



# ACCIDENT BENEFITS 2020: WHAT'S NEW, WHAT'S IMPORTANT?

*“Excellent... very informative and helpful  
for utilizing new thoughts and theories  
in our everyday practice.”*

Tracy Romanowski, Kahler Law Firm

The essential annual event for everyone working in AB. Get current on key recent decisions and developments, including:

- What is and isn't currently being allowed at the Licence Appeal Tribunal
- How do you fund expert evidence in AB disputes – and should you even try?
- Current medical facts bearing on potential CAT claims
- When and how to get out of the Minor Injury Guideline
- Causation: is 'material contribution' *really* dead?

Register today at:

[osgoodepd.ca/accidentbenefits](https://osgoodepd.ca/accidentbenefits)

## Program Chairs

Alexander M. Voudouris  
Senior Litigator, Pace Law Firm

Catherine A. Korte  
McCague Borlack LLP

## Date and Time

February 20, 2020  
9:00 a.m. – 4:30 p.m. EST  
In Person or Webcast

Online Replay:  
March 25, 2020  
9:00 a.m. – 4:30 p.m. EDT

## Location

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

# Accident Benefits 2020: What's New, What's Important?

This program has established itself as the most useful annual one-day overview of recent trends and practical solutions in the accident benefits field.

Hear from an expert faculty reflecting both plaintiffs' and defendants'/insurers' perspectives, in such areas as:

- The year's most important AB cases for practitioners (LAT, Divisional Court, Court of Appeal, etc.)
- Using your time effectively at the LAT and the evidence and witnesses needed to win at an adjudication
- Expert evidence: practical approaches to funding and other problems
- Why the Court of Appeal's decision in *Tomec v. Economical* has been so eagerly anticipated
- How to use pre-existing medical conditions in order to obtain funding beyond the MIG's \$3,500 limit
- How savvy practitioners identify and approach ethical and professional issues in today's AB cases

*The program is designed to provide realistic solutions to the issues you regularly face, in an area still undergoing significant transformation.*

## Who Should Attend:

- Applicants' and insurers' counsel
- Paralegals and law clerks involved in AB files
- Insurance adjusters and claims examiners

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## Agenda

8:30 a.m.

Registration

9:00 a.m.

### Chairs' Introductory Remarks

**Alexander M. Voudouris**

Pace Law Firm

**Catherine A. Korte**

McCague Borlack LLP

9:10 a.m.

### The Most Important AB Cases of the Previous Twelve Months

**Michelle Arzaga**

Pace Law Firm

**Sven H. Mascarenhas**

Gilbert Kirby Stringer LLP

This popular annual session will bring you up to speed on important recent tribunal and Court decisions (all levels) and assess their impact on your practice. The session will reflect the law as of February 2020, in areas such as: the funding for CAT assessments, proper insurer notice, whether Reconsiderations are required before launching appeals, and whether they are binding on the Adjudicator.

10:15 a.m.

Refreshment Break

10:30 a.m.

### Life at the LAT: The View Four Years On

**Michelle F. Jorge**

Jewell Radamisis Jorge LLP

**Heather Kawaguchi**

Kawaguchi Krajden LLP

An assessment of the tribunal – its procedures and practices, strengths and shortcomings – can now be based on more experience, and convey more reliable lessons, than ever before. Get informed perspectives on best practices.

- Filing an effective application and insurer's response
- Applications for case conferences and motions: how much documentation is enough?
- What the LAT likes and doesn't like and how to remain in good standing with the adjudicator and maximize your odds of a favorable order

**11:30 a.m.**

### Expert Evidence in AB Cases

**Steve Rastin**

Rastin & Associates

How do you fund expert evidence in AB disputes – and should you even try? A highly experienced practitioner will illuminate key areas, including:

- Funding for CAT assessments and for IRB and med/rehab assessments from AB insurers
- Using tort or treating reports for AB purposes
- Current case law on the deductibility of ABs in tort, including: whether legal fees are deductible, the need to prove past damages in tort cases (even if already recovered through AB's) and how AB past benefits can put you "in the hole" in tort cases

**12:00 p.m.**

**Lunch**

**12:45 p.m.**

### The CAT Came Back: The Latest Insights Affecting Potential Catastrophic Impairment Claims

**Dr. C. Bruce Paitich, FRCS(C)**

Orthopaedic Surgeon

**Philippa G. Samworth**

Dutton Brock LLP

This session will clarify significant medical points and explore their relevance in the context of the new CAT definition.

What trends are observable in recent LAT decisions and how do they reflect the most current state of medical understanding? Which issues are medical experts struggling with that have yet to receive legal scrutiny? Our speakers will give you what you'll need when a potential CAT claim crosses your desk.

**1:45 p.m.**

### 'Quick Hits': What You Need to Know in Four Important but Tricky Areas

#### • Limitations Issues In AB Proceedings

**Lisa Armstrong**

Strigberger Brown Armstrong LLP

While the basic limitation period is two years from the date of a denial or termination, the law has complexities that can escape even experienced professionals. This review of recent law – including *Tomec* – should save you and your clients a great deal of grief.

#### • "Medical Reasons"

**Alexander M. Voudouris**

Pace Law Firm

What constitutes a "medical reason" justifying the insurer in compelling a medical assessment of the applicant or in denying or terminating a benefit? If an insurer does not provide a 'medical reason', or provides one that *may* be insufficient, when should plaintiff's counsel challenge the insurer and what are the most effective approaches? What will risk-minded insurers keep in mind in issuing a denial?

#### • The Minor Injury Guideline (MIG)

**Sharon C. Dagan**

Senior Counsel, Practice Group Leader – Accident Benefits, Gorbet & Associates

The pressing question examined here is: "how and when to get out of the MIG?" and specifically, how to use pre-existing medical conditions in order to obtain funding beyond the \$3,500 limit, even if – technically – the accident involves only a "minor injury".

#### • Causation in AB Matters: Is Material Contribution Really Dead?

**Greg C. Gilhooly**

McNally Gervan LLP

It is now clear – based on the Court of Appeal's decision not to grant leave in *Sabadash vs State Farm* – that the causation test in AB matters is the "but for" test. But does this represent a real departure? Mr. Sabadash's solicitor will show what this means for you in practical terms.

*[One 15-minute refreshment break will be included in this group of short sessions].*

**3:20 p.m.**

### Ethical & Professional Issues in AB Cases

**Maia L. Bent**

Lerners LLP

**J. Claude Blouin**

Blouin, Dunn LLP

**Greg C. Gilhooly**

McNally Gervan LLP

An expert panel will examine realistic fact situations, addressing professional challenges you will sooner or later face in the course of your practice. The emphasis will be on considerations that should guide practitioners in meeting their professional obligations while advocating effectively for clients.

**4:20 p.m.**

### Wrap-Up, Key Takeaways and Final Questions from the Floor

**Alexander M. Voudouris**

Pace Law Firm

*“Excellent quality of speakers... excellent topics all around.”*

Greg Specht, Kawaguchi Krajden LLP

## Chairs

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Senior Litigator, Pace Law Firm

Catherine A. Korte  
McCague Borlack LLP

## Faculty Includes

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Strigberger Brown  
Armstrong LLP

Michelle Arzaga  
Pace Law Firm

Maia L. Bent  
Lerners LLP

J. Claude Blouin  
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Sharon C. Dagan  
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## Registration Details

### Fee per Delegate

**\$695 plus HST**

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.

### 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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*“Even with topics that are familiar,  
I learn something new.”*

Rose Bilash, Shillingtons LLP



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