

# 17<sup>TH</sup> ANNUAL CONFERENCE ON CROWN LIABILITY

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the date?**

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

## PROGRAM CHAIRS

**Ewa Krajewska**  
Partner, Henein Hutchison Robitaille 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 24, 2024:**  
Online (Live)  
9:00 a.m. – 4:30 p.m. ET

OR

**May 28, 2024:**  
Online (Replay)  
9:00 a.m. – 4:30 p.m. ET

Register today at:  
[osgoodepd.ca/  
crownliability](https://osgoodepd.ca/crownliability)

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 what you need to know on the current nature and scope of liability in this crucial area.

- In-depth review of current class action proceedings where the provincial or federal Crown are a party
- Can a plaintiff in a class proceeding claim that the Crown is liable in negligence based on the alleged systemic negligence of unidentified government officials?
- The nature of Crown liability claims brought by Indigenous communities and claimants and the unique responsibilities of the Crown
- Balancing claimants' entitlement to remedies for unconstitutional action against Parliamentary privilege or supremacy and separation of powers
- Comprehensive civil immunity provisions and legislation that retroactively authorizes government decisions

# 17<sup>TH</sup> 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 2024 a must-attend event for the legal community. It will guide you through the latest developments – and help you avoid both common and underappreciated 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

- When will a court will certify a claim for breach of fiduciary duty against the Crown?
- Should governments continue to enjoy full or qualified immunity against claims for damages flowing from the passage of unconstitutional laws?
- The limits of Crown immunity: privative clauses, limited rights of appeal and legislated standards of review
- The law, evidence and procedure in relation to the rapidly evolving state of the law in claims brought by Indigenous communities and claimants

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

## Agenda

9:00 a.m.

Chairs' Welcome & Introductory Remarks

9:10 a.m.

Key Legal Developments in Crown Liability Law

**Mannu Chowdhury**

Paliare Roland 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 Class Proceedings and Crown Liability in Negligence

**Lisa Brost**

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

**Sonal Gandhi**

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

**Catharine Moore**

Senior General Counsel, Justice Canada

**Golnaz Nayerahmadi**

Rochon Genova LLP

This panel will consider recent case law concerning class proceedings against the Crown and Crown liability in negligence and the following issues, among others:

- How have courts interpreted Ontario's new requirements for certification under the *Class Proceedings Act, 1992*?
- In what circumstances will a court certify a claim for breach of fiduciary duty against the Crown?

- What are the limits of the Crown’s vicarious liability in tort? Can a plaintiff in a class proceeding claim that the Crown is liable in negligence based on the alleged systemic negligence of unidentified government officials?

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

**12:00 p.m.**

**Lunch**

**1:00 p.m.**

## Charter Remedies

### Ravi Amarnath

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

### Lex Gill

Trudel Johnston & Lespérance

### Sharlene Telles-Langdon

Senior General Counsel, Department of Justice Canada

Hear about the latest developments and consideration governing the availability of Charter remedies for unconstitutional legislative action, including the SCC’s latest consideration in *AGC v. Joseph Power* (SCC, 40241).

Panelists will explore these questions and more:

- Should governments continue to enjoy full or qualified immunity against claims for damages flowing from the passage of unconstitutional laws?
- Is it time to revisit or clarify the “qualified” immunity set out by the Supreme Court of Canada in *Mackin v. New Brunswick (Minister of Finance)*; 2002 SCC 13?
- How do we balance claimants’ entitlement to remedies for unconstitutional action against Parliamentary privilege or supremacy and separation of powers?

**2:00 p.m.**

## Claims Brought by Indigenous Communities and Claimants

### Manizeh Fancy

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

### Jessica Orkin

Goldblatt Partners LLP

### Paul Shenher

Senior General Counsel, Department of Justice Canada

The past year has seen significant developments in claims brought by Indigenous communities against the Crown. A key focus has been on allegations of underfunding in respect of vital health, social and community services.

This year will see important appeals being heard considering:

- Underfunding of (and discrimination in respect of the provision of) child and family services, as well as police services, including the pending appeal at the Supreme Court in *A.G. Québec v. Pekuakamiulnuatsh Takuhikan* (SCC 40619)
- The Supreme Court’s recent decision in the *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5 affirming Parliament’s power to pass measures seeking to foster culturally appropriate services reducing over-representation of Indigenous children in provincial child welfare systems
- Other key challenges and appeals

**3:15 p.m.**

**Break**

*“Really good presenters and timely topics.”*

**Karen Watt**  
Department of Justice (2022)

**3:30 p.m.**

## The Limits of Crown Immunity

### Jean-Noël Murphy

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

### Paul Fruitman

Lax O’Sullivan Lissus Gottlieb LLP

### Sven Hombach

Partner, Fillmore Riley LLP (Manitoba)

Suppose the Crown wants to make a decision on an important issue but litigation appears likely. To what extent can the Crown use legislation to insulate its decision from civil liability claims and/or judicial review? Panelists will consider the various ways governments have sought to do this, and whether they have been effective, including:

- Comprehensive civil immunity provisions (as seen in Ontario in recent amendments to the *Greenbelt Act*, 2005)
- Legislation that retroactively authorizes decisions or terminates existing contractual arrangements by legislation
- Privative clauses, limited rights of appeal, and legislated standards of review

**4:30 p.m.**

**Program End**

*“The program was interesting and useful, with a lot of current commentary and opinions re: recent case law developments.”*

(2023 Delegate)

## Chairs

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Partner, Henein Hutchison Robitaille 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

**Ravi Amarnath**  
Counsel, Constitutional Law Branch,  
Ministry of the Attorney General  
(Ontario)

**Lisa Brost**  
Counsel, Crown Law Office – Civil,  
Ministry of the Attorney General  
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**Mannu Chowdhury**  
Paliare Roland LLP

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– Civil, Ministry of the Attorney  
General (Ontario)

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Senior General Counsel,  
Department of Justice Canada

**Sharlene Telles-Langdon**  
Senior General Counsel,  
Department of Justice Canada

## 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*

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### 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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“The presenters are very knowledgeable.”

(2023 Delegate)

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