

ONTARIO'S NEW CONSTRUCTION ACT: ADAPTING TO THE NEW PROMPT PAYMENT & ADJUDICATION REGIMES

The legal landscape is changing.

Are you ready?

Get practical guidance and strategic insights from the experts who helped write the new law. Focusing on adjudication in this third element of the series, this **unique** program covers:

- How to master the new prompt payment regime and avoid common pitfalls
- Tactics to make the new fast-track adjudication system work in your favour
- Valuable lessons learned in other jurisdictions and how to avoid costly missteps
- Challenges to watch out for and strategies for dealing with them

PLUS! Don't miss the live **demonstration** of a mock adjudication – includes procedures, written submissions, a decision and debrief.

Register today at:

osgoodepd.ca/cns-act3

Program Chairs

Sharon Vogel, FCI Arb
Singleton Urquhart Reynolds
Vogel LLP

Geza Banfai
McMillan LLP

Date and Time

April 29, 2019
9:00 a.m. – 4:00 p.m. EDT
In Person or Webcast

Online Replay
June 7, 2019
9:00 a.m. – 4:00 p.m. EDT

Location

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



Marketing Partner



Ontario's New *Construction Act*: Adapting to the New Prompt Payment & Adjudication Regimes

Part of the new series – Deconstructing Ontario's New *Construction Act*.

On October 1, 2019, the prompt payment and adjudication regimes will overhaul the way construction projects operate in Ontario. To avoid costly missteps, you need a **clear grasp** of the changes and **practical guidance** from industry experts to successfully navigate these new fast-track systems.

Developed and led by faculty who helped write the new law, this **intensive one-day program** will provide you with **critical information** and concise guidance to survive this new era of construction law. You'll gain valuable insights and lessons learned from other jurisdictions and benefit from the opportunity to observe a mock adjudication, to enhance your confidence and practical skills.

Get essential practical guidance, including:

- Crucial considerations in prompt payment for various stakeholders
- Strategies for adjudication, including a claim walk-through from start to finish, and top tips for preparations and evidence
- What happens after adjudication? How will courts react?
- Synopsis of the UK approach to addressing risk and pitfalls to watch out for
- Practical considerations, strategies and tips for key stakeholders

PLUS! Don't miss the interactive "**Fireside Chat with an Adjudicator**" and a live, mock adjudication of a claim including written submissions, an interim decision and a debrief.

Who Should Attend

- Construction and in-house lawyers
- Litigation and real estate lawyers
- Municipal, government and procurement professionals
- Owners and developers
- Builders and construction professionals
- Project managers
- Contract managers
- Architects
- Engineers
- Business and finance professionals
- Insurance professionals
- Consultants

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Agenda

8:30 a.m.

Registration

9:00 a.m.

The New Prompt Payment Regime

Howard Krupat, DLA Piper (Canada) LLP

Whether you are the owner, general contractor or subcontractor, this essential prompt payment session is one you don't want to miss. Session includes:

- A succinct refresher of the rules, requirements and common issues to watch out for
- Best practices and lessons learned to help you effectively master this new regime
- Insights from early adopters and other jurisdictions

10:00 a.m.

The New Adjudication Regime

Jason Annibale, McMillan LLP

Geza Banfai, McMillan LLP

- A succinct refresher of the rules, requirements and how to make the new system work for you
- Adjudicators – appointment, powers and limitations
- What can be adjudicated?
- Top tips for preparations and evidence
- An interactive claim walk-through, from deciding whether it may/not be adjudicated through to preparations and an interim binding determination

11:00 a.m.

Refreshment Break

11:15 a.m.

What Happens after Adjudication? & Claim Walk-Through

James Little, Singleton Urquhart Reynolds Vogel LLP

Bruce Reynolds, FCIArb, Singleton Urquhart Reynolds Vogel LLP

- A review of the judicial review of adjudicator decisions elsewhere
- Synopsis of the UK approach to addressing risk of parties
- How courts are likely to treat adjudications and pitfalls to watch out for

Engage in structured discussions with experts, who will facilitate a mini-case study to provide you with a practical opportunity to work through a hypothetical problem and offer guided solutions to (1) owners, (2) GCs/major trade contractors and (3) trades/subcontractors/suppliers, including:

- Working through issues relevant to the new regimes
- Applying tips and best practices gained from early adopters and other jurisdictions
- Discussion of key group findings
- Debrief to solidify concepts learned

12:15 p.m. Networking Lunch

1:00 p.m.

Live Demonstration: Mock Adjudication

Adjudicator:

Dr. Cyril Chern, BArch, JurisD, RIBA, AIA, FCIArb, FDBF, Barrister, Chartered Architect, Chartered Arbitrator, Adjudicator (UK & international), Secretary - The Dispute Board Federation (Geneva)

Moderator:

Glenn Ackerley, WeirFoulds LLP

Procurement authority/owner:

Eric Tilley, General Counsel, Infrastructure Ontario

Janice Lao, Senior Legal Counsel (Transaction Legal), Infrastructure Ontario

General Contractor:

Chris Moran, Director, EllisDon Capital

Bruce Karn, Senior Counsel, EllisDon Corporation

Subcontractor voice/perspective:

Marcia Oliver, Advocates LLP

You will have the opportunity to observe and interact with a live mock adjudication from the perspective of the adjudicator and the parties to the adjudication. The panel will examine various positions and provide guidance on the strategic use of

evidence, language and other practical considerations when engaging in the new adjudication regime.

- Adjudication procedure
- Written submissions
- Decision
- Debrief, checklist and Q&A

2:30 p.m. Refreshment Break

2:45 p.m.

Fireside Chat with an Adjudicator

Professor Doug Jones, AO, Arbitration Place (Toronto, ON)

Sharon Vogel, FCIArb, Singleton Urquhart Reynolds Vogel LLP

You'll have the opportunity to hear from an expert adjudicator about best practices and approaches based on real-world examples and lessons learned from adjudications in other jurisdictions. Get your top questions addressed!

3:30 p.m.

What's Next?

Geza Banfai, McMillan LLP

Sharon Vogel, FCIArb, Singleton Urquhart Reynolds Vogel LLP

- Dealing with problems in adjudication – an overview of key issues to watch out for (like “Smash & Grab” adjudications) plus discussion involving real world examples
- Reflections on the courts’ treatment of adjudication principles and the impacts on other remedies and areas of law
- Open discussion to consider principled topics of equality, diversity and inclusion within the evolving construction law landscape:
 - Selection of adjudicator
 - Conduct of adjudication
 - Addressing unconscious bias
- Final recap and Q&A

4:00 p.m. Program Concludes

Here's what participants said about our *Deconstructing Ontario's New Construction Act* series:

“Very good. Useful content [and] well delivered.”

Peter-Paul Du Vernet, Counsel, Glaholt LLP

“Lots of good information [and] insights. All speakers were appropriate for and well informed on the topics of the program. I was very pleased with the [webcast] of the program – convenient and did not require any additional travel or accommodations.”

John Vanos, Manager of Project Management, Physical Resources, University of Guelph

“The speakers were uniformly excellent. Facilities were excellent.”

Troy Harris, Principal, Harris Arbitration

“Very good. How daunting this will all be for an industry better at building things than at process [and] costs will go up to implement all of this.”

Brian Swartz, Executive Legal Advisor, Aecon Group Inc.

“Excellent. Very informative program [and the] online experience was great.”

Toby Racine, Civil Engineer, J.L. Richards & Associates Limited

“Excellent. The program moved along briskly and remained ‘tight’ [and] the Master agreed with my interpretation of when a contract starts.”

Gerald Genge, President, Arbitech Inc.

Chairs

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Reynolds Vogel LLP

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McMillan LLP

Faculty Includes

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WeirFoulds LLP

Howard Krupat
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Jason Annibale
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JurisD, RIBA, AIA,
FCI Arb, FDBF
Barrister, Chartered
Architect, Chartered
Arbitrator, Adjudicator (UK
& international), Secretary
- The Dispute Board
Federation (Geneva)

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Certified Construction Law
Specialist, Advocates LLP

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International Commercial
Arbitrator (Sydney, Australia),
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*“Excellent. Knowledgeable and
competent presenters.”*

Don Dinnin, Vice-President, Procurement Services, Metrolinx

Registration Details

Fee per Delegate

\$595 plus HST

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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