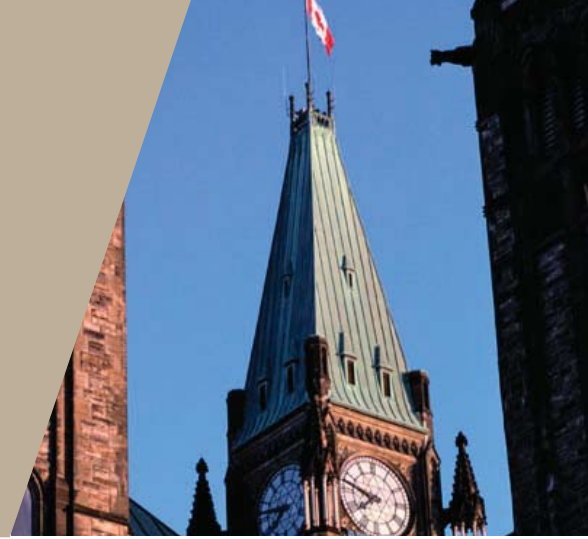


# 11TH ANNUAL CONFERENCE ON CROWN LIABILITY



The program that provides annual “one-stop shopping” for analysis of significant new developments, including:

- Reassessing the inherent remedial jurisdiction of the courts
- The most significant class proceedings affecting Crown litigation
- Distinctive challenges in drafting submissions on behalf of the Crown
- Has the Crown's duty to consult and accommodate changed due to *Tsilhqot'in* and *Keewatin*?
- Ethical and professional issues facing government counsel “when the client doesn't listen”

**Plus! Optional Pre-Conference Workshop:**

*The Legal Framework of Crown Litigation: Navigating the Procedural Maze*

**“PRETTY GREAT ALL AROUND...[I'M] EXCITED ABOUT THE MATERIALS”**

**Heather Anne Burnett**  
Counsel, Crown Law Office - Civil  
Ministry of the Attorney General  
(Ontario)

**“A VERY WORTHWHILE CONFERENCE... AN EMBARRASSMENT OF RICHES”**

**Robert H. Reynolds, Q.C.**  
Legislative Assembly of Alberta

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**Chairs**

**Joseph K. Cheng**, Counsel, Business, Regulatory and Extradition Law Division, Department of Justice (Canada), (Ontario Regulatory Office)

**Andrew Lokan**, Paliare Roland Rosenberg Rothstein LLP

**Malliha Wilson**, Assistant Deputy Attorney General, Legal Services Division Ministry of the Attorney General (Ontario)

**Date and Time**

February 27, 2015  
9:00 a.m. - 5:00 p.m. EDT/EST

**Optional Workshop**

February 26, 2015  
2:00 p.m. - 5:00 p.m.

**Location**

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

Webcast Available

## 11TH ANNUAL CONFERENCE ON CROWN LIABILITY

Crown Liability has established a reputation as an outstanding guide to the relevant substantive law, procedural rules and winning strategies and tactics in the field.

The Crown – both Federal and provincial – continues to find itself a target of litigation, including but not limited to highly visible class actions. Both plaintiffs' and Crown counsel must be equipped to meet the challenges posed in this continuously developing area – challenges that embrace the nature and scope of liability, the procedures and best practices involved in suing or defending the government, and the far-reaching consequences for the public interest.

OsgoodePD's expert faculty will provide you with the insights and tools you need to navigate these often complex claims. This much-praised program, now in its 11th year, will guide you through the latest developments – and help you over the gravest pitfalls – in civil litigation involving public authorities.

Don't miss the opportunity to learn from and engage with the experts. Also, if you're new to the field, or want a brisk refresher of basics, don't miss the **Optional Pre-Conference Workshop, *The Legal Framework of Crown Litigation: Navigating the Procedural Maze.***

**REGISTER NOW BY VISITING [WWW.OSGOODEPD.CA](http://WWW.OSGOODEPD.CA),  
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OR FAXING 416.597.9736**



### Chairs

**Joseph K. Cheng**, Counsel, Business, Regulatory and Extradition Law Division, Department of Justice (Canada) (Ontario Regulatory Office)

**Andrew Lokan**, Paliare Roland Rosenberg Rothstein LLP

**Malliha Wilson**, Assistant Deputy Attorney General, Legal Services Division, Ministry of the Attorney General (Ontario)

### Faculty

**Jasmine T. Akbarali**  
Lerners LLP

**Charlotte Bell**, Counsel  
[retired], Justice Canada

**David R. Byers**  
Stikeman Elliott LLP

**Professor Erika Chamberlain**  
Western Law, Western  
University

**Falguni Debnath**, Counsel  
Government Law Services -  
Extraditions, Justice Canada

**R. Douglas Elliott**  
Cambridge LLP

**Lise G. Favreau**, Counsel  
Crown Law Office - Civil  
Ministry of the Attorney  
General (Ontario)

**Prof. Bruce Feldthusen**  
Faculty of Law (Common Law)  
University of Ottawa

**Sonal Gandhi**, Counsel, Crown  
Law Office - Civil, Ministry of  
the Attorney General (Ontario)

**Peter W. Hutchins**  
Hutchins Legal Inc.

**Sunil Kapur**, McCarthy  
Tétrault LLP

**The Hon. Justice Peter  
Lauwers**, Court of Appeal  
for Ontario

**Heather Mackay**, Counsel  
Crown Law Office - Civil  
Ministry of the Attorney  
General (Ontario)

**Tom D. McKinlay**, Counsel  
Crown Law Office - Civil  
Ministry of the Attorney  
General (Ontario)

**Christine Mohr**, Counsel  
Justice Canada

**Michael H. Morris**, General  
Counsel, Public Law Section  
Justice Canada

**The Hon. Justice James  
W. O'Reilly**, Federal Court  
of Canada

**Christopher P. Thompson**  
Counsel, Crown Law Office -  
Civil, Ministry of the Attorney  
General (Ontario)

**Raivo Uukkivi**, Cassels  
Brock & Blackwell LLP

**Paul B. Vickery**, Senior  
General Counsel, Civil  
Litigation Branch, Justice  
Canada

**Caroline Zayid**  
McCarthy Tétrault LLP

# AGENDA

## Optional Pre-Conference Workshop

February 26, 2015 (2:00 p.m. - 5:00 p.m.)

### The Legal Framework of Crown Litigation: Navigating the Procedural Maze

*Note: Workshop only available in-person.*

**Falguni Debnath**, Counsel, Government Law Services -  
Extraditions, Justice Canada

**Heather Mackay**, Counsel, Crown Law Office - Civil

**Raivo Uukkivi**, Cassels Brock & Blackwell LLP

Crown litigation raises unique challenges. A practitioner unfamiliar with this procedural terrain faces an uphill struggle to manoeuvre through it effectively. This perennially highly-rated workshop will give you the procedural information you need, whether you're acting for or against the Crown. Topics cover a broad range including, proper forum, limitations, standing, essential procedural considerations in Federal Court, effective disclosure strategies, Crown privilege and costs for or against the Crown.

## Conference - February 27, 2015

**8:30-9:00**

### Registration and Continental Breakfast

**9:00-9:10**

### Chairs' Welcome and Introductory Remarks

**9:10-10:25**

### Government Liability: Negligence, Immunity and Misfeasance

**Prof. Erika Chamberlain**, *Western Law*

**Prof. Bruce Feldthusen**, *University of Ottawa*

Two distinguished academics will provide their unique and thoughtful perspectives in such areas as:

- The interaction of misfeasance in a public office with judicial review and administrative law principles
- The influence of fiduciary concepts in proceedings against the Crown
- The scope of liability for discretionary decision-making by public officers
- The potential for class proceedings in misfeasance
- The justiciability of negligence claims against governments when proximity to the plaintiff has been established
- The incoherence of immunizing conduct for which the government has agreed to be held liable

**10:25-10:40**

### Refreshment Break

**10:40-11:40**

### "Just Watch Me" – What Can the Court Do?

**Jasmine T. Akbarali**, *Lerners LLP*

**Sunil Kapur**, *McCarthy Tétrault LLP*

**Malliha Wilson**, *Assistant Deputy Attorney General, Legal Services Division, Ministry of the Attorney General (Ontario)*

## Christopher P. Thompson (moderator)

*Counsel, Crown Law Office - Civil*

What is the inherent remedial jurisdiction of a court, considered in itself and in comparison with the broader remedial authority of administrative tribunals? The question has come up in significant recent cases such as *Parsons v. Canadian Red Cross* and *Trial Lawyers Association of B.C. [S.C.C.]*. The panel will examine the evolving law and its implications for future litigation.

**11:40-12:05**

### Update: Justiciability and Standing

**Andrew Lokan**, *Paliare Roland Rosenberg Rothstein LLP*

**Christine Mohr**, *Counsel, Justice Canada*

This session will summarize how the more flexible and liberal approach to standing in public law cases which the Supreme Court of Canada developed in *Downtown Eastside* has fared in later cases, including *Canadian Doctors for Refugee Care* [Federal Court of Canada, 2014]. The contribution of cases such as *Teskey* to our understanding of justiciability will also be considered.

**12:05-12:55**

### Luncheon

**12:55-2:00**

### Recent Class Actions Litigation Involving the Crown

**R. Douglas Elliott**, *Cambridge LLP*

**Sonal Gandhi**, *Counsel, Crown Law Office - Civil*

**Paul B. Vickery**, *Senior General Counsel, Justice Canada*

**Caroline Zayid**, *McCarthy Tétrault LLP*

An incisive survey of the most significant class-proceedings developments (including the G20 litigation) seen through the prism of how they affect litigation involving the Crown and where they present challenges and potential pitfalls for Crown counsel.

**2:00-3:15**

### "Her Majesty Submits": Effective Written Advocacy in Crown Litigation

**The Hon. Justice Peter Lauwers**, *Court of Appeal for Ontario*

**The Hon. Justice James O'Reilly**, *Federal Court of Canada*

**Lise G. Favreau**, *Counsel, Crown Law Office - Civil*

**Michael H. Morris**, *General Counsel, Justice Canada*

What particular issues and challenges arise in drafting submissions on behalf of the Crown? Benefit from the experience and insight of distinguished judges and government lawyers in identifying how to frame pleadings and other documents that win the respect of the Court and enhance the credibility of your case.

**3:15-3:30**

### Refreshment Break

# AGENDA (cont'd)

**3:30-4:00**

## ***Tsilhqot'in and Grassy Narrows Revisited***

**Peter W. Hutchins, *Hutchins Legal Inc.***

- Are these two decisions really landmark judgments?
- What are their implications for lawyers acting for the Crown and for Aboriginal peoples?
- Have parties' expectations changed and how will this affect future consultations?

**4:00-5:00**

## **Ethical and Professional Issues: "What To Do When the Client Doesn't Listen"**

**Charlotte Bell, *Counsel [retired], Justice Canada***

**David R. Byers, *Stikeman Elliott LLP***

**Tom D. McKinlay, *Counsel, Crown Law Office - Civil***

The problem of "who is my client?" and of how to manage client expectations can be particularly challenging for government counsel who advise diverse departments. Counsel also risk being pulled into "gray zones" in which clients contemplate inappropriate or illegal action. The result is a potential minefield. Let this expert panel help you navigate your professional obligations without compromising your effectiveness as an advisor/advocate.

**5:00**

## **Course Concludes**



Osgoode Professional Development has been approved as an Accredited Provider of Professionalism Content by The Law Society of Upper Canada.

### **CPD Credits**



Eligible CPD/MCLE Hours:

**Conference:** LSUC (ON): 7.25 CPD Hours (6.25 Substantive, 1.0 Professionalism); BC/NB/NT/NU/YK/QC: 6.75 credit hours; SK/PEI: 6.5 credit hours; NS/MB: 7.0 credit hours; NY CLE Board (onsite participants only): 7.5 credit hours in the Area of Professional Practice for Transitional and Non-transitional lawyers. Also eligible for CLE/Insurance Premium Credits Program offered by the Law Society of PEI and for Alberta CPD credit with the Law Society of Alberta. Questions? E-mail: cpd@osgoode.yorku.ca or refer your respective regulatory body to ensure compliance.

**Workshop:** LSUC (ON): 3.0 CPD Hours (3.0 Substantive, 0.0 Professionalism); BC/NB/NT/NU/YK/QC: 2.75 credit hours; SK/PEI: 2.5 credit hours; NS/MB: 3.0 credit hours; NY CLE Board (onsite participants only): 3.0 credit hours in the Area of Professional Practice for Transitional and Non-transitional lawyers. Also eligible for CLE/Insurance Premium Credits Program offered by the Law Society of PEI and for Alberta CPD credit with the Law Society of Alberta. Questions? E-mail: cpd@osgoode.yorku.ca or refer your respective regulatory body to ensure compliance.

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### **Date & Time**

February 27, 2015  
9:00 a.m. - 5:00 p.m. EDT/EST

### **Optional Workshop**

February 26, 2015  
2:00 p.m. - 5:00 p.m.

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

### **Location**

Osgoode Professional Development  
1 Dundas St. W., 26th Floor  
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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 5 days prior to the program date. No other refund is available.



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2. **ONLINE** at  
[www.osgoodepd.ca](http://www.osgoodepd.ca)
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9724 or 1.888.923.3394