

16TH ANNUAL CONFERENCE ON CROWN LIABILITY

*Can't make
the date?*

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

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.

- Key legal developments and important cases for 2023 and beyond
- In-depth review of current class action proceedings where the provincial or federal Crown are a party
- The effect of the *CLPA* on litigating certain causes of action as common ones, along with other key procedural and substantive updates
- The nature of Crown liability claims brought by Indigenous communities and claimants and the unique responsibilities of the Crown
- What should public authorities consider when contemplating legislative or regulatory actions that might amount to a “constructive taking”?

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 21, 2023:
Online (Live)
9:00 a.m. – 4:45 p.m. ET

OR

May 26, 2023:
Online (Replay)
9:00 a.m. – 4:45 p.m. ET

Register today at:

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

16TH 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 fallout from the pandemic, coupled with the many other pressing litigation topics and issues involving governments, combine to make OsgoodePD's Crown Liability 2023 a must-attend event for the legal community. It will guide you through the latest developments – and help you over the gravest pitfalls – in 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

- Issues of consideration when pursuing Crown liability as a class
- Full update on the evolving duty of care in negligence suits against the Crown
- The law, evidence and procedure in relation to the rapidly evolving state of the law in claims brought by Indigenous communities and claimants
- In-depth review and practical guidance on the law of takings

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

Register today at:

osgoodepd.ca/crownliability

Agenda

9:00 a.m.

Chairs' Welcome & Introductory Remarks

9:10 a.m.

Key Legal Developments in Crown Liability Law

Akosua Matthews

Kastner Lam LLP

To open the day, we will get an overview of recent legal highlights and developments in the area of Crown Liability.

10:00 a.m.

Update on Crown Liability in Negligence

Sarah Bird

Legal Counsel, Department of Justice (Canada)

Erika Chamberlain

Professor and Dean, Faculty of Law, Western University

Jonathan Lisus

Lax O'Sullivan Lisus Gottlieb LLP

Christopher P. Thompson

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

Recent case law on Crown liability in negligence raises a host of challenging issues, including:

- To what extent might a government be liable in negligence for its response to the COVID pandemic?
- What about the exercise of regulatory powers to address a public safety risk – could the government be liable in negligence to the business that created the risk?

- Some Crown liability statutes provide that the Crown can only be “vicariously liable” in tort – what does that mean, exactly?
- What is the legal effect of Ontario’s new *Crown Liability and Proceedings Act, 2019* in the wake of the Ontario Court of Appeal’s decision in *Francis*?

This panel will consider these issues and others arising from recent case law.

NOTE: A 15-minute break will be taken during this session

12:00 p.m.

Lunch

1:00 p.m.

Issues to Consider When Pursuing Crown Liability as a Class

Ann Christian-Brown

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

Celeste Poltak

Koskie Minsky LLP

Gregory Tzemenakis

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

This session will focus on noteworthy class action proceedings involving the federal and provincial (Ontario) governments. This includes a discussion on the recently certified long-term care homes class action (*Robertson v Ontario*), the effects of the *CLPA* on litigating certain causes of action as common ones, and other key procedural and substantive updates.

2:00 p.m.

Honour of the Crown, Fiduciary Duty, and Equitable Compensation: Claims brought by Indigenous Communities and Claimants

Darian Baskatawang

OKT Law

Julie Blackhawk

General Counsel, Department of Justice (Canada)

Kevin Hille

OKT Law

Richard Ogden

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

The nature of Crown liability in claims brought by Indigenous communities and claimants engage unique responsibilities of the Crown. Panelists will discuss the rapidly evolving state of the law, evidence and procedure in relation to these claims. This will include a discussion on the Supreme Court of Canada’s 2021 decision in *Southwind v Canada*, 2021 SCC 28 addressing equitable compensation models for breach of fiduciary duty in relation to the flooding of reserved lands.

3:30 p.m.

Break

3:45 p.m.

The Law of Takings after *Annapolis Group*

Dayna Anderson

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

Sharon W. Au

MLT Aikins LLP

Vanessa Glasser

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

A government may be liable where there has been a “constructive taking” of property, but what constitutes a “constructive taking”? The Supreme Court of Canada split on this issue in the 2022 decision *Annapolis Group Inc. v. Halifax Regional Municipality*. Did *Annapolis Group* merely “clarify” the law of takings (as the majority decision states) or did it “significantly expand” the potential liability of public authorities (as the minority decision warns)? What should public authorities consider when contemplating legislative or regulatory actions that might amount to a “constructive taking”? This panel will address these issues and provide practical guidance on this difficult area of the law.

4:45 p.m.

Program Ends

“Really good presenters and timely topics.”

Karen Watt
Department of Justice (2022)

“The panels were well versed on the subjects.”

(2022 Delegate)

Chairs

Ewa Krajewska
Partner, Henein Hutchison LLP

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Senior General Counsel
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Department of Justice (Canada)

Paul Sheridan
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Gregory Tzemenakis
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Section, National Litigation Sector,
Department of Justice (Canada)

Registration Details

Fee per Delegate: \$695 plus tax

Newly Licensed*: 50% off regular rate plus tax

**This fee applies to newly licensed regulated 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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(5h 45m Substantive; 20m Professionalism; 1h EDI)



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