

*"Excellent conference with great faculty. Well worth the trip out from Vancouver"*

**Mike Wagner**  
Farris, Vaughan, Wills & Murphy LLP

# Managing, Mediating & Litigating Shareholder Disputes

Get practical insights into the latest legal developments and winning strategies and tactics, including:

- Creative uses of the oppression remedy
- Conflict of interest issues in closely-held companies
- Assessing claims and remedies in closely-held company disputes
- Litigation strategies and tactics, including how to frame a pleading, questions to ask in an examination, and keys to effective advocacy
- Accounting and valuation issues in private company litigation
- Using mediation and other techniques to proactively address management issues and preserve corporate value
- Unwinding the business – sales, restructuring and transitions
- Public company issues and developments in market misrepresentation

**Plus!** Take advantage of the Optional Pre-Conference Workshop:

*The Fundamentals of Litigating Shareholder Disputes*

Learn from a multidisciplinary faculty including more than 10 top commercial litigators and:

**The Hon. Mr. Justice Laurence A. Pattillo**, Superior Court of Justice (Ontario)  
**Domenic Marino**, Vice-President, Consulting and Deals, PricewaterhouseCoopers LLP  
**Robert B. Martin**, Valuations, Forensics and Disputes, PricewaterhouseCoopers LLP  
**Randy A. Pepper**, ADR Chambers



## DATE & TIME

Friday, December 7, 2012  
9:00 a.m. to 5:00 p.m. EDT/EST  
Distance Learning Available

## OPTIONAL WORKSHOP

Thursday, December 6, 2012  
1:00 p.m. - 4:00 p.m.

## LOCATION

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

## CHAIRS

**David S. Morritt**  
Osler, Hoskin & Harcourt LLP  
**Allan D. Coleman**  
Osler, Hoskin & Harcourt LLP





# Managing, Mediating & Litigating Shareholder Disputes

**Are you fully equipped to use the tools available to the parties in this challenging area?**

**S**hareholder disputes are one of the most common – and complex – types of disputes. To achieve the best results, counsel must have a solid and up-to-date understanding of the panoply of rights and remedies available and how best to deploy them. In particular, you need to be fully current on the scope and use of the oppression remedy; exactly how and to what extent duties (including fiduciary duties) may arise on the part of those dealing with shareholder interests; and the degree to which such duties extend to other stakeholders, including creditors. At the same time, you need to be able to react quickly with the right strategies and manoeuvres or risk jeopardizing your clients' interests and assets.

This *Osgoode Professional Development* program will provide you with valuable insights into key aspects of litigating, otherwise resolving, or preventing shareholder claims and disputes. Plus, if you are new to the area, or simply want a refresher on the essentials, you can attend the optional half-day pre-conference workshop, *The Fundamentals of Litigating Shareholder Disputes*.

**Don't miss this opportunity to bolster your knowledge and skills in this critical and growing area of commercial litigation practice.**

**Register now by visiting [www.osgoodepd.ca](http://www.osgoodepd.ca), calling 416.597.9724 or 1.888.923.3394, emailing [opd-registration@osgoode.yorku.ca](mailto:opd-registration@osgoode.yorku.ca) or faxing 416.597.9736.**

## Chairs

**David S. Morritt, Osler, Hoskin & Harcourt LLP**

**Allan D. Coleman, Osler, Hoskin & Harcourt LLP**

## Faculty

**Michael E. Barrack**  
Thornton Grout Finnigan LLP

**Allan D. Coleman**  
Osler, Hoskin & Harcourt LLP

**Catherine Francis**  
Minden Gross LLP

**Markus Koehnen**  
McMillan LLP

**Adrian C. Lang**  
Stikeman Elliott LLP

**Dimitri Lascaris**  
Siskinds LLP

**Jonathan Lisus**  
Lax O'Sullivan Scott Lisus LLP

**Domenic Marino**  
Vice-President, Consulting and Deals  
PricewaterhouseCoopers LLP

**Robert B. Martin**  
Valuations, Forensics & Disputes  
PricewaterhouseCoopers LLP

**Matthew Milne-Smith**  
Davies Ward Phillips & Vineberg LLP

**David S. Morritt**  
Osler, Hoskin & Harcourt LLP

**The Hon. Mr. Justice Laurence A. Pattillo**  
Superior Court of Justice (Ontario)

**Orestes Pasparakis**  
Norton Rose Canada LLP

**Randy A. Pepper**  
ADR Chambers

**James C. Tory**  
Torys LLP

**Peter Wardle**  
Wardle Daley Bernstein LLP

8:30	<b>Registration and Continental Breakfast</b>	12:45	<b>Part II: Advancing or Defending the Case – Pleadings, Evidence and Litigation Considerations</b>
9:00	<b>Welcome and Introduction from the Chairs</b>		<b>The Hon. Mr. Justice Laurence A. Pattillo</b> Superior Court of Justice (Ontario)
9:05	<b>Oppression Remedy Update</b>		<b>Peter Wardle</b> , Wardle Daley Bernstein LLP <ul style="list-style-type: none"><li>• Influential oppression cases and trends in the courts' approach</li><li>• The key elements in proving oppression</li><li>• How are the courts assessing "reasonable expectations"?</li><li>• The present status of the business judgment rule</li><li>• Creative uses of the oppression remedy</li><li>• The value of the oppression remedy to creditors</li></ul>
10:00	<b>Corporate Governance Considerations in Shareholder Disputes</b>	2:00	<b>Part III: Accounting and Valuation Issues</b>
	<b>James C. Tory</b> , Torys LLP		<b>Allan D. Coleman</b> , Osler, Hoskin & Harcourt LLP <b>Robert B. Martin</b> , Valuations, Forensics & Disputes PricewaterhouseCoopers LLP <ul style="list-style-type: none"><li>• When should you bring in a financial expert?</li><li>• Roles for the financial expert</li><li>• Analysis and methods for valuing the business</li><li>• Categories of documents you should seek from opposing parties to assist your expert in preparing a valuation</li><li>• Best approaches to developing settlement positions</li></ul>
	<b>Adrian C. Lang</b> , Stikeman Elliott LLP <ul style="list-style-type: none"><li>• Key recent cases on director, officer, and employee duties</li><li>• Who owes duties to whom, and in what capacity?</li><li>• Fiduciary obligations among principals of closely-held companies</li><li>• Interaction of fiduciary claims with oppression claims</li><li>• Assessing the conduct of directors and officers</li><li>• Conflicts of interest and due diligence requirements</li></ul>	2:45	<b>Refreshment Break</b>
10:50	<b>Refreshment Break</b>	3:00	<b>Part IV: Preserving Enterprise Value and Resolving Issues Outside of Court</b>
11:00	<b>Divorce for Shareholders: Managing the Closely Held Company Breakdown</b>		<b>Orestes Pasparakis</b> , Norton Rose Canada LLP <b>Randy A. Pepper</b> , ADR Chambers <ul style="list-style-type: none"><li>• Dealing with personal conflicts and antagonism among parties</li><li>• Non-judicial approaches to working around deadlock</li><li>• Confronting management issues without disrupting business</li><li>• Terminating employees who are shareholders</li><li>• Using mediation to achieve resolutions outside of court</li><li>• Is arbitration a better alternative to the Commercial List?</li></ul>
	In four sessions, this distinguished faculty will review the practical and substantive points to keep in mind when shareholder relations sour. They will look at protecting individual interests while salvaging the value of the corporation, litigation practice points, and ways to potentially resolve disputes without going to court. An expert business valuator will cover key financial issues.	3:30	<b>The Future of the Business: Sales, Restructurings, and Transitions</b>
	<b>Part I: Preliminary Considerations and Interim Remedies</b>		<b>Michael E. Barrack</b> , Thornton Grout Finnigan LLP <ul style="list-style-type: none"><li>• Structuring buyouts</li><li>• Carve-up of the business</li><li>• Sale of all or part of the business</li><li>• Dealing with professional managers or receivers</li><li>• Generational transition: the most valuable tips gleaned from experience</li></ul>
	<b>Markus Koehnen</b> , McMillan LLP	4:15	<b>Public Companies and Market Disclosure and Misrepresentation Actions</b>
	<b>Jonathan Lisus</b> , Lax O'Sullivan Scott Lisus LLP <ul style="list-style-type: none"><li>• Assessing your claims and remedies: Oppression? Fiduciary duty? Breach of the shareholders agreement? Derivative actions?</li><li>• Assessing reasonable expectations</li><li>• Types of conduct likely to be found oppressive</li><li>• Managing interim relief:<ul style="list-style-type: none"><li>- interim management use of a monitor or inspector</li><li>- access to books and records</li><li>- restraining conduct, excluding parties, and other injunctive-type relief</li></ul></li><li>• Non-competition and confidentiality obligations</li></ul>		<b>Dimitri Lascaris</b> , Siskinds LLP
12:00	<b>Luncheon</b>		<b>Matthew Milne-Smith</b> , Davies Ward Phillips & Vineberg LLP <ul style="list-style-type: none"><li>• Oppression and stakeholder claims involving public companies</li><li>• Recent cases and their implications, including <i>Timminco Ltd.</i> (limitation periods) and <i>Canadian Solar</i> (jurisdiction)</li><li>• The interaction with securities regulators</li></ul>
		5:00	<b>Program Concludes</b>

# Agenda [Cont'd]

## Optional Pre-Conference Workshop

### The Fundamentals of Litigating Shareholder Disputes

Thursday, December 6: 1:00 p.m. - 4:00 p.m.

Webcast attendance is not available for the workshop.

David S. Morrill, Osler, Hoskin & Harcourt LLP

Allan D. Coleman, Osler, Hoskin & Harcourt LLP

Domenic Marino, Vice-President, Consulting and Deals  
PricewaterhouseCoopers LLP

Geared to those who want a review of the key elements of litigating shareholder disputes, this half-day pre-conference workshop will update you on the essentials and help you get the most out of the conference.

Topics include:

- Overview of the basic principles, legislation and caselaw
- Determining when to use the oppression remedy
- The key elements in proving oppression
- Fiduciary obligations in closely-held companies
- Assessing your claims and remedies
- Framing your pleadings: application or action?
- The basics of valuing a business

You will come away from this workshop with a solid grounding in the basic legal and practice considerations and solutions in shareholder litigation, along with an awareness of commonly-encountered pitfalls and how to avoid them.

This workshop is interactive with plenty of opportunity for questions and discussion. Book now as workshop size is strictly limited.



**LSUC (ON) CPD (experienced member):** 7.25 CPD hours (7.25 substantive, 0.0 professionalism), with 3.0 CPD hours (3.0 substantive, 0.0 professionalism) for the workshop; also approved with the **Barreau du Québec, BC CPD, Law Society of New Brunswick, Manitoba, Northwest Territories, Nunavut, Saskatchewan and PEI** for 6.75 credit hours (2.75 credit hours for the workshop) for CPD requirements; the **NSBS CPD** for 7.0 credit hours (3.0 credit hours for the workshop); the **New York CLE Board** for 8.0 credit hours (3.0 credit hours for the workshop) in the Area of Professional Practice for transitional and non-transitional lawyers. Eligible for CLE/Insurance Premium Credits Program offered by the **Law Society of PEI** and for Alberta CPD credit with the **Law Society of Alberta**. Questions? E-mail: cpd@osgoode.yorku.ca or refer to the program website.

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## 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](http://www.osgoodepd.ca)

### 3. FAX your registration to

416.597.9736

### 4. CALL US at 416.597.9724

or 1.888.923.3394

## Registration

Please complete all registrant information.

### Managing, Mediating and Litigating Shareholder Disputes

Conference    Pre-Conference Workshop

I will attend:  On site    Via webcast (single viewer - conference only)

Unable to attend? The live webcast and/or program materials are available within 5 business days following the program. Please contact us to order.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm/Company: \_\_\_\_\_

Practice Area: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Prov: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

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### Fee Per Delegate

Course only: \$795 plus 13% HST for a total of \$898.35; Course plus Workshop: \$1195 plus 13% HST for a total of \$1350.35; Workshop only: \$400 plus 13% HST for a total of \$452

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

### Payment Options

Cheque enclosed (payable to York University — HST# R119306736)

Bill my credit card:  VISA    Mastercard

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

### 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.

### 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.

### Dates & Times

Friday, December 7, 2012

9:00 a.m. to 5:00 p.m. EDT/EST

### Optional Pre-Conference Workshop

December 6, 2012: 1:00 - 4:00 p.m.

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

Dress is business casual.

### Location

Osgoode Professional Development  
Downtown Toronto Conference Centre

1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3