



15TH ANNUAL UPDATE

PERSONAL INJURY LAW & PRACTICE 2019

Get valuable insights and solutions to challenges arising in light of the latest law.

A comprehensive examination of key legislative and judicial developments in areas including:

- The cases decided in the previous twelve months that are likely to have the greatest practical impact on your handling of personal injury matters
- The continuing evolution of the Simplified Rules—juries, jurisdiction, waivers of defence and more
- Best approaches (and documentation) for informing the insurer’s understanding of what the case is worth
- The most effective approaches to papering and arguing Rule 7 motions
- Recent developments in expert evidence including the impact of *Imeson v. Maryvale* (Ont. C.A.)
- The increasing importance of cultural competence and how to make it a powerful component of your skills toolkit.

Register today at:

osgoodepd.ca/personal-injury-law

Program Chairs:

Richard M. Bogoroch
Bogoroch & Associates LLP

Susan E. Gunter
Dutton Brock LLP

Date and Time

November 8, 2019
9:00 a.m. - 4:30 p.m. EST
In Person or Webcast

Online Replay:
December 13, 2019

Location

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

15TH ANNUAL UPDATE

Personal Injury Law & Practice 2019

A faculty of respected personal injury experts will guide you through the “must-know” recent decisions and legislative initiatives in the field.

Topics Include

- What we now know about the License Appeal Tribunal in its third year of adjudicating accident benefits disputes
- Changes to Crown liability (including municipal liability) under the incoming legislative regime
- *McCabe’s* impact on the availability of punitive damages in cases where there has been no timely, formal admission of liability
- The impact of such recent cases as *Usanovic* and *Brown v. Baum* in the potentially costly area of limitation period/discoverability problems—along with the other topics set out in the accompanying program agenda.

What attendees said about previous offerings of this program:

“Excellent... Great sessions focusing on a number of areas of value... just the right amount.”

Lorne Sabsay, Sabsay Lawyers

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

Amer Pasalic, Dentons Canada LLP

“The Personal Injury Update is what goes in my calendar every year.”

Patrick Murphy, Donnelly & Murphy

Who Should Attend

Legal and insurance professionals involved in personal injury work, including:

- Personal injury lawyers
- In-house litigation counsel
- Claims examiners/managers and adjusters
- Litigation law clerks

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[osgoodepd.ca/
personal-injury-law](http://osgoodepd.ca/personal-injury-law)

Agenda

8:30 a.m.

Registration

9:00 a.m.

Chairs’ Welcome and Introductory Remarks

9:10 a.m.

The Year’s Most Important Cases for Personal Injury Litigators

David Lackman, Gluckstein Personal Injury Lawyers

This perennially popular session will highlight the most important cases since last fall, and assess their practical impact.

9:40 a.m.

Motor Vehicle Litigation: Trends and Predictions

Claire Wilkinson, Martin & Hillyer Associates

Millie Katyal, Senior Legal Counsel, Travellers Canada

Ontario’s recent budget statement referred to forthcoming legislative changes affecting MVA matters. This discussion will focus on any proposed changes known of by program day along with any significant alterations in the litigation landscape.

10:20 a.m.

Refreshment break

10:35 a.m.

Simplified Rules: Anticipated Amendments and What You Need to Do to Advance Your Clients’ Interests

Stephen N. Libin, Dutton Brock LLP

Major changes are coming to Simplified Procedure in Ontario. Anticipated changes include:

- Jury notices in Rule 76 cases (eliminated effective January 1, 2020)
- Will the settlement rate be affected?
- Changes to monetary jurisdiction
- Transition issues in relation to existing cases where waivers of defence are in place

11:05 a.m.

Expert Evidence: Recent Developments and the Scope of Expert Testimony

Richard M. Bogoroch, Bogoroch & Associates

Practical, tested tips in such crucial areas as:

- Scrutinizing for bias
- Use of *voir dire* to address the admissibility of expert evidence
- Preparing your own expert to testify at trial
- Strategies for cross-examining the opposing expert
- The distinction between litigation expert witnesses and participant expert witnesses

11:35 a.m.

Communicating Case Value to the Defence: What Evidence Is Required?

Ellen N. Gowland, Director, Claims Litigation, Allstate Insurance Company of Canada

A sound assessment of the case in terms of both liability and damages is critical to maximizing recovery for the plaintiff and minimizing exposure for the defence. Yet both counsel are frequently puzzled when settlement discussions fail.

This session will discuss:

- What evidence is required to adequately understand the case?
- How can counsel and the insurer address causation hurdles?
- What kinds of medical file information are needed?
- How do you factor in collateral benefits?

12:00 p.m.

Lunch

12:45 p.m.

SABS/LAT Update: Key Cases and LAT Procedure Three Years On

Jennifer J. Griffiths, Zarek Taylor Grossman Hanrahan LLP

It has been nearly 3 ½ years since the new system for adjudicating statutory accident benefits claims was implemented. An experienced accident benefits litigator will provide a report card on the functioning of the LAT's insurance dispute resolution system and review recent LAT decisions which every litigator in the system must understand.

1:15 p.m.

Limitation Periods and Discoverability: The Impact of Recent Caselaw

Dan Zacks, Zacks Law

This session, conducted by the author of a leading text on limitations law, will address such areas as:

- The discoverability principle and s. 5 (1) (b) of the *Limitations Act, 2002*
- Claims for contribution and indemnity
- Whether there are any circumstances in which a disability insurer's duty of good faith requires it to inform a claimant of a limitation period, in view of the OCA's 2017 decision in *Usanovic v. Pennncorp*
- Does ongoing treatment extend the limitation period? *Brown v. Baum* (OCA 2016)

1:45 p.m.

Government Liability in Personal Injury Matters: Changes To the *Negligence Act* and the New *Crown Liability and Proceedings Act, 2019*

Susan E. Gunter, Dutton Brock LLP

A new legislative regime has been proposed at Queen's Park, replacing the old *Proceedings Against the Crown Act*

- What types of personal injury cases will be affected?
- What effect will the codification of the defined terms 'policy' and 'operation' have?
- What will be required to prove operational negligence?
- Will the changes be retroactive?
- Will there be changes to the *Negligence Act's* joint and several liability provisions in actions involving municipalities?

2:15 p.m.

Refreshment Break

2:30 p.m.

Vicarious Liability: Contested or Admitted?

Stephen G. Ross, Rogers & Partners

- What are the requirements for vicarious liability?
- Analysis of *McCabe v. Roman Catholic Episcopal Corporation* (OCA 2019)
- Consideration of Benotto JA's dissent on the punitive damages issue
- Does the case apply to liability admissions generally?

3:00 p.m.

Rule 7 Approval Motions and Appropriate Lawyers' Fees Charged to Parties Under Disability

The Hon. Madam Justice Darla Wilson, Superior Court of Justice (Ontario)

Heidi Brown, Bogoroch & Associates LLP

An agreed-on contingency fee arrangement will soon have to comply with proposed new requirements. But that's not necessarily determinative of what constitutes an appropriate fee under Rule 7. This session will explore:

- What the Court needs to know about liability, damages and fees
- Specific factors Courts will likely consider
- Documentation required for successful motions, and best practices in conducting them.

3:30 p.m.

Cultural Competence for Personal Injury Litigators

Antoine Collins, Law Firm of Antoine L. Collins

Enhance your cultural competency skills and you will acquire practical advantages in a broad variety of areas. This session provides a valuable roadmap to navigating some of the more difficult challenges facing marginalized clients and counsel. Obtain LSO-EDI credit while deepening your understanding of problems and finding solutions as counsel for members of marginalized communities.

4:00 p.m.

Negotiation and Mediation Ethics for Personal Injury Counsel

Christine Fotopoulos, Global Resolutions Inc.

Ivan Luxenberg, Malach Fidler Sugar & Luxenberg LLP

Two accomplished mediators will review realistic fact situations raising vexing ethical and professional questions that both plaintiffs' and defendants'/insurers' counsel will face during the course of mediation, including how to handle conflicts of interest which may arise at mediation, and how best to deal with uncivil or aggressive counsel or parties.

4:30 p.m.

Program ends

Chairs

Richard M. Bogoroch
Bogoroch & Associates LLP

Susan E. Gunter
Dutton Brock LLP

Faculty

Heidi Brown
Bogoroch & Associates LLP

Stephen N. Libin
Dutton Brock LLP

Antoine Collins
The Law Firm of
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Ivan Luxenberg
Malach Fidler Sugar +
Luxenberg LLP

Christine Fotopoulos
Mediator
Global Resolutions Inc.

Stephen G. Ross
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Ellen N. Gowland
Director, Claims Litigation
Allstate, Pembridge and
Pafco Legal Services

M. Claire Wilkinson
Martin & Hillyer Associates

Jennifer J. Griffiths
Zarek Taylor Grossman
Hanrahan LLP

The Hon. Madam Justice
Darla A. Wilson
Superior Court of Justice
(Ontario)

Millie Katyal
Senior Legal Counsel
Travellers Canada

Daniel Zacks
Zacks Law

David Lackman
Gluckstein Personal Injury
Lawyers

Registration Details

Fee per Delegate

\$695 plus HST

New Licensees/Calls (2016 – 2019): 50% off

Fees include attendance, program materials, 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.



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