

15TH ANNUAL CONFERENCE ON CROWN LIABILITY

The stakes are high. Get fully up-to-date on significant **developments** in Crown liability cases **across Canada**.

Focused on civil suits involving the Federal or Provincial Crown, leading practitioners will analyze recent developments and their implications, providing you what you need to know on the current nature and scope of liability in this crucial area.

- New developments and important cases for 2022 and beyond
- In-depth review of current class action proceedings where the provincial or federal Crown are a party
- Crown misfeasance and damages under the *Charter of Rights*
- The courts' evolving approach to Crown liability for negligence
- COVID litigation: comparing the differing perspectives and approaches taken by various governments at the provincial and federal levels

Register today at:

osgoodepd.ca/crownliability

PROGRAM CHAIRS

Ewa Krajewska
Partner, Henein Hutchison LLP

Michael H. Morris
Senior General Counsel,
National Litigation Sector,
Department of Justice (Canada)

Paul Sheridan
Counsel, Crown Law Office –
Civil, Ministry of the Attorney
General (Ontario)

REGISTRATION OPTIONS

April 22, 2022:
Online, Live
9:00 a.m. – 4:30 p.m. ET

OR

June 2, 2022:
Online Replay
9:00 a.m. – 4:30 p.m. ET

Can't make the date?
*Registration includes 120-day
unlimited, online access to the
recorded program.*

15TH ANNUAL CONFERENCE ON Crown Liability

Whether you are a government or private practice lawyer or in-house counsel, you need to be fully cognizant of legal issues unique to Crown liability.

The ongoing pandemic, coupled with the many other pressing litigation topics and issues involving governments, combine to make OsgoodePD's Crown Liability 2022 a must-attend event for the legal community. Like its well-received predecessors, it will guide you through the latest developments – and help you over the gravest pitfalls – in civil litigation involving public authorities.

Bringing together Federal and Provincial Crown counsel and private-bar lawyers, this acclaimed program has established a reputation as an outstanding guide to the relevant substantive law, procedural rules, and winning strategies and tactics in the field.

Topics Include

- Full update on the evolving duty of care in negligence suits against the Crown
- In-depth review of current class action proceedings where the provincial or federal Crown are a party, including key procedural and substantive legal facets
- Crown misfeasance and immunity
- Important considerations concerning damages under the *Charter of Rights*
- COVID litigation: analyzing the differing perspectives and approaches taken by various governments at the provincial and federal levels

Who Should Attend

- Lawyers acting for the Federal or Provincial Crown
- Private practice litigators
- Lawyers advising clients regarding potential government liabilities
- Risk management professionals
- Litigation law clerks and paralegals

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Agenda

9:00 a.m.

Introduction by Course Chairs

9:10 a.m.

The Ongoing Evolution of Crown Liability for Negligence

Sonal Gandhi

Senior Counsel, Crown Law Office – Civil,
Ministry of the Attorney General (Ontario)

Sean Gaudet

Senior General Counsel, Public Law Section,
Department of Justice (Canada)

Kate Mazzucco

Partner, Beyond Law LLP

In the 2021 decision *Nelson (City) v. Marchi*, the Supreme Court of Canada once again sought to clearly define the scope of a public authority's policy immunity from liability in negligence. How does this new test for policy immunity compare with the prior tests established in *Just* and *Imperial Tobacco* – have the older tests been effectively overruled? What about the new statutory immunities from liability in negligence contained in the *Ontario Crown Liability and Proceedings Act*? This panel will consider these issues and explore the practical implications of recent case law on Crown liability for negligence.

10:30 a.m.

Break

10:45 a.m.

Class Actions: Update for 2022 and Beyond

Eric Lafrenière

General Counsel, National Litigation Sector,
Quebec Regional Office,
Department of Justice (Canada)

Golnaz Nayerahmadi

Partner, Rochon Genova LLP

Chris Wayland

Counsel, Crown Law Office – Civil,
Ministry of the Attorney General (Ontario)

A panel of litigators will discuss current noteworthy class action matters involving governments, taking a close look at key substantive and procedural legal issues, *Charter of Rights* concerns, and practice and case management considerations.

12:00 p.m.

Lunch

12:45 p.m.

Charter Damages

Andrea Bolieiro

Counsel, Constitutional Law Branch,
Minister of the Attorney General (Ontario)

Annamaria Enejajor

Partner, Ruby Shiller Enejajor DiGiuseppe,
Barristers

Gregory Tzemenakis

General Counsel, Civil Litigation Section,
National Litigation Sector, Department of
Justice (Canada)

Scrutinizing recent court decisions relating to damages arising from *Charter* breaches, we will examine crucial issues, including:

- When will *Charter* damages be available?
- Reconciling the tension under s. 52 of the *Constitution Act, 1982* and s. 24(1) of the *Charter*, and if this is a workable model for Crown liability
- Calculating aggregate damages for the common experience of a *Charter* breach and the evidence required to support a finding of aggregate damages
- Is a claim for systemic negligence superfluous if damages can be established under the *Charter*?

- How does the need to prove causation undermine the case for aggregate damages? Does it bar a streamlined process to resolve individual damages claims?

1:55 p.m.

Break

2:10 p.m.

COVID in the Courts: Litigating the Pandemic

Ian Demers

General Counsel, National Litigation Sector,
Quebec Regional Office,
Department of Justice (Canada)

Emily Lapper

Legal Counsel, Ministry of the Attorney
General (British Columbia)

Jonathan Lisus

Partner, Lax O'Sullivan Lisus Gottlieb LLP

Richard Ogden

Senior Counsel, Crown Law Office – Civil,
Ministry of the Attorney General (Ontario)

For over two years now the federal and provincial governments have grappled with a sprawling global pandemic, using the full extent of legal and public health measures in attempting to address the ongoing crisis. This discussion takes a deep dive into COVID litigation of significance embroiling various governments in Canada, examining different approaches taken and the challenges faced by all parties in these contentious and highly-charged matters.

3:25 p.m.

Break

3:40 p.m.

Crown Malfeasance and the Limits of Crown Immunity

Sunil Mathai

Senior Counsel, Crown Law Office – Criminal,
Ministry of the Attorney General (Ontario)

Jennifer Brevorka

Counsel, Henein Hutchison LLP

Crown malfeasance litigation tests the boundaries of what state actors can or cannot do in the discharge of their responsibilities, and the limits of Crown Immunity. The panel will address this vital topic and where the law currently stands, in light of important recent court decisions including *Ontario (Attorney General) v. Clark* and *Meekis v. Ontario*.

4:45 p.m.

Program Ends

Past attendees say it best:

“Best thing [was the] breadth of legal issues which, while disparate, all resonate for counsel who act for the Crown.”

Lisa Thiele

Senior General Counsel,
Canadian Nuclear Safety Commission

“A very worthwhile conference – an embarrassment of riches.”

Robert H. Reynolds Q.C.

Legislative Assembly of Alberta

Chairs

Ewa Krajewska
Partner, Henein Hutchison LLP

Michael H. Morris
Senior General Counsel, National
Litigation Sector, Department of Justice
(Canada)

Paul Sheridan
Counsel, Crown Law Office – Civil,
Ministry of the Attorney General
(Ontario)

Faculty

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Ian Demers
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Section, National Litigation Sector,
Department of Justice (Canada)

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Ministry of the Attorney General
(Ontario)

Registration Details

Fee per Delegate: \$695 plus tax

Newly Licensed*: 50% off regular rate plus tax

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

Fees include online attendance, electronic program materials, and 120-day online access to program archive. Group discounts and financial assistance are available. Visit www.osgoodepd.ca/group-discounts for details.

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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