

12TH ANNUAL CONFERENCE ON CROWN LIABILITY



Annual “one-stop shopping” for practical analysis of significant new developments, including:

- Monetary relief in public law cases: should it displace the liability of public authorities for negligence?
- Has the SCC gone too far in imposing unique duties on the Crown?
- Practical challenges and considerations when bringing or defending motions for injunctive relief
- The latest on when the Crown may be liable for breaching obligations in respect of citizens’ personal information
- *Carter v. Canada* and physician-assisted dying: challenges in legislating and implementing in response to the SCC’s historic decision
- Recent health regulation law and the Crown: *P.S. v. Ontario* and *Apotex*
- *Hamilton Health Sciences Corp. v. D.H.*: an exciting new paradigm for engagement between Aboriginal communities and the Crown?

Plus! Optional Pre-Conference Workshop: *The Legal Framework of Crown Litigation: Navigating the Procedural Maze*

“BEST THING [WAS THE] BREADTH OF LEGAL ISSUES WHICH, WHILE DISPARATE, ALL RESONATE FOR COUNSEL WHO ACT FOR THE CROWN”

Lisa Thiele

Senior General Counsel, Canadian Nuclear Safety Commission

“A VERY WORTHWHILE CONFERENCE... AN EMBARRASSMENT OF RICHES”

Robert H. Reynolds, Q.C.

Legislative Assembly of Alberta

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Chairs

Malliha Wilson, Assistant Deputy Attorney General, Legal Services Division, Ministry of the Attorney General (Ontario)

Joseph K. Cheng, Counsel, Business, Regulatory and Extradition Law Division, Justice Canada (Ontario Regional Office)

Andrew Lokan, Paliare Roland Rosenberg Rothstein LLP

Dates and Times

February 25, 2016

9:00 a.m. - 4:30 p.m. EST

Optional Workshop

February 24, 2016

2:00 p.m. - 5:00 p.m.

Location

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

Online Replay: March 23, 2016

Webcast Available

12TH ANNUAL CONFERENCE ON CROWN LIABILITY

The Crown - both Federal and Provincial - continues to find itself a target of litigation. Counsel need to be equipped to meet the challenges posed by the constant flow of legislative and caselaw developments - challenges that embrace the nature and scope of liability, the procedures and best practices in cases alleging Crown liability, and the far-reaching consequences for the public interest.

As a government lawyer, private practitioner or in-house litigation counsel, you need the insights and tools which an expert faculty will provide you in this twelfth annual OsgoodePD program. *Crown Liability* will guide you through the latest developments - and help you over the gravest pitfalls - in civil litigation involving public authorities.

Don't miss the opportunity to hear from the experts and to pose your most pressing questions to them. And if you're new to the field, or want a brisk refresher on basics, don't miss the Optional Pre-Conference Workshop, *The Legal Framework of Crown Litigation: Navigating the Procedural Maze*.

WHO SHOULD ATTEND

- Lawyers acting for the Federal or Provincial Crown
- Private-bar lawyers with suits against the Crown
- Litigation law clerks/paralegals

REGISTER NOW by visiting
osgoodepd.ca/crownliability



Chairs

Malliha Wilson, *Assistant Deputy Attorney General, Legal Services Division, Ministry of the Attorney General (Ontario)*

Joseph K. Cheng, *Counsel, Business, Regulatory and Extradition Law Division, Justice Canada (Ontario Regional Office)*

Andrew Lokan, *Paliare Roland Rosenberg Rothstein LLP*

Faculty

Jasmine T. Akbarali
Lerners LLP

Sandra Barton
*Gowling Lafleur
Henderson LLP*

Robin K. Basu
*Counsel, Ministry of the
Attorney General (Ontario)
Constitutional Law Branch*

Chantelle A. Blom
*Counsel, Ministry of the
Attorney General (Ontario),
Crown Law Office-Civil Law*

Charleen Brenzall
*General Counsel
Justice Canada (Ontario
Regional Office)*

Alex Cameron
*Fasken Martineau
DuMoulin LLP*

Prof. Erika Chamberlain
*Western Law,
Western University*

Sarah Clarke
Clarke Child and Family Law

Falguni Debnath
*Counsel, Government Law
Services- Extraditions,
Justice Canada*

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*Acting Portfolio Director
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Crown Law Office-Civil*

Prof. Bruce Feldthusen
*Faculty of Law (Common Law)
University of Ottawa*

Heather Mackay
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Crown Law Office-Civil*

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Montour Law

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*Senior Counsel, Justice
Canada, Ontario Regional
Office, Tax Law Services
Section*

Raivo Uukkivi
Cassels Brock & Blackwell LLP

Christopher Wayland
*Counsel, Ministry of the
Attorney General (Ontario)
Crown Law Office-Civil*

AGENDA

Optional Pre-Conference Workshop
February 24, 2016 (2:00 p.m. - 5:00 p.m.)

The Legal Framework of Crown Litigation: Navigating the Procedural Maze

Note: Workshop only available in-person.

Falguni Debnath, *Justice Canada*

Heather Mackay, *Crown Law Office--Civil*

Raivo Uukkivi, *Cassels Brock & Blackwell LLP*

A practitioner unfamiliar with the unique challenges of litigation involving the Federal or provincial Crown faces an uphill struggle to manoeuvre through the procedural terrain. This perennially highly-rated workshop covers a broad range of key areas including proper forum, limitations, standing, effective disclosure strategies, Crown privilege and costs against the Crown.

Conference - February 25, 2016

8:30

Registration and Continental Breakfast

9:00

Chairs' Introduction and Welcome

9:10

Recent Developments in Negligence Affecting Crown Liability

Prof. Erika Chamberlain, *Western Law, Western University*

Prof. Bruce Feldthusen, *Faculty of Law (Common Law),
University of Ottawa*

The Federal Court's 2015 decision in *Paradis Honey* suggested discarding public authorities' liability for negligence in favour of a discretion to award monetary relief on judicial review. What are the pros and cons of this approach? The session will also consider the issues raised by the SCC's imposition of unique duties of care on public authorities.

10:25

Refreshment Break

10:40

Interlocutory Relief and Stays Pending Appeal: When Are They Available Against the Crown?

Sandra Barton, *Gowling Lafleur Henderson LLP*

Robin K. Basu, *Counsel, Ministry of the Attorney General
(Ontario)--Constitutional Law Branch*

P. Tamara Sugunasiri, *Senior Counsel, Justice Canada,
Ontario Regional Office, Tax Law Services Section*

The availability of injunctions and specific performance against the Crown has become a livelier issue in view of recent reconsideration in Federal Court. Our expert panel will take you through the current case law and strategies for addressing the unique challenges arising in connection with such relief.

11:30

Liability of the Crown For Privacy Breaches

Alex Cameron, *Fasken Martineau DuMoulin LLP*

Christopher Wayland, *Counsel, Ministry of the Attorney
General (Ontario), Crown Law Office--Civil*

When is the Crown liable for breaches of its privacy obligations? What is the potential scope of liability, and what must government counsel advise their clients to bear in mind regarding how information is stored or retained?

12:15

Luncheon

1:00

Carter v. Canada (Attorney General): New Frontiers In Physician-Assisted Dying

Julia A. Evans, *Acting Portfolio Director, Office of the
Assistant Deputy Attorney General, Ministry of the Attorney
General (Ontario)*

Liam D.M. Scott, *Counsel, Legal Branch, Ministry of Health
and Long-Term Care (Ontario)*

The SCC has unanimously struck down the *Criminal Code* prohibition against assisted suicide. This area involves a host of pitfalls for the Crown in responding legislatively, and for provinces and territories in regulating health care institutions and providers. Our speakers will assess the implications for counsel and government departments involved with this issue.

1:50

Update On Recent Health Law Challenges For the Crown

Lise G. Favreau, *Counsel, Ministry of the Attorney General
(Ontario)--Crown Law Office*

Sunil Mathai, *Counsel, Ministry of the Attorney General
(Ontario)--Crown Law Office*

Ongoing *Mental Health Act* reform arising from the Court of Appeal's recent decision in *P.S. v. Ontario* holding that involuntary committals in excess of six months violate the *Charter*. The session will also discuss the Federal Court's *Apotex* decision against the government in connection with the importation of pharmaceutical products.

2:30

Refreshment Break

2:45

Aboriginal Rights vs. Best Interest of the Child: Hamilton Health Sciences Corp. v. D.H.

Sarah Clarke, *Clarke Child and Family Law*

Eliza J. Montour, *Montour Law*

Malliha Wilson, *Assistant Deputy Attorney General, Legal
Services Division, Ministry of the Attorney General (Ontario)*

AGENDA (cont'd)

The HHSC sought an order that an 11-year-old cancer patient was a "child in need of protection" because her parents, who wished to pursue traditional medicine options, had withdrawn consent for continued chemotherapy. Our panelists will discuss how engagement was used to ensure that the best interests of the child were properly reconciled with Aboriginal rights. The paradigm shift involved may be essential to moving towards reconciliation in a broad variety of matters involving the legal relationship between Aboriginal communities and the Federal or provincial governments.

3:30

Ethics and Professionalism In Litigation Involving the Crown

Jasmine T. Akbarali, *Lerners LLP*

Chantelle A. Blom, *Counsel, Ministry of the Attorney General (Ontario), Crown Law Office--Civil*

Charleen Brenzall, *General Counsel, Justice Canada (Ontario Regional Office)*

An interactive discussion of how best to meet the ethical and professional challenges which can arise at the various stages of Crown litigation.

4:30

Program Concludes



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



Eligible CPD/MCLE hours:

PROGRAM:
LSUC (ON): 6.75 CPD hours (1.0 professionalism; 5.75 substantive)

WORKSHOP:
LSUC (ON): 3.0 Substantive CPD hours

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.

12th Annual Conference On Crown Liability

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Online Replay

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Fee Per Delegate

Conference Only: \$795 plus HST; Conference plus Workshop: \$995 plus HST;

Workshop Only: \$400 plus HST

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

Date & Time

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9:00 a.m. - 4:30 p.m. EST

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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.

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

Location

Osgoode Professional Development
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
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2. **ONLINE** at
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