

OSGOODEPD'S NATIONAL ANNUAL SYMPOSIUM

CANADIAN CONTRACT LAW

Essential Updates and Practical Analysis

2023

The way we contract is changing. Stay up-to-date with this practical guide to the latest developments in Canadian contract law and practice.

Whether you work in contract negotiation, drafting, interpretation, or litigation, it is crucial to stay current with the latest developments.

- Explore new Artificial Intelligence tools for contract drafting, negotiation, due diligence, and analysis
- Hear strategies and updates for managing pandemic effects on contract drafting and interpretation, such as supply chain instability and price fluctuations
- Learn the implications of recent developments in case law across Canada

Don't miss! Engage with current and retired judges on recent and anticipated developments in contract law

Register today at:

osgoodepd.ca/contractlaw

PROGRAM CHAIRS

Samaneh Hosseini
Stikeman Elliott LLP

Brandon Kain
McCarthy Tétrault LLP

REGISTRATION OPTIONS

December 6, 2023:
9:00 a.m. – 5:00 p.m. ET
In-Person OR Online (Live)

January 19, 2024:
9:00 a.m. – 5:00 p.m. ET
Online (Replay)

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

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Canadian Contract Law

Essential Updates and Practical Analysis 2023

From the proliferation of artificial intelligence to the ripple effects of COVID-19, make sure you're prepared for contracting in 2024 and beyond. Our faculty of expert judges, transactional counsel, and contract litigators will guide you through the key developments and practical strategies you need to know.

This annual OsgoodePD program will give you the tools you need to stay up to date and best represent your clients.

Topics Include

- Strategies for drafting boilerplate terms and anticipating litigation risks
- Opportunities and risks of Artificial Intelligence in contracting
- Best practices for consumer agreements in an online marketplace
- Adapting traditional contract provisions for the world of AI and machine learning
- Tips for negotiating contracts in the context of competitive procurement processes, from both public and private perspectives
- How courts continue to respond to pandemic interruptions and effects on contract interpretation

PLUS! Judicial panel featuring:

The Hon. Thomas Cromwell (formerly Supreme Court of Canada)

The Hon. Justice David Brown (Ontario Court of Appeal)

The Hon. Justice Jessica Kimmel (Ontario Superior Court of Justice)

Who Should Attend

- Corporate and commercial lawyers
- Government and public sector lawyers
- Procurement professionals
- Commercial litigators
- Transactional Counsel
- In-house counsel
- Construction contract and procurement specialists

Agenda

9:00 a.m.

Introductory Remarks from the Chairs

9:15 a.m.

What's New in Canadian Contract Law

Angela Swan

Aird & Berlis LLP

Audrey Boctor

IMK s.e.n.c.r.l./LLP

Ellen Snow

Clyde & Co LLP

Doctrines of contractual interpretation and performance continue to evolve in light of shifts to the global marketplace. These experts will provide their insights on recent and anticipated developments in contract interpretation and jurisprudence, including:

- Latest case law on the doctrine of good faith: *Antoine Ponce, Bhatnagar v. Cresco Labs*, and beyond
- Continuing effects of COVID-19 on business interruption insurance coverage
- *Pine Valley Enterprises* and its implications for contracting out of *Sale of Goods* acts

10:15 a.m.

Key Considerations for Consumer Contracting

Melissa Tehrani

Gowling WLG

Gabriel Stern

Fasken Martineau DuMoulin LLP

The consumer marketplace is not what it once was, with digital innovations having transformed customer browsing and buying. Governments are increasingly taking an interest in consumer protection. This panel will share practical tips you need to know for contracting with consumers today.

- Consumer agreements in an online marketplace
- Best practices for contracting with consumers
- Effects of amendments to the Quebec *Charter of the French Language* and the *Consumer Protection Act* on consumer agreements
- Current trends and practical lessons in managing Canadian consumer protection laws

11:15 a.m.

Break

11:30 a.m.

Best Practices for Procurement Contracting

Marilyn Clarke

LXM Law

Rosslyn Young

Chief Legal Officer, LCBO

Marianne Smith

Blake, Cassels & Graydon LLP

The unique landscape of public procurement means parties need to think strategically both within and beyond the negotiation stage. This experienced panel will guide you through how to make the most of a procurement arrangement, from multiple sides of the equation.

- Strategically positioning an RFP with the final contract in mind
- Supporting clients to get the most value out of a procurement contract and holding vendors accountable commercially
- Using different methodologies and strategies for different procurement circumstances
- Strategies for managing supply chain instability and price fluctuations in procurement contracts

12:30 p.m.

Lunch

1:30 p.m.

The View from the Bench

The Hon. Thomas A. Cromwell

Supreme Court of Canada (retired) and Borden Ladner Gervais LLP

The Hon. David M. Brown

Court of Appeal for Ontario

The Hon. Jessica Kimmel

Ontario Superior Court of Justice

This session brings together expertise from three levels of court to discuss the unique challenges of contract litigation, and perspectives on contract law today and in the future.

2:30 p.m.

Practical Considerations for Boilerplate Drafting and Interpretation

Jeremy Opolsky

Torys LLP

Chantelle Cseh

Davies Ward Phillips & Vineberg LLP

Ryan MacIsaac

Senior Counsel, Uber

This panel will explore how the nuances involved in drafting standard clauses and strategic ambiguities can lead to interpretive uncertainty. Seasoned experts will discuss anticipating litigation risks and key considerations with regard to a number of boilerplate provisions, including:

- Arbitration clauses
- Jurisdiction clauses
- Non-disclosure provisions
- Entire agreement clauses

3:30 p.m.

Break

3:45 p.m.

New Frontiers in Artificial Intelligence and Contracts

Lauren Fishman

MT>3

Prof. Marina Pavlović

University of Ottawa

Sam Ip

Osler, Harkin & Harcourt LLP

Artificial intelligence is poised to transform industries and processes. Contracts are no exception. This session brings together experts from practice and academia to explore the implications of this exciting technology.

- Provisions in traditional contracts that no longer work well in the context of AI and machine learning
- Generative vs. Predictive AI for contract analysis
- Using AI in M&A transactions: drafting, negotiation, due diligence and research
- How both parties to contracting should approach emerging concepts and negotiate new clauses in a post-AI landscape

4:45 p.m.

Closing Remarks by Chairs

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Faculty

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Ryan MacIsaac
Senior Counsel, Uber

Jeremy Opolsky
Partner, Torys LLP

Prof. Marina Pavlović
Associate Professor,
University of Ottawa

Marianne Smith
Partner, Blake, Cassels & Graydon LLP

Ellen Snow
Partner, Clyde & Co LLP

Gabriel Stern
Partner, Fasken Martineau
DuMoulin LLP

Angela Swan
Counsel, Aird & Berlis LLP

Melissa Tehrani
Partner, Gowling WLG

Rosslyn Young
Chief Legal Officer, LCBO

Registration Details

Fee per Delegate: \$695 + TAX

Newly Licensed*: \$347.50 + TAX

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

Fees include attendance and electronic program materials. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about 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 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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(6h 20m Substantive; 30m Professionalism)

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