

# MANAGING, MEDIATING AND LITIGATING ESTATE DISPUTES



Experienced counsel will give you the law and strategic advice you need to successfully resolve estate disputes, in such areas as:

- Wills challenges, contested passings of accounts, contested guardianships and other disputes
- How to avoid pitfalls at the investigation stage that can have profound downstream implications for mediation, settlement or trial
- Methods for achieving an early resolution
- Orders for directions in contested passings of accounts or contested guardianship applications
- Best approaches to discovery of non-parties
- Estate mediation: working with the advantages and disadvantages
- Tips for effective pretrials and settlement conferences

**Plus!** Our experts will take you through a step-by-step practical examination of real-life fact situations.

Practical, expert approaches to these notoriously difficult disputes

**"I MORE THAN DOUBLED  
MY TOTAL KNOWLEDGE  
OF ESTATE LITIGATION  
MATTERS BY ATTENDING  
THIS PROGRAM"**

**Krystyne Rusek**  
McMaster, McIntyre & Smyth, LLP

REGISTER NOW at  
[osgoodepd.ca/estatedisputes](http://osgoodepd.ca/estatedisputes)



## Chairs

**Felice C. Kirsh**  
Schnurr Kirsh Schnurr  
Oelbaum Tator LLP

**Melanie Yach**  
Aird & Berlis LLP

## Date and Time

**March 30, 2016**  
9:00 a.m. to 4:15 p.m. EDT  
Online Replay: April 26, 2016

## Location

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

Webcast Available

## MANAGING, MEDIATING AND LITIGATING ESTATE DISPUTES

Estate disputes present counsel with unique problems and challenging questions of judgment.

Though relatively few cases make it through a full trial, the road to settlement brings its own challenges, including:

- the highly emotional nature of the issues
- the technicality of the legal principles
- questions of capacity, honesty and financial prudence
- conflicts of interest
- cost-benefit and proportionality considerations
- the increasing presence of self-represented litigants
- judicial pressure to settle cases
- the ever-present risk of solicitor's negligence.

This *Osgoode Professional Development* program will give you what you need to know whether your client's estate dispute is capable of informal settlement, requires formal mediation, or is bound for the courtroom. A concise overview of each stage will be followed by a detailed, interactive discussion of realistic fact situations, with special emphasis on wills challenges and contested passings of accounts. Drawing on the experience and wisdom of an expert faculty, you will deepen your knowledge of:

- the relevant law and procedure
- the risks and pitfalls facing both counsel and clients, and
- strategic approaches that offer the best prospects for success.

*Managing, Mediating and Litigating Estate Disputes* will provide you with practical knowledge you'll carry with you into all your future negotiations, discoveries, mediations and trials.

**REGISTER NOW** by visiting  
[osgoodepd.ca/estatedisputes](https://osgoodepd.ca/estatedisputes)

### Chairs

**Felice C. Kirsh**  
*Schnurr Kirsh Schnurr  
Oelbaum Tator LLP*

**Melanie Yach**  
*Aird & Berlis LLP*

### Faculty

**Karon C. Bales**  
*Bales Beall LLP*

**Jordan D. Oelbaum**  
*Schnurr Kirsh Schnurr  
Oelbaum Tator LLP*

**Clare E. Burns**  
*WeirFoulds LLP*

**David M. Smith**  
*Hull & Hull LLP*

**Justin de Vries**  
*de Vries Litigation LLP*

**Debra Stephens**  
*Goddard Gamage  
Stephens LLP*

**Hilary E. Laidlaw**  
*McCarthy Tétrault LLP*

**P. Ann Lalonde**  
*Office of the Children's  
Lawyer*

## WHO SHOULD ATTEND

- Lawyers practicing in wills, estates and trusts
- Litigation counsel/commercial litigators handling estate disputes
- In-house counsel at trust companies and banks
- Lawyers (external or in-house) for charities and NPOs
- Tax lawyers
- Mediators



Are you equipped with the latest law and best practices in this technical and demanding practice area?



## AGENDA

**8:00**

### **Registration and Continental Breakfast**

**9:00**

### **Chairs' Welcome and Introductory Remarks**

**9:05**

### **Client Interview, Fact-Gathering and Investigation**

DEBRA STEPHENS, *Goddard Gamage Stephens LLP*

- Determining who is your client - the estate trustee or the beneficiaries?
- What initial facts do you need?
- Importance of a chronology
- Who are the key witnesses?
- How you can manage these cases cost-efficiently while protecting yourself from negligence claims
- Ethical/professional issues arising in the course of information-gathering

**9:40**

### **Framing the Issues and Exploring Early Resolution Opportunities**

MELANIE YACH, *Aird & Berlis LLP*

- Credibility in negotiations
- Developing a strategic framework from the outset
- Effective opening letters to the other side
- Tactics for achieving an early resolution
  - How much information is needed to advise the client?
- Mediation before litigation - ensuring that the client is adequately protected if mediation fails and litigation ensues

**10:15**

### **Refreshment Break**

**10:30**

### **Pleadings and Motions In Superior Court: From Documentation to Argument**

JUSTIN DE VRIES, *de Vries Litigation LLP*

- Pleadings vs. orders for directions
- Pleading your case - do's and don'ts
- Will challenges: has the standard order for directions gone too far?
- What kind of order do you need and what to include?
  - in contested passings of accounts
  - in contested guardianship applications

**11:00**

### **Discovery and Settlement In the Estate Case: A Checklist of Key Considerations**

JORDAN D. OELBAUM, *Schnurr Kirsh Schnurr Oelbaum Tator LLP*

- Deciding whether to have the discovery before or after mediation
- What questions do you really need to ask?
- Do you want a lot of information by undertakings?
- Post-discovery settlement strategies and tactics
- Discovery of non-parties (the solicitor who drew the will, experts providing medical evidence, etc.) and proportionality

**11:35**

### **Mediating the Estate Dispute: The Process, the Pitfalls, the Opportunities**

KARON C. BALES, *Bales Beall LLP*

- Considerations in selecting the right mediator
- Client preparation: the strategy and the specifics
- How much time should be set aside for the mediation
- Getting the benefits of mediation even when a full or complete settlement is not reached

**12:15**

### **Luncheon**

**1:00**

### **Pre-trials, Settlement Conferences and Trials**

CLARE E. BURNS, *WeirFoulds LLP*

- Practical impact of the differences between mediations and pretrials
- Dealing with judicial expectations for settlement and managing client expectations
  - 'who-is-the-client?' problems
  - separating counsel's desires and expectations from the client's
- Estimating the time needed in court if the matter proceeds to trial
- Most effective approaches in dealing with self-represented litigants
- Staying on the right side of the line in your communications with expert witnesses
  - securing access to medical information/evidence
- How to best assist the court and shape the way in which the judge will think about your case
- The prohibition against collateral attacks on capacity

**1:40**

### **Pulling It All Together: Practical Case Studies in Estate Disputes/Litigation**

FELICE C. KIRSH, *Schnurr Kirsh Schnurr Oelbaum Tator LLP*

HILARY E. LAIDLAW, *McCarthy Tétrault LLP*

P. ANN LALONDE, *Office of the Children's Lawyer*  
 DAVID M. SMITH, *Hull & Hull LLP*

A practical, interactive, step-by-step analysis of the issues, procedures, strategy and documentation in relation to two of the most commonly-encountered situations - a wills challenge and a contested passing of accounts. This will enable you to apply the insights gleaned from the earlier parts of the program and combine them with further commentary and practical tips from our distinguished panelists.

**3:55**  
**Chairs' Wrap-up and Final Questions From the Floor**

**4:15**  
**Program Concludes**

**What previous attendees said:**

*"VERY IMPRESSIVE LINE-UP OF PUBLIC SPEAKERS WITH VERY USEFUL COMMENTS. THE PRACTICAL CASE STUDY PORTION OF THE PROGRAM WAS ESPECIALLY HELPFUL. MATERIALS EXCELLENT"*

**Christopher D. Salazar**, *HGR Graham Partners LLP*

*"GREAT PROGRAM, A LOT OF USEFUL PRACTICAL INFORMATION"*

**Anastasija Sumakova**, *WeirFoulds LLP*

*"THIS PROGRAM PROVIDED A LOT OF INSIGHT INTO THE 'BACK-END' OF THE [WILLS] PROCESS WHEN THINGS GO AWRY"*

**Charles Eyton-Jones**, *Barrister & Solicitor*

*"EXCELLENT-PRACTICAL ADVICE AND TIPS, COMMON-SENSE KNOWLEDGE"*

**Christina Wallis**, *Dale & Lessmann LLP*



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



**Eligible CPD/MCLE hours:**

LSUC (ON): 7.25 CPD hours (2.0 professionalism; 5.25 substantive)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions and the NY CLE Board. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca)

## Managing, Mediating and Litigating Estate Disputes

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  
 Delete me from your mailing list  
 I do not wish to be contacted by e-mail

Priority Service Code  
(from mailing label below)

1 5 7 0 0 L

### Payment Options

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

Card# \_\_\_\_\_ Expiry: \_\_\_\_\_

Signature: \_\_\_\_\_ Payment amount: \$ \_\_\_\_\_

### Fee Per Delegate

\$695 plus HST

Register for this program and for *Managing Complex Issues in Estate and Tax Planning (March 29, 2016)* and take advantage of special package pricing of \$1195 plus HST. For more information, visit [www.osgoodepd.ca/ETP](http://www.osgoodepd.ca/ETP)

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

### Date & Time

March 30, 2016  
 9:00 a.m. to 4:15 p.m. EDT  
*Online Replay: April 26, 2016*

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 14 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/estatedipsutes](http://www.osgoodepd.ca/estatedipsutes)
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9724 or 1.888.923.3394