

11TH ANNUAL UPDATE

PERSONAL INJURY LAW & PRACTICE



Get a comprehensive review of the most challenging developments and issues facing personal injury counsel and insurers, including:

- The most significant decisions of the past year
- Accident benefits: are these the end times?
- Threshold motions in motor vehicle accident cases: strategies that work
- Avoiding the procedural errors that drive today's solicitor's negligence claims
- Surveillance evidence and its disclosure after *Iannarella v. Corbett*
- Medical malpractice and causation issues in light of *Westerhof*, *Moore v. Getahun*, *White Burgess* and *Clements*
- When is it appropriate to send cases to the jury or to move to strike the jury notice?
- Professionalism in a time of change for the personal injury bar, including ABS and developments in advertising, marketing and fee arrangements

Valuable insights and the latest strategies and tactics from top personal injury experts

**"EXCELLENT PROGRAM...
PRACTICAL TIPS ON
SUBSTANTIVE, PROCEDURAL
AND ETHICAL ISSUES"**

Shaneka Taylor
Boghosian + Allen LLP

REGISTER NOW AT
WWW.OSGOODEPD.CA



Webcast Available

Chairs

Richard M. Bogoroch
Bogoroch & Associates LLP

Susan E. Gunter
Dutton Brock LLP

Date and Time

October 14, 2015
8:30 a.m. - 4:15 p.m. EDT
Online Replay: November 17, 2015

Location

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



11TH ANNUAL UPDATE PERSONAL INJURY LAW & PRACTICE

Personal injury litigation continues to be a dynamic, high-stakes area of law. Ongoing caselaw and practice changes make it more important than ever that you stay up-to-date.

This comprehensive *OsgoodePD* annual conference brings you the latest key developments from a faculty of personal injury experts, led by Richard Bogoroch and Susan Gunter. They will guide you through the most pivotal recent trial and appellate decisions, providing you with thoughtful analysis and practical tips. Topics will include:

- What counsel have to rethink following key recent decisions such as *Westerhof*
- The shrinking AB universe: what it means for clients and counsel
- What you can't leave out of your procedural checklist if you want to avoid solicitor's negligence claims
- Where the law now stands on the extent of counsel's obligations to disclose surveillance
- Why and when the personal injury jury is still relevant
- Summary judgment motions: the latest cases
- Professionalism and the PI lawyer: meeting the challenges posed by competition, alternative business structures, and the evolution of rules governing marketing, advertising, and contingency fees

Plus! A demonstration of a threshold motion in an MVA case including a 'debrief' with counsel and the presiding judge

**REGISTER NOW BY VISITING WWW.OSGOODEPD.CA,
CALLING 416.597.9724 OR 1.888.923.3394,
EMAILING OSGOODEPD@OSGOODE.YORKU.CA
OR FAXING 416.597.9736**



Chairs

Richard M. Bogoroch
Bogoroch & Associates LLP

Susan E. Gunter
Dutton Brock LLP

Faculty

R. Lee Akazaki
Gilbertson Davis LLP

Stephen N. Libin
Dutton Brock LLP

Heidi R. Brown
Bogoroch & Associates LLP

Gavin MacKenzie
DLA Piper (Canada) LLP

Stephen G. Ross
Rogers Partners LLP

Linda Matthews
Matthews Abogado LLP

Maria Damiano
Paul Harte Professional Corporation

Alan L. Rachlin
Rachlin & Wolfson LLP

**The Hon. Justice
Stephen E. Firestone**
*Superior Court of Justice
(Ontario)*

M. Steve Rastin
Rastin & Associates

Jennifer J. Griffiths
*Zarek Taylor Grossman
Hanrahan LLP*

William Scott
Brown and Partners LLP

Ian Hu
*Counsel, Claims Prevention
and practicePRO*

Douglas O. Smith
Borden Ladner Gervais LLP

David Lackman
*Gluckstein Personal Injury
Lawyers*

WHO SHOULD ATTEND

- Personal injury lawyers (plaintiffs' and defendants')
- In-house litigation counsel
- Insurance adjusters

AGENDA

8:00

Registration and Continental Breakfast

8:30

Chairs' Introduction and Welcome

8:45

Significant Recent Personal Injury Decisions

Overview of Cases

DAVID LACKMAN, *Gluckstein Personal Injury Lawyers*

Westerhof: How Might It Affect Our Trial Strategies?

STEPHEN N. LIBIN, *Dutton Brock LLP*

Personal injury law continues to develop at a rapid pace. This session will highlight and analyze some of the most important cases, both procedural and substantive, of the past year, and assess their likely impact on your practice. Caselaw will reflect developments as at October 2015, and is expected to include the latest on both liability and damages.

9:35

Update: Leading Accident Benefits Cases and the Impact of Government Reform

JENNIFER J. GRIFFITHS, *Zarek Taylor Grossman Hanrahan LLP*

Is AB practice as we've known it in its twilight? The session will examine the most pressing issues in light of current law.

- Bill 91 and the reduction of SABS in Ontario
- Moving from FSCO to LAT: what, when, who?
- Loss of the right to sue
- "Top five AB cases" countdown

10:15

Refreshment Break

10:30

Threshold Motions In Motor Vehicle Accident Cases: Demonstration With Commentary

THE HON. JUSTICE STEPHEN E. FIRESTONE, *Superior Court of Justice (Ontario)*

SUSAN E. GUNTER, *Dutton Brock LLP (Moderator)*

LINDA MATTHEWS, *Matthews Abogado LLP (for the defendant)*

ALAN L. RACHLIN, *Rachlin & Wolfson LLP (for the plaintiff)*

Is it becoming harder for plaintiffs to succeed on these motions? This demonstration will illustrate some of the most effective approaches for advocates on either side. Followed by an informal 'debriefing' and Q&A.

11:45

Lawyer's Negligence Claims In Personal Injury Cases: What Every Litigator Must Know About Avoiding, Addressing or Fixing Problems

WILLIAM SCOTT, *Brown and Partners LLP*

IAN HU, *Counsel, Claims Prevention and practicePRO*

This session will provide an invaluable checklist of what personal injury lawyers must do, between instituting the action and setting

it down for trial, to avoid the procedural errors that give rise to negligence claims. Even experienced counsel fall into costly errors and then too often fail to address them in an appropriate and timely way. Don't be one of them!

12:30

Luncheon

1:15

The Latest on Surveillance Evidence: Law and Strategy

HEIDI R. BROWN, *Bogoroch & Associates LLP*

- Lessons for counsel from *Iannarella v. Corbett*
- Disclosure obligations before trial
- Production of surveillance to medical experts
- Obligation to disclose third-party surveillance
- Effective use of surveillance at trial

1:40

Recent Developments in Medical Malpractice and Causation

MARIA DAMIANO, *Paul Harte Professional Corporation*

- Adding parties after the limitation period
- *Westerhof, Moore and White Burgess*: their impact on medical malpractice cases in particular
- Update: causation since *Clements*

2:10

The State of the Personal Injury Jury In Light of *Kempf v. Nguyen* and Other Recent Law

DOUGLAS O. SMITH, *Borden Ladner Gervais LLP*

- When are liability and damages issues too complex for a jury?
- When to bring the motion to dispense with the jury
 - Advocating for the "wait and see" approach to defer judgment on the motion

2:40

Refreshment Break

2:55

Procedural Update: Summary Judgment, Civil Practice Court

STEPHEN G. ROSS, *Rogers Partners LLP*

- Update on tactics and strategies for pursuing or defending summary judgment motions in light of the latest law
- The New Civil Practice Court—what every litigator needs to know

3:15

The Business of Law and Professionalism: Challenges and Opportunities For the Personal Injury Bar

R. LEE AKAZAKI, *Gilbertson Davis LLP*

RICHARD M. BOGOROCH, *Bogoroch & Associates LLP (Moderator)*

AGENDA (Cont'd)

GAVIN MACKENZIE, *DLA Piper (Canada) LLP*
M. STEVE RASTIN, *Rastin & Associates*

Focusing on emerging trends and their implications for professionalism in such areas as:

- How competition and legislative changes are affecting the plaintiffs' personal injury bar
- Alternative business structure (ABS): is it really a good thing for client service and the public interest?
 - possible conflicts of interest arising from vertical integration
 - possible impact on the profession's privilege of self-governance
 - current limits relating to advertising and marketing
 - to what extent do the Rules of Professional Conduct help us to draw the lines correctly?
- Update on contingency fee agreements, including the transparency of referral arrangements and creating a CF template

4:15

Program Ends

WHAT PAST ATTENDEES SAID

"THOUGHT-PROVOKING, STIMULATING INSIGHTS"

–Peter Lingard, *Martens Lingard LLP*

"[BEST THING WAS] THE QUALITY OF THE SPEAKERS AND TIMELINESS OF THE TOPICS"

–Ruth Henneberry, *Blakeney Henneberry Murphy & Galligan*

"A LOT OF USEFUL INFORMATION AND KNOWLEDGE PACKED INTO ONE DAY...[AND] GREAT MATERIALS"

–Karen Ots, *Aviva Canada Inc.*



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



Eligible CPD/MCLE hours:

LSUC (ON): 6.75 CPD hours (5.0 Substantive; 1.75 Professionalism) NY CLE (on-site participants only): 7.5 credit hours in the Area of Professional Practice for Transitional and Non-transitional lawyers.

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

REGISTRATION

Please complete all registrant information.

11th Annual Update Personal Injury Law & Practice

I will attend: On site Via webcast (single viewer) Online Replay

Unable to attend? Please contact us to order the Materials/Program Archive.

Name: _____

Title: _____

Firm/Company: _____

Practice Area: _____

Address: _____

City: _____ Prov: _____ Postal Code: _____

Telephone: _____ Fax: _____

Email: _____

- Add me to your mailing list Priority Service Code
 Delete me from your mailing list (from mailing label below)
 I do not wish to be contacted by e-mail 1 5 2 9 0 1

Payment Options

- Cheque enclosed (payable to York University – HST# R119306736)
 Bill my credit card: VISA Mastercard

Card# _____ Expiry: _____

Signature: _____ Payment amount: \$ _____

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 for details. Please inquire about financial assistance.

Date & Time

October 14, 2015

8:30 a.m. – 4:15 p.m. EDT

Online Replay: November 17, 2015

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

Dress is business casual.

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.

Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.



4 Convenient Ways to Register

1. **MAIL** your registration form to:
Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3
2. **ONLINE** at
www.osgoodepd.ca
3. **FAX** your registration
to 416.597.9736
4. **CALL US** at 416.597.9724
or 1.888.923.3394