- Do lawyers find themselves in conflict of interest with their client and the insurer?

3:15

Superior Court Electronic Filing and Modernization: Change Comes To Ontario!

David Sterns, Sotos LLP

Ontario has adopted an electronic court filing process for the second time. Come hear from the president of the Ontario Bar Association about the process and how it will modernize access to justice in personal injury practice.

3:45

Fee Arrangements, Referrals and Contingency Fees

Ronald P. Bohm, SBMB Law

Steve Rastin, Rastin & Associates

Ontario is working to address perceived unfairness to plaintiff personal injury clients in concerning lawyers' fees. Contingency fees, though legal, are in practice often less than fair. Under close media scrutiny, the Courts, the LSUC and the Ontario Legislature are working to ensure that lawyers treat clients fairly. Hear from two expert plaintiffs' litigators on how to navigate the mandated changes and to deal with conflicts of interest and the practical demands of plaintiff representation.

- Compliant contingency fees: what's required?
- Referral fees: applying the 2017 rules
- Rule 7 and Court approval: what materials are required?
- The nuances of conflict of interest between lawyer and client
- What documentation is required?

Precedents will be provided in the materials for this session.

4:30

Program ends

Chairs

Richard M. Bogoroch
Bogoroch &
Associates LLP

Susan E. Gunter
Dutton Brock LLP

Faculty Includes

Ronald P. Bohm
SBMB Law

James C. Morton
Morton Barristers

**The Hon. Justice
Mark L. Edwards**
Superior Court of Justice
(Ontario)

Tanya A. Pagliaroli
Pape Barristers

Laura L. Emmett
Lerners LLP

Donna A. Polgar
Dutton Brock LLP

Charles E. Gluckstein
Gluckstein Personal Injury
Lawyers Professional
Corporation

Steve Rastin
Rastin & Associates

Ian Hu
Counsel, Claims
Prevention and
practicePRO
LawPRO

Todd A. Reybroek
Reybroek Personal Injury
Lawyers

Cynthia F. Miller
Unit Director and Counsel
LawPRO

Yoni J. Silberman
Bogoroch & Associates
LLP

David Sterns
Sotos LLP

Registration Details

Fee per Delegate

\$725 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

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 is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



Eligible CPD Hours - LSUC (ON): 6.75 (5.0 Substantive, 1.75 Professionalism).

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca



osgoodepd.ca

Osgoode Professional Development



416.597.9724

1 Dundas Street West, Suite 2600



@OsgoodePD

Toronto, ON Canada M5G 1Z3



13th Annual Update: Personal Injury Law and Practice

Register today at:

osgoodepd.ca/personal-injury-law