

THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW

PROGRAM DIRECTORS

Jason Annibale
McMillan LLP

Geza Banfai
McMillan LLP

Howard Krupat
DLA Piper Canada LLP

Tim Mavko
Reynolds Mirth Richards
& Farmer LLP

REGISTRATION OPTIONS

February 9, 16*, 23, March 1 and 8*, 2024:

Online (Live)
10:00 a.m. – 6:00 p.m. ET

OR

November 13, 14*, 15, 18 and 19*, 2024:

In-Person or Online (Live)
9:00 a.m. – 5:00 p.m. ET

* Afternoon breakouts will not be recorded

LOCATION

1 Dundas Street West, 26th floor,
Toronto, ON

Can't make the date?

*Registration includes 120-day unlimited,
online access to the recorded program.*

Can you confidently manage legal risk on construction projects?

Join 30 industry experts to learn the **practical skills** and **knowledge** you need to deal with crucial construction law concepts on your projects.

- Project delivery models and the key participants
- Construction contracts in general use, their key terms and issues
- Navigating bidding and tendering, delay and impact claims, and dispute resolution
- Insolvency, insurance, bonding, environmental, health and safety, and labour issues
- Managing legal developments and emerging risks impacting construction

PLUS! Don't miss the valuable opportunity to **reinforce key concepts** in **live, interactive workshops** and **discussions** with **high-profile decision-makers** who preside over construction disputes.

Register today at:

osgoodepd.ca/constructionlaw



The Osgoode Certificate in **CONSTRUCTION LAW**

Relevant. Engaging. Practical.

5 Days of Targeted Learning

- Become part of a professional community
- Interactive instructional sessions
- Connect with and learn from legal and industry experts and peers
- Learn-by-doing skills workshops
- Downloadable, searchable materials and 120-day program access

Construction projects are more complex than ever, and all stakeholders face numerous challenging risks and obligations. A comprehensive understanding of key legal issues and potential exposures in this high-stakes area is essential.

Developed for industry and legal professionals, this **practical, intensive** Osgoode certificate covers what you need to know from contract formation to dispute resolution, including select topics featuring regional distinctions for Eastern and Western Canada.

You will learn from a truly exceptional faculty of 30 specialists who are fluent in the issues impacting construction in Canada. You will develop a thorough understanding of how to handle the **core legal issues impacting construction projects** today and **emerge better equipped** to manage risk.

This program **focuses on real-world situations** and provides opportunities for questions and class discussion. You will also benefit from **small group, learn-by-doing workshops** where you will have an opportunity to **apply what you've learned**. Your understanding of project delivery models will be reinforced during a "choose your model" workshop and you will develop skills to "save the troubled project" from contractual risk from the perspective of owner or contractor.

Register today at:

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



*“Excellent content and delivery – very detailed.
All sessions were incredibly informative and engaging.”*

Giovanni Cautillo
President, Ontario General Contractors Association (OGCA)

Get practical tips, knowledge and strategies including:

- Mechanics of conventional, alternative and collaborative project delivery models and when to use them
- How to manage key construction contract issues, including entitlement, limitations, risks, liabilities and “follow-the-money” negotiation tactics
- Essential bidding and tendering principles, special issues and market trends
- Addressing recurrent claims issues including delay and impact claims, unanticipated site conditions, scope changes, extras, productivity and limitations
- How to navigate key issues in insolvency, health and safety, labour, insurance and surety bonding
- What to do about evolving technology, legal developments and industry trends impacting construction
- Decision-makers’ top tips to succeed in dispute resolution, and with distinctions for mediation, arbitration, litigation and adjudication

PLUS! You’ll receive beneficial materials and **practical tools** that will act as **valuable resources** long after the program concludes.

Who Should Attend

- Owners and developers
- Builders and construction professionals
- Business, operations or capital projects leaders
- Engineers, consulting engineers and technical specialists
- Architects
- Project managers
- Contract managers and specialists
- Procurement professionals
- Supply chain professionals, buyers and vendors
- Construction or infrastructure consultants
- Property or commercial services providers
- Mediators, arbitrators and adjudicators
- Construction, municipal or real estate lawyers or legal professionals
- Inhouse counsel
- Anyone involved with construction projects, whether as a sponsor, lender/investor, manager, risk officer, analyst, auditor or other consultant

Drawing on the expertise and experience of an outstanding faculty of senior legal and construction specialists, including:

Program Directors



Jason Annibale
McMillan LLP



Geza Banfai
McMillan LLP



Howard Krupat
DLA Piper Canada LLP



Tim Mavko
Reynolds Mirth Richards & Farmer LLP

Program Faculty

Honourable Justice E. Jane Sidnell
Court of King's Bench of Alberta

Associate Justice Todd Robinson
Ontario Superior Court of Justice

Sandra Astolfo
WeirFoulds LLP

Brendan Bowles
Glaholt Bowles LLP

Keith Burkhardt
Sherrard Kuzz LLP

Chris Burr
Blake, Cassels & Graydon LLP

Edward (Ted) Dreyer
Certified Adjudicator, Ontario Dispute
Adjudication for Construction Contracts, and
Partner, Madorin, Snyder LLP

Anna Esposito
Pallett Valo LLP

Talia Gordner
McMillan LLP

Karen Groulx
Dentons Canada LLP

Stefan Gruszka
Assistant General Counsel, Kiewit Canada Inc.

Dana Hooker
DLA Piper (Canada) LLP

Sonny Ingram
Assistant Vice President and Counsel,
Bond and Specialty Insurance,
Travelers Canada

Wojtek Jaskiewicz
WeirFoulds LLP

Bruce Karn
McCarthy Tétrault LLP

Ryan Krushelnitzky
Field Law LLP

Aaron Lambie
President and CEO, Nisto

Elizabeth Mayer
DLA Piper Canada LLP

Trish Morrison
Borden Ladner & Gervais LLP

Niamh Ni Chroinin
Senior Director, Construction, Disputes &
Advisory, Ankura

Chris O'Connor KC
Principal, O'Connor Alternative Dispute
Resolution

Jeremy Rankin
McMillan LLP

Tom Ross
McLennan Ross LLP

Preet Saini
McMillan LLP

Doug Sanders
Borden Ladner Gervais LLP

Murray Sawatzky, KC
Partner, McDougall Gauley LLP

Lampros Stougiannos
Dentons Canada LLP/SENCRL

Kailey Sutton
McMillan LLP

Lena Wang
Glaholt Bowles LLP

Jeremy Warning
Mathews, Dinsdale & Clark

Arthur Winslow
National IPD Director, Colliers Project Leaders

Bill Woodhead
Borden Ladner Gervais LLP

Register today at:

osgoodepd.ca/constructionlaw

Agenda

MODULE 1

February 9, 2024

Project Delivery Models

Overview of the Construction Industry in Canada

In this opening session, your Program Directors will discuss the current state of the Canadian construction industry and notable trends in risk management in order to help you make the most out of the program and your professional network.

Conventional Project Delivery Models: The “Big Five”

A detailed and practical analysis of the project delivery and contracting “Big Five” models in common use in Canada. Discussion will include risk profile considerations and other determinants favouring each method in particular circumstances. Includes: Design-Bid-Build, Design-Build, Construction Management and EPC and EPCM models.

Public-Private Partnerships (P3) and Progressive Design-Build

Gain essential guidance on P3s and the evolving forms of progressive design-build arrangements as used in Canada, including details of various transaction structures and the different risks, opportunities and strategic principles that distinguish each one from traditional delivery models.

Integrated Project Delivery (IPD) and Alliance Agreements

Faculty will review the features, compensation structures, roles and duties of key participants, common issues, misperceptions and the differences, risk considerations and other determinants favouring each method in particular circumstances.

Lean Construction

Faculty will review the Lean construction method, its origins and adoption in the industry, key principles, challenges, how it differs from other methods, and the types of projects where it can be applied.

MODULE 2

February 16*, 2024

Construction Contracts and Project Delivery Mini-Workshop

Key Terms and the Practical Guide to Navigating the Construction Contract

You will examine the most significant risk transfer and legal points in construction contracts, including indemnities, liability caps, schedule delay, warranties and *force majeure* provisions, as well as additional considerations and complications in subcontracts, including recent landmark legal decisions. You will learn about navigating your construction contract as a “rule book”, including key directional points and pivots with expert insights, practical advice and risk management tools to avoid unexpected risk transfer, disputes and claims. Sessions include drafting tips, sample clauses and best practices.

Expert Demonstration: Negotiating Key Terms in Design Contracts

Observe experts in a live negotiation demonstration of key design contract terms, highlighting key strategies and best practices. Faculty will break-down the components and factors to consider including contractor concerns, designer concerns, pre-agreements and key issues to watch out for. You will emerge from this session better equipped to negotiate design contracts.

Interactive Mini-Workshop: Project Delivery Models*

This day will conclude with an interactive “choose your model,” small group workshop where you will have the opportunity to demonstrate the considerations that must be evaluated and balanced in choosing the right project delivery model for your contract. Expert facilitators will provide real-time guidance and personalized feedback to enhance your learning experience, and lead a plenary debrief and discussion at the end and share their tips on “avoiding project delivery killers.”

**Note: breakouts will not be recorded (live attendance not required).*

MODULE 3

February 23, 2024

Bidding, Tendering, Liens and Claims

Bidding and Tendering

Learn about the every-evolving area of bidding and tendering law, including the evolution of the Contract A/Contract B paradigm and the principle of compliance. You’ll review important legal cases and advanced problems, developments and trends, privilege and discretion clauses, judicial review, the correction of tender errors and get practical tips and strategies.

Construction Liens

Review the nature and mechanics of a lien, entitlement, preservation and perfection and the holdback system, how liens impact a project and differ from other types of remedies. You’ll gain practical information and risk management tips for dealing with priority issues, set-offs, correcting errors, trust claims issues, public land/works and the intersection with other remedies/regimes.

Prompt Payment and Adjudication

Faculty will review the core principles and objectives of the prompt payment and adjudication regimes. You’ll learn about important considerations and exposures at different stages of each regime, as well as tips for troubleshooting common challenges and dealing with payment certification.

Construction Claims: Legal Issues

Gain a practical overview of legal issues underlying common claims and issues, including extras, entitlement, change of scope and notice. You’ll also learn risk management and mitigation strategies when claims are unavoidable and considerations for key participants.

Construction Claims: Technical Issues

Examine the technical issues behind productivity, delay and impact claims, quantifying the loss, critical path analysis, disruption and limitations issues. Gain expert tips and strategies to deal with disruption, methods of delay analysis, claims mitigation and calculating damages.

MODULE 4

March 1, 2024

Top 5 Elements You Need to Know in Key Areas of Law Impacting Construction

Construction Insurance

Learn about specialized insurance relevant to the construction process, including key principles and the different products available, risk assessment considerations, gaps and policy issues, common pitfalls and litigated exclusion, and insurance for differing project methods.

Surety Bonding

Faculty will cover the essential role of the surety in the construction process, including: key principles and cross-country elements, main parties, typical bonds used, legal and practical aspects of asserting claims and defences, and crucial risk management tips in problematic situations.

Insolvency and Restructuring

Gain sightlines into the law, risk and key principles involving project insolvency, bankruptcy and restructuring. Learn practical strategies to deal with key risks, including: construction trusts, dealing with an insolvent party, containing risks and navigating dispute resolution proceedings.

CONCURRENT REGIONAL SESSIONS

The following topics will be covered in a series of concurrent regional sessions covering core concepts and principles and highlighting some important distinctions impacting projects in Eastern or Western Canada. You will be able to attend the live regional session of your choice and you will also receive access to all of the regional sessions in the recorded program archive.

Environmental Law

Environmental issues impact all stages of projects. You will learn about key legal issues and get practical tips for dealing with them, including: Records of Site Condition, contamination, vapour intrusion, excess soil management, navigating regulatory involvement, and impacts on other project risk areas.

Construction Labour Law

Review core legal topics, tips and strategies to deal with unionization, bargaining rights and raids, considerations for owners, GCs and subcontractors, common workplace issues and pitfalls on the jobsite, including: getting bound; strikes, lockouts and picketing; employer associations; grievances and arbitration.

Occupational Health and Safety

Examine key occupational health and safety principles and liabilities in construction and get key risk management tips, including: responding to accidents and investigations; due diligence; distinguishing supervisory responsibility and avoiding or mitigating claims.

MODULE 5

March 8*, 2024

Dispute Resolution, Key Trends and Negotiation Workshop

How to Succeed in Dispute Resolution

What does “failure” or “success” look like in dispute resolution? Review the essentials of mediation, arbitration, litigation and adjudication and the mechanics of settling a case. Limitations and evidentiary issues will be discussed, including “lessons learned” and tips to avoid common pitfalls.

The Decision-Makers Speak! View from the Bench

Don't miss the rare opportunity to hear from high-profile decision-makers who preside over various construction disputes, including perspectives from a Judge, a Mediator, an Arbitrator and an Adjudicator. Discussion will include practical elements to enhance your dispute resolution efforts with distinctions based on the type of proceeding and top tips and “pet peeves” to help you remain on the “good side” of the decision-maker.

Interactive Negotiation Workshop: “Saving the Troubled Project”*

During this innovative small-group workshop, working as owner or contractor, you'll review some common contractual risk allocations and collaborate to determine approaches to move forward in the interests

of the project. Expert facilitators will provide real-time guidance and feedback to enhance your learning experience, and lead a plenary debrief and discussion at the end, sharing alternative approaches, tips and strategies.

**Note: breakouts will not be recorded (live attendance not required).*

Indigenous-Led Initiatives, Partnerships and Infrastructure Development

You will learn about the importance of Indigenous consultation and engagement in connection with construction and infrastructure projects in Canada. Faculty will discuss practical considerations for thinking through impacts on Indigenous communities, rights holders and traditional territories. You will learn about the benefits and innovations involving Indigenous-led projects, initiatives and partnerships and tips for working proactively with Indigenous Nations impacted by projects and for advancing Indigenous representation and stewardship.

Law, Technology and Construction

Learn about key technology influencing the engineering and construction industry, why it matters and what you need to watch out for. Session includes a summary of key technologies, the legal considerations and impacts arising from using them and strategies to address technology use within your project agreements.

FINAL ONLINE EXAM:

Will be distributed after Module 5 and requires online completion and a passing grade of 80% due by April 5, 2024.

“This program should be a prerequisite for all Project Managers.”

Lloyd Tozer, PEng
Project Manager

Registration Details

Fee per Delegate: \$4,495 + TAX

Newly Licensed*: \$2,247.50 + TAX

**This fee applies to newly licensed regulated professionals within the past 2 years*

Fee includes program registration, electronic program materials and 120-day unlimited online access to program archive. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details.

Financial Assistance

This program is eligible for OSAP funding. Federal and provincial job grants may be available. You may also apply for financial assistance with OsgoodePD. To learn more, visit: www.osgoodepd.ca/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 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.

For Further Program-Related Information please contact:

Alexandra Karacsony, Program Lawyer at AKaracsony@osgoode.yorku.ca

CERTIFICATE REQUIREMENTS

You will receive a certificate upon successful completion of the **Osgoode Certificate in Construction Law**. Participants must attend all program modules (whether live and/or by program archive) and **pass the final online exam** to receive a certificate.

Register today at:

osgoodepd.ca/constructionlaw



Email: osgoodepd@osgoode.yorku.ca



Phone: 416 597 9724



Mail: 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



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

Eligible CPD Hours

LSO (ON): 36h CPD (31h 25m Substantive; 3h 45m Professionalism; 50m EDI).

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

AB: this program is eligible for CPD credit with the Law Society of Alberta.

BC: this program is approved for 25.5 CPD hours (a minimum of 3 hours will involve aspects of professional responsibility and ethics, client care and relations and/or practice management) CPD credit with the Law Society of British Columbia.

NS: this program is eligible for CPD hours with the Law Society of Nova Scotia.

CCA: this program is approved for 6 credits toward Gold Seal Certification's education requirement.

This program is approved for LawPRO Risk Management Credit.



"The instructors' passion for the law, for contracting, and for the industry is clear. I'd certainly recommend this course to [my] staff."

Cory Knutson

General Manager, Trotter & Morton

"Law plus on the ground expertise makes for a great educational opportunity. Oversight by seasoned industry practitioners together with the varied experience of the course attendees from all over Canada made for a terrific program."

Leanne Rapley

Principal & Lawyer, Rapley & Co

"Faculty were all very knowledgeable and presentations were clear and easy to follow."

Anthony Idigbe

President, Punuka Consulting Inc.

"Outstanding content and discussion [and] opportunity to hear the perspectives of others, a great way to interact with people on a different level."

Sandra McLaughlin

Assistant Director, British Columbia Institute of Technology (BCIT)

"Excellent overall. The calibre of presenters was outstanding and good delivery of the material – very knowledgeable and passionate, which made the learning experience more engaging."

James Zelinski

Chief Administrative Officer, Pitt Meadows Plumbing & Mechanical Contractors Ltd.

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