

2016 National Conference THE *DANIELS* CASE: UNDERSTANDING THE NEW ERA OF MÉTIS RIGHTS LAW



Image courtesy of Christi Belcourt

Daniels has forever changed the legal landscape of Métis and non-status Aboriginal rights. Learn about the implications of this landmark decision:

- *Daniels v. Canada*: the decision from the perspective of the Métis, non-status Indians, First Nations and government
- The division of powers - the effect of *Daniels* on the federal and provincial governments
- How will *Daniels* impact treaties, claims processes and access to federal programs, services, and benefits for Métis and non-status Indians?
- Developing a federal Métis claims process in light of *Daniels* – issues, challenges and opportunities
- What does reconciliation mean for Métis and non-status Indians?
- What does the road ahead look like?

Get valuable insight from a faculty of more than 15 experts, including counsel involved in the *Daniels* case

PLUS! Get a solid grounding in the basics of Métis law in the **Optional Primer: Fundamental Concepts in Métis Law** on **September 21st**

REGISTER NOW AT
[WWW.OSGOODEPD.CA/
METISRIGHTS](http://WWW.OSGOODEPD.CA/METISRIGHTS)



Chairs

Jason T. Madden
Partner, Pape Salter Teillet LLP

Thomas Isaac
Partner, Cassels Brock & Blackwell
LLP and served as Ministerial Special
Representative on Métis Rights

Dates and Time

Optional Primer: September 21, 2016
9:00 a.m. - 4:15 p.m. EDT

Main Conference: September 22, 2016
9:00 a.m. - 5:00 p.m. EDT

Online Replay: October 24 & 25, 2016

Keynote Speaker

September 22nd: **"The Purpose and Goal of the Manitoba Métis Federation v. Canada Case: The Métis Perspective"**

David Chartrand
LL.D. (hons), O.M., President, Manitoba
Métis Federation

Location

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

Webcast Available

Why You Should Attend This Essential Forum on *Daniels*

As Métis rights and legal issues continue to gain increased prominence in the courts, the on-the-ground implications of these judicial developments are not always well understood. The recent decision in *Daniels v. Canada* has been 17 years in the making, and while it definitively bestowed constitutional responsibility for Métis and non-status issues on the federal government, it spawned a new set of unanswered questions - the way forward has never been more uncertain.

This program, designed and delivered by some of Canada's leading experts, will provide you with the knowledge you need to understand the practical impact of *Daniels*. Over one engaging day, you will learn about:

- Policy implications of *Daniels*
- Why some of the requested declarations weren't granted
- How it all fits together - the honour of the Crown, s. 91(24), s. 35, reconciliation and the duty to negotiate
- Métis Aboriginal title - does it exist, what is the test, how do you prove it?
- The intersection and/or collision of Métis and First Nations reconciliation and claims

Also, don't miss the **Optional Primer on Fundamental Concepts in Métis Law** on **September 21st**. Métis law is coming into its own as a distinct area of Aboriginal law. You'll get a thorough grounding in this complex and evolving field from a multi-disciplinary faculty, and be prepared to get the most out of the Conference on September 22nd.

REGISTER NOW BY VISITING WWW.OSGOODEPD.CA/METISRIGHTS, CALLING 416.597.9724, EMAILING OSGOODEPD@OSGOODE.YORKU.CA OR FAXING 416.597.9736

Chairs

Jason T. Madden
Partner, Pape Salter
Teillet LLP

Thomas Isaac
Partner, Cassels Brock &
Blackwell LLP and served
as Ministerial Special
Representative on Métis
Rights

Keynote Speaker

David Chartrand
LL.D. (hons), O.M., President, Manitoba Métis Federation

Faculty

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Law Branch, Saskatchewan
Justice

Karey Brooks
Partner, JFK Law

Tracee McFeeters
Registrar, Métis Nation
of Alberta

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President, Métis National
Council

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Assistant Deputy Minister,
Consultation and Land
Claims, Alberta Indigenous
Relations

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LL.D. (hons), O.M., President,
Manitoba Métis Federation

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Professor, University of
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Know History Inc.

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Counsel, Ontario Ministry
of Aboriginal Affairs

Mark R. Kindrachuk, Q.C.
Senior General Counsel,
Justice Canada

Joe Wild
Senior Assistant Deputy
Minister, Treaties and
Aboriginal Government,
Aboriginal Affairs
and Northern
Development Canada

Jason Madden
Partner, Pape Salter
Teillet LLP

Have burning questions?
Ask our Program Chairs in the
Interactive Roundtable Q&A at
the end of the conference



AGENDA

WEDNESDAY, SEPTEMBER 21, 2016

Optional Primer: Fundamental Concepts in Métis Law

8:30

Registration and Continental Breakfast

9:00

Welcome and Introduction from the Chairs

9:15

Who Are the Métis? Understanding the Fundamentals of Métis Law

JEAN TEILLET, Counsel, Pape Salter Teillet LLP

THOMAS ISAAC, Partner, Cassels Brock & Blackwell LLP and
served as Ministerial Special Representative on Métis Rights

TRACEE MCFEETERS, Registrar, Métis Nation of Alberta

This introductory session will provide you with the foundational knowledge you need to maximize your understanding and participation in the remainder of the program. You will learn about:

- Who are the Métis?
 - Understanding the relationships between Métis peoples, nations and communities – are there more than one, does it matter?
 - Métis identity issues – understanding the relationships between self-identification, s. 91(24), s. 35 and statutory recognition of Métis
 - Who are the Métis for the purposes of s. 35? What is a “Powley” Métis community? Who holds Métis rights? What rights do Métis communities have?
 - Representation and standing issues – who can bring a claim on behalf of the Métis?
 - How does *Daniels* affect Métis identity and identification issues?
- The History and Development of Métis Rights Law
 - How the Métis were included in s.35 of the *Constitution Act, 1982*
 - Understanding how the existing case law fits together: *Powley, Blais, Cunningham, Manitoba Métis and Daniels*

- What are the core principles of Métis rights law? How are they different than First Nations rights law? How are they the same?
- The role of the honour of the Crown and reconciliation in the development and evolution of Métis rights law
- A Case Study in Métis Identification and Registration: The Alberta Experience
 - Since the *Powley* case, federal funding has been provided to Métis groups to support the identification and registration of Métis and Métis rights-holders; the experience of the Métis Nation of Alberta will be profiled to answer key questions, such as:
 - What systems are out there? Who do they register? How do they operate? How are they maintained?
 - The mechanics of a Métis registry system – the application process, documentary requirements, appeals, results, etc.
 - Understanding the relationships between: citizenship and rights-holders; Métis registration and the *Indian Act* or land claims; the Métis Nation of Alberta and the Alberta Métis Settlements

10:45

Refreshment Break

11:00

Recent Developments in Métis Research and Community Identification

RYAN SHACKLETON, *Know History Inc.*

LARRY CHARTRAND, Professor, University of Ottawa,
Faculty of Law

- The use of Social Network Analysis for research on Métis communities and claims – reframing and reconceptualizing the concept of “community”
- How is Métis research informing legal assessment, analysis and negotiations?
- A case study in collaborative research on Métis communities: the Canada-Ontario-Métis Nation of Ontario experience in the Mattawa-Nipissing region

AGENDA (Cont'd)

- The Métis Treaties Project – what is it, why does it matter?
- Updates on the Métis Archival Project and the Métis Digital Archives Database Project

12:00

Networking Luncheon

1:00

Implementing *R. v. Powley*: Where Are We in 2016?

CANDICE TELFER, *Counsel, Ontario Ministry of
Aboriginal Affairs*

GORD HANNON, *General Counsel, Manitoba Justice*

JASON T. MADDEN, *Partner, Pape Salter Teillet LLP*

- Understanding and unpacking the different concepts of: settlements, community, rights-holders, harvesting areas, traditional territories and mobility in the context of Métis harvesting rights
- Implementing *Powley* – what's working, what's not?
 - A case study on the Ontario experience through an accommodation agreement and collaboration with the Métis Nation of Ontario
 - The Métis harvesting rights recognition agreement in Manitoba and implementation with the Manitoba Métis Federation
 - Government created Métis harvesting policies – what's in place, and do they work without Métis participation?
- Are there Métis communities that meet the *Powley* test east of Ontario?
- Will the *Daniels* case change current approaches to implementing the *Powley* case?

2:30

Refreshment Break

2:45

Métis Consultation: Best Practices and Recent Developments

STAN RUTWIND, *Q.C., Assistant Deputy Minister, Consultation
and Land Claims, Alberta Indigenous Relations*

ZACHARY DAVIS, *Associate, Pape Salter Teillet LLP*

BRUNO STEINKE, *Director of Consultation & Accommodation
Unit, Aboriginal Affairs and Northern Development Canada*

- A cross Canada review of Crown consultation policies and Métis processes
- Answering the “who”, “what”, “where” and “why” in Métis consultation and accommodation – what government, industry and practitioners need to know

- Case studies:

- The Ontario Métis experience, including the Métis Nation of Ontario consultation framework and the Canada-MNO Consultation Protocol
 - The Alberta Métis Settlements consultation policy and recent developments on a Non-Settlement Métis consultation policy
 - The Manitoba experience, including the use of tripartite agreements
- Best practices, pitfalls and what is on the horizon

4:15

Optional Primer Adjourns

THURSDAY, SEPTEMBER 22, 2016

Main Conference

8:30

Registration and Continental Breakfast

9:00

The Supreme Court of Canada's Decision in *Daniels v. Canada*: Overview & Potential Implications

JASON MADDEN, *Partner, Pape Salter Teillet LLP
(legal counsel for the intervener, Métis National Council,
in the Daniels case)*

KAREY BROOKS, *Partner, JFK Law (legal counsel for the
intervener, Aseniwuche Winewak Nation, in the Daniels case)*

MARK R. KINDRACHUK, *Q.C., Senior General Counsel, Justice
Canada (counsel for Canada in the Daniels case)*

- What *Daniels* means and doesn't mean, and the implications for Métis and non-status Indian individuals and communities
- Understanding why some declarations weren't granted – judicial confirmation with respect the Crown's fiduciary relationship and duty to negotiate
- How will this ruling impact treaties, claims processes and access to federal programs, services, and benefits for Métis and non-status Indians?

10:45

Refreshment Break

11:00

Post *Daniels*: What Does the Road Ahead Look Like?

THOMAS ISAAC, *Partner, Cassels Brock & Blackwell LLP and
served as Ministerial Special Representative on Métis Rights*

AGENDA (Cont'd)

JOE WILD, *Senior Assistant Deputy Minister, Treaties and Aboriginal Government, Aboriginal Affairs and Northern Development Canada*

AL BENOIT, *Chief of Staff, Manitoba Métis Federation*

- What does reconciliation mean in the context of Métis and non-status Indians?
- An overview of the federal government's response to *Daniels*

An update on the implementation of the *Manitoba Métis Federation v. Canada* case

12:15

Networking Luncheon

12:45

Keynote Presentation

The Purpose and Goal of the *Manitoba Métis Federation v. Canada* Case: The Métis Perspective

DAVID CHARTRAND, *LL.D. (hons), O.M., President, Manitoba Métis Federation*

1:30

The Broader Implications of *Daniels v. Canada*: The Division of Powers and Section 91(24)'s Role in Aboriginal Law Today and into the Future

P. MITCH MCADAM, *Q.C., Director, Constitutional Law Branch, Saskatchewan Justice*

CLÉMENT CHARTIER, *Q.C., President, Métis National Council*

- Reconciling *Tsilhqotin*, *Keewatin* and *Daniels* – what's left in s. 91(24)? Is previous case law still relevant?
- The division of powers – the effect of *Daniels* on the federal and provincial governments
- Exploring the practical and policy implications
- The relationship between s. 91(24), the 1870 Order and Métis land rights and claims

2:30

Refreshment Break

2:45

The Implications of *Daniels* and Recent Federal Developments on Métis Land Rights and Other Métis Claims: The Métis Perspective

DARWIN HANNA, *Partner, Callison & Hanna*

JASON T. MADDEN, *Partner, Pape Salter Teillet LLP*

- Métis inclusion in modern day land claims: the experience north of the 60th parallel and the Northwest Territory Métis Nation Agreement-In-Principle
- An overview of other potential Métis claims – the Robinson treaties; the Treaty 3 Halfbreed Adhesion; the 1870 Order, the *Dominion Lands Act* and the Métis scrip process
- Using claims processes as vehicles for reconciliation – the pros, cons and best practices
- The intersection and/or collision of Métis and First Nations reconciliation and claims

4:00

Wrap-Up Session: Interactive Roundtable Q&A

JASON T. MADDEN, *Partner, Pape Salter Teillet LLP*

Throughout the program, including the Optional Primer, we will be accepting your questions – these will be answered and discussed by our Program Chairs in this concluding session.

5:00

Program Concludes



WHO SHOULD ATTEND

- Indigenous leaders, councillors and advisors
- Government policy advisors, lawyers and officials – federal, provincial and municipal sectors
- Negotiators and mediators for Indigenous communities, government and industry
- Lawyers practicing in the areas of Aboriginal law, natural resources, environmental and Constitutional law

REGISTRATION

The Daniels Case: Understanding the New Era of Métis Rights Law

I will attend: In Person Via Webcast (single viewer)
 Conference Only Conference plus Primer
 Online Replay (October 24 & 25, 2016)

Fee Per Delegate

Conference Only: \$595 plus HST

Conference plus Primer: \$995 plus HST

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



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Conference plus Primer:

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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.

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.

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Online Replay: October 24 & 25, 2016

Please arrive a half hour early on Day One (or Day Two if attending Conference only) 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



4 Convenient Ways to Register

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