

# 17<sup>TH</sup> NATIONAL SYMPOSIUM ON CLASS ACTIONS

**THE** *must attend* annual symposium for the Class Actions bar.

Join a truly exceptional faculty of experts as they take on the most challenging current and emerging issues, including:

- Palliative care for class actions: how and when should class actions die by discontinuance or decertification
- Carving up the cash: allocating settlements amongst a diverse class
- When settlements aren't settled
- #MeToo comes to class actions
- Strategies for accessing aggregate and *Charter* damages

**PLUS:** Don't miss "A View From the Bench" and The GREAT Debate

Register today at:

[osgoodepd.ca/class-actions](https://osgoodepd.ca/class-actions)

## Program Chairs

**Marie Audren**  
Audren Rolland LLP

**Celeste Poltak**  
Koskie Minsky LLP

## Dates and Times

**Day 1: September 16, 2020**  
9:00 a.m. – 5:00 p.m. EDT

**Day 2: September 17, 2020**  
9:00 a.m. – 12:00 p.m. EDT

**In Person or Webcast**

**ONLINE REPLAY:**  
October 15 - 16, 2020

## Location

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



# Drawing on the expertise of leading counsel, judges and academics from across the country, including:

## Program Chairs



**Marie Audren**

Audren Rolland LLP



**Celeste Poltak**

Koskie Minsky LLP

## Program Faculty

### Keynote:

**The Hon. Doug Downey**

Minister of the Attorney General (Ontario)

### Judges:

**The Hon. Justice Ward K. Branch\***

Supreme Court of British Columbia

**The Hon. Justice Thomas M. Davis**

Cour supérieure du Québec

**The Hon. Justice Paul M. Perell**

Ontario Superior Court of Justice

**The Hon. Justice John D. Rooke**

Court of Queen's Bench of Alberta

**Andrew Astritis**

Raven Law Firm (Ottawa)

**Marie Audren\***

Audren Rolland LLP (Montreal)

**Kirk Baert**

Koskie Minsky LLP (Toronto)

**Erica J. Baron**

McCarthy Tétrault LLP (Toronto)

**Audrey Boctor**

IMK (Montreal)

**Noah Boudreau**

Fasken (Montreal)

**Luciana Brasil**

Branch MacMaster LLP (Vancouver)

**Michael A. Eizenga, LSM**

Bennett Jones (Toronto)

**David Estrin, LSM**

Certified Environmental Law Specialist,  
Former Chair International Bar Association  
Environment Committee & Co-Chair, IBA  
Climate Change Justice and Human Rights  
Task Force, Distinguished Adjunct Professor,  
Osgoode Hall Law School (Toronto)

**Barry Glaspell**

Glaspell Class Actions (Toronto)

**Amanda D. Iarusso**

Senior Policy and Legal Affairs Advisor,  
Ministry of the Attorney General of Ontario  
(Toronto)

**Bruce W. Johnston**

Trudel Johnston Lespérance (Montreal)

**David Klein**

Klein Lawyers, LLP (Vancouver)

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Canada (Toronto)

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**Janelle O'Connor**

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**Jeff Orenstein**

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**Gregory S. Tzemenakis**

General Counsel, Department of Justice  
Canada (Ottawa)

**Cheryl M. Woodin**

Bennett Jones (Toronto)

**Charles Wright**

Siskinds LLP (London, ON)

\*Planning Committee Members

# 17th National Symposium on Class Actions

Class Actions continue to explode, with a never-ending list of new and high-profile cases. These complex litigation files foster old and create new challenges.

Now in its 17<sup>th</sup> year, the *OsgoodePD* Class Actions Symposium is Canada's premier forum for class actions debate. In a class of its own, this truly national program assembles the leading judges, counsel and other experts who will take you through the most critical current and emerging issues in this constantly changing field.

## Over 1½ intensive days you will:

- Get key updates on the most current and emerging issues in class actions from across the country
- Connect with and learn from experienced litigators and judges as they share their experience and insights
- Learn the most effective strategies you need to advance or defend an action, and how to anticipate and navigate the pitfalls

## Who Should Attend

- Plaintiff and Defence Counsel practicing in class actions
- In-house counsel
- Government litigators
- Liability insurers
- Notice and settlement specialists

Register today at:

[osgoodepd.ca/class-actions](https://osgoodepd.ca/class-actions)

## Agenda – Day One

Wednesday, September 16, 2020

**8:30 a.m.**

**Registration**

**9:00 a.m.**

### Welcome and Introduction from the Chair

**Marie Audren**

Audren Rolland LLP (Montreal)

**Celeste Poltak**

Koskie Minsky LLP (Toronto)

**9:05 a.m.**

**Keynote: The Hon. Doug Downey,  
Minister of the Attorney General on  
the amendments to Ontario's *Class  
Proceedings Act***

**9:35 a.m.**

### Legislative Update

**Moderator:**

**H. Michael Rosenberg**

McCarthy Tétrault LLP (Toronto)

**Panelists:**

**Michael A. Eizenga, L.S.M.**

Bennett Jones LLP (Toronto)

**Amanda D. Iarusso**

Senior Policy and Legal Affairs Advisor,  
Ministry of the Attorney General of Ontario  
(Toronto)

**Linda R. Rothstein**

Paliare Roland Rosenberg Rothstein LLP  
(Toronto)

Join our experts as they drill down on the amendments to the *Class Proceedings Act* (and other key legislative updates in the past year).

- Summary of key amendments
- How these amendments will impact your clients and your practice
- How the Courts are dealing with the new legislation

10:15 a.m.

## The FANG Companies Get Fanged: Suing Facebook, Amazon, Netflix and Google in Class Actions

### Moderator:

**Marie Audren**

Audren Rolland LLP (Montreal)

### Panelists:

**Audrey Boctor**

IMK (Montreal)

**Christopher Rhone**

Branch MacMaster LLP (Vancouver)

Class actions engaging some of the most high profile technology giants have dominated the headlines. These complex actions raise many challenging legal and strategic issues. Join experienced counsel as they guide you through some of the key cases against Facebook, Amazon, Netflix and Google.

10:45 a.m.

### Refreshment Break

11:00 a.m.

## Carving up the Cash

**Kirk M. Baert**

Koskie Minsky (Toronto)

**Nick Rodrigo**

Davies (Montreal)

The challenges continue, even after trial or a settlement. Determining who should get what can often be the most complex issue facing counsel. Our experts will take you through some of the key challenges, including:

- How to fairly allocate a settlement amongst a diverse class
- Competition class actions: strategies and pitfalls for dividing money amongst different levels of distribution
- Conflicts within a class and resolving conflicts with sub-groups and varying interests

11:30 a.m.

## (Not) Getting to Government Money: Guidance for Accessing Aggregate and Charter Damages

### Moderator

**H. Michael Rosenberg**

McCarthy Tétrault LLP (Toronto)

### Panelists:

**James Sayce**

Koskie Minsky (Toronto)

**Gregory S. Tzemenakis**

General Counsel, Department of Justice Canada (Ottawa)

- Strategies for how to access aggregate and *Charter* damages
- What you need to make the case
- Review of key cases including *Brazeau v A.G. (Canada)* and *Reddock v. Canada (A.G.)*

12:15 p.m.

### Luncheon

1:15 p.m.

## "#Me Too" Comes to Class Actions

### Moderator:

**Gordon McKee**

Blake, Cassels & Graydon LLP (Toronto)

### Panelists:

**Andrew Astritis**

Raven Law Firm (Ottawa)

**Bruce W. Johnston**

Trudel Johnston Lespérance (Montreal)

**Christine Mohr**

Senior General Counsel, Department of Justice Canada (Toronto)

**Janelle O'Connor**

Klein Lawyers LLP (Vancouver)

The #MeToo issue has dominated the headlines in past years and is also the focus of some major class actions. This panel will take you through some of the key cases and share their insights on strategies and challenges for pursuing and defending a #MeToo class action.

2:00 p.m.

## Palliative Care for Class Actions: How and When Should Class Actions Die by Discontinuance or Decertification

**Erica J. Baron**

McCarthy Tétrault LLP (Toronto)

**Noah Boudreau**

Fasken (Montreal)

**Charles Wright**

Siskinds LLP (London, ON)

- Creative strategies for ending a class action
- Impact of the new legislation

- Review of some of the key recent cases, drilling down on what the Court is looking for in applications for decertification and discontinuance.

2:45 p.m.

### Refreshment Break

3:00 p.m.

## Settlements Under Siege

**Barry Glaspell**

Glaspell Class Actions (Toronto)

**Benoît Marion**

Sylvestre Painchaud et associés (Montreal)

**Catharine Moore**

Senior General Counsel, Department of Justice Canada (Ottawa)

In what circumstances will a Court refuse to approve a settlement (and what do you need to do to avoid this)?

3:45 p.m.

## Climate Harm Class Action Claims

**David Estrin, LSM**

Certified Environmental Law Specialist, Former Chair International Bar Association Environment Committee & Co-Chair, IBA Climate Change Justice and Human Rights Task Force, Distinguished Adjunct Professor, Osgoode Hall Law School (Toronto)

**Anne Merminod**

BLG (Montreal)

**Justin Safayeni**

Stockwoods LLP (Toronto)

**James M. Sullivan, Q.C.**

Blakes (Vancouver)

The climate crisis has dominated both the headlines and courtrooms in the past year. Join our distinguished panel of experts as they grapple with this challenge.

- Review of the major climate crisis cases – what's new and what's on the horizon
- When (and why) a class action is (and isn't) the best option
- Strategies for who to target and how best to address these complex challenges in the court room

4:30 p.m.

**The Great Debate:  
"Unsung Heroes: What Is the Most  
Underrated Class Action Case?"**

**Moderator:**

**The Hon. Justice Ward K. Branch**  
Supreme Court of British Columbia

**The Debaters:**

**Luciana Brasil**  
Branch MacMaster (Vancouver)

**André Lespérance**  
Trudel Johnston & Lespérance (Montreal)

**Kent E. Thomson**  
Davies (Toronto)

**Cheryl M. Woodin**  
Bennet Jones LLP (Toronto)

This interactive session will put four of Canada's most outspoken class action counsel in the fray. Counsel will vigorously debate which is the most underrated class action case of all time. Counsel will each be given 10 minutes to argue for their favourite and debate arguments posed by other candidates. The only rule – counsel cannot argue for a case they were counsel on. Delegates will be asked to vote for their favourite case based on the debate and the winning case will be announced on Day 2. Delegates who voted for the winning case will be entered into a separate draw to win a signed copy of the Hon. Justice Ward K. Branch's 2nd edition of *Class Actions in Canada* and a free online webinar (of your choice) from *OsgoodePD*. (To Win – delegates must be on site Day 2 to claim their prize!)

5:00 p.m.

**Day One Concludes**

## Agenda – Day Two

Thursday, September 17, 2020

9:00 a.m.

**Welcome from Chair**

9:05 a.m.

**Cross-Country Check-Up**

**The Hon. John D. Rooke**  
Court of Queen's Bench of Alberta

**Gordon McKee**  
Blake, Cassels & Graydon LLP (Toronto)

**John McKiggan, Q.C.**  
McKiggan Hebert Lawyers (Halifax)

**Jeff Orenstein**  
Consumer Law Group P.C. (Montréal)

- Review of some of the key cases in different jurisdictions and their impact on the national practice
- New and emerging issues across the country, including Discovery After Certification

10:15 a.m.

**Refreshment Break**

10:30 a.m.

**Why Can't We All Just Get Along? How to  
Manage Conflicts Between Class Counsel  
and the Representative Plaintiffs**

**David Klein**  
Klein Lawyers, LLP (Vancouver)

**Jay S. Strosberg**  
Strosberg Sasso Sutts LLP (Windsor)

- Strategies for anticipating, avoiding and navigating conflict
- Key case law update, including *Azar v Strada Crush Ltd*
- How to deal with the fallout, including if a firm breaks up – who retains the plaintiff?

11:15 a.m.

**View From the Bench**

**Moderator:**

**The Hon. Paul M. Perell**  
Ontario Superior Court of Justice

**Panelists:**

**The Hon. Justice Thomas M. Davis**  
Cour supérieure du Québec

**The Hon. John D. Rooke**  
Court of Queen's Bench of Alberta

Insights from some of Canada's leading class actions judges on some of the key issues before the courts, including tips for counsel.

- What is the Court looking for from counsel?
- How does a case go wrong and what can and should counsel do to prevent this?
- Balancing the zealous advocate with civility – where's the line

12:00 p.m.

**Program Concludes**

**Thank you  
to this year's sponsors**



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For sponsorship information, please  
email [mzacharakis@osgoode.yorku.ca](mailto:mzacharakis@osgoode.yorku.ca).



Here's what past attendees had to say about this program:

*“Very high quality in terms of interesting and relevant topics, diverse and impressive speakers, advanced level of legal analysis.”*

*“Exceptionally high quality speakers.”*

*“Great content, engaging speakers.”*

*“A great opportunity to get a national overview of new developments and issues in one seminar with very knowledgeable speakers.”*

*“The best thing about the program was the interplay between plaintiff and defense counsel.”*

*“Very educational and informative. Good balance of plaintiff and defence perspectives.”*

*“Breadth of and quality of speakers was top notch.”*

## Registration Details

### Fee per Delegate

**\$1,695 plus HST**

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca](http://www.osgoodepd.ca) 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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Eligible CPD Hours – LSO (ON): 10h 5m CPD (8h 35m Substantive; 1h 30m Professionalism)

BC – 9.25 CPD Credits



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