

# THE 2019 ESSENTIAL GUIDE TO LIMITATION PERIODS IN ONTARIO

If you miss a limitation period,  
you will likely be faced with a lawsuit.  
Don't become another LawPRO statistic!

**Mastering the less obvious aspects of Ontario's limitations laws  
will pay you dividends again and again.**

This program will provide a comprehensive overview of Ontario's limitations regime and the tools you need to analyze even the most complex limitations issues, in such areas as:

- When does the clock start to run? Understanding the section 5 discoverability provisions
- The limitation of crossclaims, third party claims and adding a new defendant alter the limitation period
- Situations when time starts, stops, starts again, and runs out

**Register today at:**

[osgoodepd.ca/limitation-periods](http://osgoodepd.ca/limitation-periods)

## Program Chair

**Daniel Zacks**  
Zacks Law

## Date and Time

March 20, 2019

**Program:**  
9:00 a.m. – 2:00 p.m. EDT

**Program + Optional Workshop:**  
9:00 a.m. – 4:45 p.m. EDT

**Online replay:**  
April 24, 2019  
9:00 a.m. – 2:00 p.m. EDT  
(does not include workshop)

## Location

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



# THE 2019 ESSENTIAL GUIDE TO Limitation Periods in Ontario

The *Limitations Act* isn't getting any less complicated or easier to digest. When faced with a limitations issue, it's crucial that you get it right. Unlike some other areas of law, there are no second chances – limitation periods are often black and white. You need to meet your limitation periods, every time. Your clients' interests and your professional reputation depend on it.

In this information-packed program, you will take a deep dive into the Ontario limitations scheme. An expert faculty will cover the key issues you need to know to manage your risk in this troublesome area, including:

- How to avoid missing a limitation period, including tickler systems and other ways to protect yourself
- Procedural considerations, including pleading and replying to limitations defences and motions to dismiss an action as time-barred
- The *Real Property Limitations Act*, and the running of time for real property claims
- Conducting a thorough step-by-step limitations analysis
- The law of limitations as it applies to estate litigation

**Also**, don't miss the **Optional Workshop**. In small-group breakout sessions, you will have the chance to analyze limitations problems under the watchful eye of an expert faculty member. You will work through:

- A general civil litigation limitations problem
- Your choice of a limitations problem drawn from tort, contract or estate litigation.

## Who Should Attend?

- Litigators newer to practice
- Experienced litigators who want to refresh and deepen their understanding of limitations problems and their solutions

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## Agenda

8:30 a.m.

Registration

9:00 a.m.

### Welcome and Introduction

Daniel Zacks, Zacks Law

9:05 a.m.

### Limitation Periods: Basic Principles

Simon C. Bieber, Adair Goldblatt Bieber LLP

- Purposes of the limitations scheme
- Understanding the sources of limitations law
- What is the effect of an expired limitation period?
- The scope and operation of the *Limitations Act*
- The basic and ultimate limitation periods
- The affirmative nature of a limitations defence

9:30 a.m.

### Discoverability: Understanding When the Clock Starts to Run

Ronald D. Davis, Fogler, Rubinoff LLP  
Robert Macdonald, Fogler, Rubinoff LLP

- Common law discoverability vs. discovery under s. 5 – what are the differences?
- The s. 5 discovery provisions: how do they work?
- The presumptive commencement of the limitation period
- Unpacking the modified-objective test for discovery
- The knowledge required to discover a claim
- What is the role of “due diligence” in a discovery analysis?

- Critical discovery decisions, including: *Yasmin v. Alexander*, *Fennell v. Deol et al*, and *Galota v. Festival Hall Developments Limited*

**10:15 a.m.**

### Refreshment Break

**10:30 a.m.**

### Procedural Considerations: The Short Way To Success In Pleading Or Replying To Limitations Defences

**Case Management Master Donald E. Short**, Superior Court of Justice of Ontario (Toronto Region)

- How and when to move for judgment on the basis of a limitations defence
- Crucial discovery considerations you need to know
- The bench's perspective on limitations defences

**11:00 a.m.**

### Critical Professionalism Tips: How to Protect Yourself

**Jordan Nichols**, Unit Director & Counsel, LawPRO

- Recognizing the various ways in which you can miss a limitation period, including adding a new defendant, crossclaims, and third party claims
- How to avoid missing a limitation period, including tickler systems and other ways to guard against inadvertence
- LawPRO is your friend! The importance of prompt reporting

**11:45 p.m.**

### Luncheon

**12:30 p.m.**

### Fundamentals of Real Property Limitations

**Debra E. Rolph**, Research Director, Claims, LawPRO

- Introduction to the *Real Property*

### Limitations Act

- Understanding the running of limitation periods for:
  - Adverse possession
  - Easements
  - Mortgages
  - Constructive Trusts on Real Property
  - Landlord and Tenant

**1:00 p.m.**

### Limitations in Estate Litigation

**Matthew D. Furrow**, Goddard Gamage LLP

This session will provide an overview of the application of the *Limitations Act* to estate proceedings, such as will challenges, fiduciary accounting/passing of accounts, and dependents' relief applications.

- Policy concerns and conceptual difficulties unique to the estates context
- Dependant's relief and s. 61 of the *Succession Law Reform Act*
- Will challenges and *Leibel v. Leibel*, 2014 ONSC 4516
- Trustee's compensation and *Armitage v. Salvation Army*, 2016 ONCA 971
- Fiduciary accounting and *Wall Estate*, 2018 ONCA 929

**1:30 p.m.**

### Limitations Analysis: A Step-By-Step Guide

**Daniel Zacks**, Zacks Law

This informative session will teach you a step-by-step approach to analyze the limitations issues in any claim. Benefit from learning a structured methodology that you can take-away and implement in your practice immediately, and for years to come.

**2:00 p.m.**

### Plenary Program Ends

## Optional Workshop

**Angela Casey**, Casey & Moss LLP

**Stephanie Giannandrea**, Martha McCarthy and Company LLP

**Angelique Moss**, Casey & Moss LLP

**Daniel Zacks**, Zacks Law

**2:00 p.m.**

### Small Group Exercise #1: Civil Litigation Limitation Problem

In breakout groups of no more than eight participants each, you will have the opportunity to immediately apply what you've learned as you work through a typically ambiguous civil litigation limitations problem, under the guidance of expert facilitators.

**3:00 p.m.**

### Refreshment Break

**3:15 p.m.**

### Small Group Exercise #2: Tort or Contract Limitation or Estates Problem

For the second small group exercise, you will have the opportunity to select either a tort, contract or estates problem to work through. Faculty will be on hand to lead you through the problem, focusing on tips, traps and avoiding common errors. This "no consequence" setting provides a chance for you to get comfortable analyzing even the toughest limitations issues.

**4:15 p.m.**

### Large Group Debrief: Lessons Learned and Top Practice Management Tips & Tactics

In the final session of the day, faculty will facilitate a discussion of lessons learned from the small group exercises in the afternoon. A recap of key practice management pointers will round out the day.

**4:45 p.m.**

### Workshop Ends

## Chair

**Daniel Zacks**  
Zacks Law

## Faculty Includes

**Simon C. Bieber**  
Adair Goldblatt Bieber LLP

**Angela Casey**  
Casey & Moss LLP

**Ronald D. Davis**  
Fogler, Rubinoff LLP

**Matthew D. Furrow**  
Goddard Gamage LLP

**Stephanie Giannandrea**  
Martha McCarthy and  
Company LLP

**Robert Macdonald**  
Fogler, Rubinoff LLP

**Angelique Moss**  
Casey & Moss LLP

**Jordan Nichols**  
Unit Director & Counsel  
Lawyers' Professional  
Indemnity Company  
(LawPRO)

**Debra E. Rolph**  
Research Director, Claims  
Lawyers' Professional  
Indemnity Company  
(LawPRO)

**Case Management Master  
Donald E. Short**  
Superior Court of Justice of  
Ontario

**Daniel Zacks**  
Zacks Law

### What attendees said about recent OsgoodePD CLE programs in Civil Litigation:

*"An amazing opportunity to obtain hands-on, practical advice from members of the judiciary and leading practitioners."*

Matthew Huys, Blake, Cassels & Graydon LLP

*"Excellent...It discussed important topics and provided great resources...invaluable information for my practice going forward."*

Stacey Karellas, Barrister & Solicitor

## Registration Details

### Fee per Delegate

**9:00 a.m. – 2:00 p.m.: \$395 + HST**

(in-person and live webcast options)

**9:00 a.m. – 4:45 p.m. (Full day): \$595 + HST**

(in-person only; includes small group workshops)

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://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.

### Questions about the program?

Contact Paul Truster at [ptruster@osgoode.yorku.ca](mailto:ptruster@osgoode.yorku.ca) or 416.937.8983

### 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 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



### Eligible CPD Hours

Program Only: LSO (ON): 4h 10m CPD  
(3h 25m Substantive; 45m Professionalism)  
Program + Workshop: LSO (ON): 6h 55m CPD  
(4h 55m Substantive; 2h Professionalism)



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[osgoodepd.ca](http://osgoodepd.ca)

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