

# THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW

## 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 emerging trends and legal developments 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](https://osgoodepd.ca/constructionlaw)

## 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

September 30, October 6\*, 13, 21  
and 28\*, 2022:

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

OR

February 3, 10\*, 16, 24 and  
March 3\*, 2023:

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

\* Afternoon breakouts will not be recorded.

*Can't make the date?*

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



# The Osgoode Certificate in **CONSTRUCTION LAW**

Register today at:

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

## 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

**PLUS!** You will receive 120-day unlimited, online access to the recorded program.

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 get to 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.

**Relevant. Engaging. Practical.**

This program **focuses on real-world situations** and provides ample opportunity 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.



*“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:

- Conventional, alternative and collaborative project delivery models in Canada and when to use them
- Crucial construction contract issues, including entitlement, limitations, risks, liabilities and “follow-the-money” negotiation tactics
- Essential bidding and tendering principles, special issues and emerging 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 technology, key trends and developments impacting construction
- Decision-makers’ top tips to succeed in dispute resolution in 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
- In-house 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

**Associate Justice Charles Wiebe**  
Ontario Superior Court of Justice

**Honourable Justice Robert Graesser**  
Court of Queen's Bench of Alberta

**Glenn Ackerley**  
WeirFoulds LLP

**Matt Ainley**  
PQS, Certified Adjudicator, Ontario Dispute  
Adjudication for Construction Contracts

**Brendan Bowles**  
Glaholt Bowles LLP

**Keith Burkhardt**  
Sherrard Kuzz LLP

**Chris Burr**  
Blake, Cassels & Graydon LLP

**Philip Cho**  
WeirFoulds LLP

**Mark Coleman**  
Forbes Chochla LLP

**Stuart Detsky**  
Vice President, Surety & Warranty Claims,  
Trisura Guarantee Insurance Company

**Annik Forristal**  
McMillan LLP

**Yonni Fushman**  
Executive Vice President, Chief Legal  
Officer, Chief Sustainability Officer and  
Corporate Secretary, Aecon Group Inc.

**Duncan Glaholt**  
Glaholt Bowles LLP

**Talia Gordner**  
McMillan LLP

**John Haythorne**  
Dentons Canada LLP

**Helmut Johannsen, PEng, CARb, FCIARB**  
Principal, Johannsen Law Corp.

**Bruce Karn**  
Director, Legal Services, EllisDon Group  
of Companies

**Kathryn Lack**  
Senior Corporate Counsel, CRH Canada  
Group Inc.

**James Lingwood**  
McLennan Ross LLP

**Jana Mansour**  
Dentons Canada LLP

**Elizabeth Mayer**  
DLA Piper Canada LLP

**Rick Moffat**  
Partner, HKA Global

**Trish Morrison**  
Borden Ladner Gervais LLP

**David Myrol**  
McLennan Ross LLP

**Marcia Oliver, CS, QArb**  
General Counsel and VP Legal, Bennett  
Group

**Sean Parker**  
McLennan Ross LLP

**Paul Raboud**  
Chair of the Board, Bird Construction

**Jeremy Rankin**  
McMillan LLP

**Sabri Shawa, QC, FCIARB**  
Jensen Shawa Solomon Duguid Hawkes  
LLP

**Jeremy Warning**  
Mathews, Dinsdale & Clark LLP

**Richard Wong**  
Osler Hoskin & Harcourt LLP

# Agenda

## MODULE 1

September 30, 2022  
Project Delivery Models

### 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.

### Alternative Delivery: 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.

### Collaborative Contracting: Integrated Project Delivery (IPD) and Alliance Agreements

What is the problem which collaborative agreements try to solve? 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.

Register today at:

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constructionlaw](http://osgoodepd.ca/constructionlaw)

## MODULE 2

October 6\*, 2022  
Construction Contracts and  
Project Delivery Mini-Workshop

### Key Terms and the Practical Guide to Navigating the Construction Contract

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

October 13, 2022  
Bidding, Tendering, Liens  
and Claims

### Bidding and Tendering

Learn about the ever-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/Builders 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 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

October 21, 2022

### Top 5 Things 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 exclusions, and insurance for differing project methods.

#### Surety Bonding

Faculty will cover the essential role of the surety in the construction process, including: the 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\*\*

##### 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.

- Eastern Region (common law)
- Western Region

##### Construction Labour Law\*\*

Review core legal topics and tips and strategies to deal with unionization, bargaining rights and raids, considerations for owners, GCs and subcontractors, common workplace issues and jobsite pitfalls, including: getting bound; strikes,

lockouts and picketing; employer associations; and grievances and arbitration.

- Eastern Region (common law)
- Western Region

##### Occupational Health and Safety\*\*

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

- Eastern Region (common law)
- Western Region

*\*\*Note: 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.*

## MODULE 5

October 28\*, 2022

### 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).*

#### “Green” Construction, ESG and Sustainability

Examine what “green” construction means in the current market and how evolving ESG factors and sustainability goals are reshaping the industry’s processes, procedures and impacts. Faculty will review developments, trends and practical considerations to help you meet the new obligations and expectations in these areas.

#### 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 November 25, 2022.*

“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 professionals within the past 2 years*

Fees include attendance, electronic materials, technical support and 120-day online access to recorded program. Group discounts, special rates and financial assistance are available. For details, visit <https://osgoodepd.ca/professional-development/fees-policies/>.

## 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](http://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](mailto:AKaracsony@osgoode.yorku.ca)


# CERTIFICATE REQUIREMENTS


To receive an Osgoode Certificate, you must attend all program modules (whether live and/or by program archive) and **pass the final online exam.**

## Register today at:

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

 Email: [osgoodepd@osgoode.yorku.ca](mailto: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.

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](mailto:cpd@osgoode.yorku.ca).



### Eligible CPD Hours

**ON (LSO):** 36h CPD (31h 15m Substantive; 3h 45m Professionalism; 1h EDI).

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

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



**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) with the Law Society of British Columbia.

**CCA:** this program has been accredited by the CCA 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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