

CURRENT & EMERGING ISSUES IN CIVIL SEXUAL ASSAULT

Do you have what you need to advance or defend a civil sexual assault claim in 2018?

Join Canada's foremost experts for a comprehensive update on the key current issues and new trends in this complex field. Be part of an interactive discussion about:

- What's new in negligence and vicarious liability
- How to deal with credibility problems at various stages of litigation
- Defense strategies for challenging certification of abuse claims
- Assessing the pros and cons of counter-claiming for defamation
- Emerging legal claims for "revenge porn", voyeurism and the non-consensual dissemination of intimate images

Register today at:

osgoodepd.ca/civilsexual

Program Chairs

Elizabeth K. P. Grace
Lerners LLP

Gillian T. Hnatiw
Lerners LLP

Date and Time

February 26, 2018
9:00 a.m. – 5:00 p.m. EST

ONLINE REPLAY:
March 26, 2018

Location

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

Current & Emerging Issues in Civil Sexual Assault

Already an area fraught with challenges, civil sexual assault claims have become increasingly complex. Whether you are advancing or defending a claim, or representing an organization that is the subject of one, you need to know how to navigate this challenging area of law.

In one information packed day, you will acquire the key knowledge, practical strategies and contacts you need to do so successfully. Let OsgoodePD's experts provide you with the benefit of their insights and experience and answer your most pressing questions on topics including:

- Strategies on how to prepare for and deal with the different forms of pre-trial resolution
- Class actions vs. mass tort claims: When is a class action the 'preferable procedure'?
- Breach of non-delegable duty – is this a viable alternative where other claims fail?
- What you need to know about the new exceptions to 3rd party records regime and record sharing between civil and criminal counsel
- Damages from on-line privacy violations: how can they be measured?

Who Should Attend?

- In-house Counsel
- Lawyers advising on sexual assault issues
- Insurance Adjusters
- 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

Agenda

9:00 a.m.

Opening By Chairs

9:10 a.m.

Resolution Without Trial

Frank Gomberg, Gomberg Mediation Solutions Inc.

Kathleen Urdahl, Global Resolutions

The Hon. Justice Darla Wilson, Ontario Superior Court of Justice

Most civil sexual assault claims are resolved pre-trial. This session will equip you with the tools you need to maximize your success at the mediation and/or pre-trial stage.

- Sexual abuse mediations vs. Pre-trials: Is there a difference (and if so, what?)
- Strategies on how to prepare for and deal with the different forms of pre-trial resolution
- Managing client expectations
- ADR advocacy – what to do and what not to do
- Missteps and mistakes mediators and judges should avoid

9:55 a.m.

Institutional Liability Claims – Part 1

Bruce Hutchison, Genest Murray LLP

Loretta P. Merritt, Torkin Manes LLP

Linda C. Phillips-Smith, Stieber Berlach LLP

Robert Talach, Beckett Personal Injury Lawyers

Susan Vella, L.S.M., Rochon Genova LLP

Alexander D. Pettingill, Thomas Gold

Institutional liability claims are often the focal point for both counsel and organizational representatives who must respond to these types of claims. This session is an in-depth review of the current law, a discussion of new and ongoing issues, and an examination of the special challenges in this complex area, led by some of Canada's leading experts in civil sexual assault. It includes a dedicated Q&A session, so that you can optimize your learning.

- What's new in negligence and vicarious liability: a review of the case law and emerging trends
- Areas foreclosed and new frontiers
- Breach of non-delegable duty – is this a viable alternative where other claims fail?
- Strategies for dealing with the special challenges with school boards and Children's Aid Societies
- Potential ethical challenges with institutional liability claims – how to recognize and deal with them

10:40 a.m.

Refreshment Break

10:55 a.m.

Institutional Liability Claims Part 2: Interactive Q&A

11:40 a.m.

Interplay Between Civil And Criminal Proceedings

David Butt, Barrister

Mark Elkin, Thompson, Tooze, McLean and Elkin

Breese Davies, Breese Davies Law

Now, more than ever, it is incumbent upon counsel to be familiar with issues that may arise in other proceedings and their potential impact on the civil case. These issues are especially tricky when there are both criminal and civil proceedings related to the same conduct. Civil lawyers must be aware of:

- The impact of criminal convictions and acquittals upon civil cases
- Strategies for dealing with criminal and civil proceedings for the same conduct
- What you need to know about the new exceptions to 3rd party records regime, which allows for the sharing of records and other evidence between civil and criminal counsel
- Understanding your obligations with respect to confidentiality and privilege
- Emerging claims for restitution in criminal cases

12:25 p.m.

Lunch

1:30 p.m.

Credibility And Memory Issues In Sexual Assault Cases

Loretta P. Merritt, Torkin Manes LLP

Dr. Candice M. Monson, C.Psych., Department of Psychology, Ryerson University

The Hon. Justice Diane Oleskiw, Ontario Court of Justice

- Assessing credibility in sexual abuse cases
- The nature of traumatic memory
- How to deal with credibility problems at various stages of litigation (pleadings, affidavit of documents, examinations for discovery, experts and trial)
- Strategies for recognizing and being sensitive to the unique needs of the complainant/victim

2:30 p.m.

Class Actions

Linda C. Phillips-Smith, Stieber Berlach LLP

Margaret L. Waddell, Waddell Phillips Professional Corporation

- Class actions vs mass tort claims – when is a class action the 'preferable procedure' in personal injury cases?
- Determining if your firm or organization is equipped to support/defend a class action
- Defense strategies for challenging certification of abuse claims
- Approaches for quantifying damages on behalf of the class and individual class members
- Case law review including recent class actions against the RCMP, Grenville Christian College and the Royal Winnipeg Ballet
- Unique ethical challenges with class actions

3:15 p.m.

Refreshment Break

3:30 p.m.

Update: Bill 132 – Ontario's New Sexual Violence & Harassment Legislation And Initiatives

Joanna Birenbaum, Ursel Phillips Fellows Hopkinson LLP

Simona Jellinek, Jellinek Law Office

- Report Card: Where are we at, where we are heading?
- Challenges for colleges and universities in addressing sexual assault on campus
- New workplace obligations for employers

4:00 p.m.

Civil Sexual Assault And The Defamation Claim

Andrea Gonsalves, Stockwoods Barristers

Alex Smith, Henein Hutchison LLP

- What are the advantages and risks of (counter-)claiming for defamation?
- Practical strategies for effectively advancing/defending these claims
- Special considerations for co-defendants

4:30 p.m.

What's On The Horizon: New And Emerging Issues

Anna Matas, Lerner LLP

Molly Reynolds, Torys LLP

- Emerging legal claims for "revenge porn", voyeurism and the non-consensual dissemination of intimate images
- Policy initiatives and concerns in response to on-line harassment
- Damages from on-line privacy violations: how can they be measured?

5:00 p.m.

Program Concludes

Chairs

Elizabeth K. Grace,
Lerners LLP

Gillian T. Hnatiw,
Lerners LLP

Faculty Includes

Joanna Birenbaum, Ursel
Phillips Fellows Hopkinson LLP

Alexander D. Pettingill,
Thomas Gold Pettingill LLP

Breese Davies, Breese
Davies Law

Linda C. Phillips-Smith,
Stieber Berlach LLP

David Butt, Barrister

Molly Reynolds, Torys LLP

Mark Elkin, Thompson, Tooze,
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Margaret L. Waddell,
Waddell Phillips Professional
Corporation

Anna Matas, Lerners LLP

Loretta P. Merritt, Torkin
Manes LLP

The Hon. Justice Darla
Wilson, Ontario Superior
Court of Justice

Dr. Candice M. Monson,
C.Psych., Department
of Psychology, Ryerson
University

The Hon. Justice Diane
Oleskiw, Ontario Court of
Justice

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.

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