

A must
attend event
for all
litigators!

THE 19TH ANNUAL CIVIL LITIGATOR'S SURVIVAL GUIDE TO EVIDENCE

“This symposium is material, relevant and necessary for anyone appearing before courts, boards and tribunals. Hearing from an esteemed panel of justices is invaluable.”

Sandeep Bandhu, Principal at Brickhouse Legal Services PC

Get an up-to-date understanding of the key evidentiary principles essential for building your case – whether it settles or proceeds to trial.

Hear from the Bench and Bar and get insightful tips and advice on how to approach challenging evidentiary problems and find practical solutions.

- How to handle hearsay objections and rulings
- Tactics to avoid common mistakes in gathering or preparing evidence on motions and applications (including summary judgment motions)
- The latest on Privilege and Prior Inconsistent Statements
- Practical (and realistic) approaches to complex ethical/professional dilemmas related to evidence
- Techniques for handling experts before and during trial

PLUS! Don't miss **invaluable Judges Panels** featuring advice and guidance from prominent judges from both trial and appellate courts

Register today at:

osgoodepd.ca/evidenceguide

PROGRAM CHAIR

Jacqueline L. King, C.S.
Levitt LLP

REGISTRATION OPTIONS

January 22, 2025:

9:00 a.m. – 5:00 p.m. ET
Online (Live)

OR

March 26, 2025:

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.

The 19th Annual Civil Litigator's Survival Guide to Evidence

The appropriate and strategic use of evidence can make or break your case. As a litigator, it is crucial that you have a thorough and up-to-date understanding of the laws and best practices concerning evidence to enable you to identify and confront evidentiary issues with greater authority and confidence.

Now in its **19th year**, this **annual, must-attend** OsgoodePD program, designed for those with all levels of litigation experience, will equip you with an enhanced understanding of evidentiary principles and relevant cases and the practical tools you need to shape your litigation strategy.

Over **one information-packed** day, you will get perspectives from the Bench and Bar and learn what works and what doesn't in both settlement discussions and in the courtroom, along with proven tactics that you can immediately put into practice in your next case.

Topics Include

- Practical tips and relevant case law in hearsay evidence, prior inconsistent statements, and the rule in *Browne v. Dunn*
- Overcoming evidentiary issues on motions and applications
- The latest on privilege and dealing with claims of privilege
- How to use expert evidence
- Admissibility – what is the current state of the law and best practices?
- Ethical and professional issues relating to evidence
- Judges Roundtable: Advice from the Bench on common evidentiary problems
- Special considerations for mediations and arbitrations

Who Should Attend

- Civil litigators (plaintiffs' and defendants' counsel)
- In-house litigation counsel
- Litigation law clerks
- Litigation paralegals

Register today at:

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Agenda

January 22, 2025

9:00 a.m.

Program Chair's Welcome and Introductory Remarks

Jacqueline L. King, C.S.
Levitt LLP

9:05 a.m.

Hearsay Evidence: Updates and Practice Tips

The Hon. Justice Peter Lauwers
Court of Appeal for Ontario

Practical knowledge and advice on hearsay evidence, including dos and don'ts, relevant case law, and best practices, including:

- What is hearsay, and common exceptions
- Hearsay objections and rulings – when should you object and when should you insist on a ruling?
- What should counsel consider in specific situations?
- Hearsay evidence on appeal

9:45 a.m.

Admissibility of Evidence

Robert Bell
Lerners LLP

What makes evidence admissible? An annual update focusing on recent case law, emerging issues, and practical tips, dealing with:

- How to ensure your evidence is admissible
- Relevance and materiality: their meaning and practical implications under current law
- How pleading technique influences how a judge will think about relevance and materiality in a particular case
- Arguing prejudicial vs. probative value
- Tactics for maximizing the weight of your evidence
- How to use virtual documents and business records to bolster your case

10:25 a.m.

"An Overview of Evidence and What's Important" – Q&A with Chief Justice of Ontario Michael H. Tulloch

The Hon. Michael H. Tulloch
Chief Justice of Ontario

The Chief Justice of Ontario will delve into the key elements of evidence law, highlighting the essential principles and why they are important.

10:45 a.m.

Break

11:00 a.m.

Evidentiary Issues on Motions and Applications: Perspectives from Both Sides of the Bench

The Hon. Justice Lee Akazaki
Superior Court of Justice (Ontario)

Frank Walwyn
WeirFaulds LLP

Don't miss a discussion between a judge and senior litigator on the current evidentiary issues surrounding motions and applications, including:

- Motions vs. applications: the key differences and their role in determining the evidence you need
- Strategies for effective written motions and applications
- How to avoid common mistakes in gathering or preparing evidence on motions and applications (including summary judgment motions)
- Tips on how to gather evidence for a motion during a case-conference

11:40 a.m.

The Latest on Privilege

Maureen Littlejohn
Davies Ward Phillips & Vineberg LLP

An update on evidentiary issues surrounding privilege, including:

- Proven strategies for challenging a claim of privilege
- Tools for protecting confidential corporate information
- Concerns relating to the disclosure of expert evidence and third-party information
- The exceptions to solicitor-client privilege and when the privilege is waived
- Dealing with the accidental disclosure of privileged documents
- Litigation privilege: its persistence after litigation ends
- Limitations on the privilege attached to mediation and settlement discussions

12:10 p.m.

Panel: Tackling Evidentiary Problems and How to Solve Them

Tom Curry
Lenczner Slaght LLP

The Hon. Justice Darla Wilson
Court of Appeal for Ontario

A selection of current challenging situations (including the potential impact at the Court of Appeal) and practical solutions, based on what these judges are seeing in their courtrooms. Past topics have included:

- Evidence on summary judgment motions
- Applying the best evidence rule in relation to documents

- Affidavits and witness statements: when to choose one over the other
- Gathering evidence from persons outside the jurisdiction
- Getting around the business records exception in the Evidence Act
- Using electronic forms of evidence
- Admitting additional evidence on appeal

12:45 p.m.

Lunch

1:30 p.m.

The Rule in *Browne v. Dunn* and Prior Inconsistent Statements

The Hon. Justice Ranjan Agarwal
Superior Court of Justice (Ontario)

Nicole Mantini
Torys LLP

- Recent applications of the rule of *Browne v. Dunn* and impact on admissibility
- Proven techniques when introducing or responding to a prior inconsistent statement
- Effects of improper use of rules and what counsel should do

2:10 p.m.

Expert Evidence

Chris Burr
Blake, Cassels & Graydon LLP

The Hon. Justice Barbara MacFarlane
Superior Court of Justice (Ontario)

The latest strategies and practical advice on expert evidence from a judge and senior litigator, including:

- How to decide if you need an expert
- Techniques for handling experts before and during trial
- How to successfully cross examine expert testimony
- What is effective/ineffective expert testimony?
- What concerns arise when an expert is testifying?
- What should counsel consider in preparation of examination in chief and cross?

2:50 p.m.

Evidence in Mediations/Arbitrations

The Hon. Todd L. Archibald
Archibald Mediation and Arbitration Solutions Inc.

Lisa Munro
Lerners LLP

We look at distinctions in how to treat evidence in these unique modes of dispute resolution – namely mediation and arbitration. Topics include:

- Evidence in mediation briefs
- Making an impact through visual aids/demonstrative evidence
- Evidence and the arbitral process
- The applicability of the rules of evidence
- Admissibility vs weight
- Hearsay, best evidence, and the rules of common sense
- Rules and procedure applicable to expert evidence

3:25 p.m.

Break

3:40 p.m.

Ethical and Professional Issues Relating to Evidence

Geoff R. Hall
McCarthy Tétrault LLP

Sarah Shaikh
General Counsel, Public Prosecution Service of Canada

Tanya Walker
Walker Law

This session will explore commonly encountered fact situations that raise ethical and professional issues, with practical advice on how to address them in a manner consistent with your roles as advocate for your client and as officer of the court.

4:20 p.m.

Judges Roundtable: Advice from the Bench

The Hon. Justice Charles Chang
Superior Court of Justice (Ontario)

The Hon. Justice Heather McGee
Superior Court of Justice (Ontario)

The Hon. Justice Jamie Trimble
Superior Court of Justice (Ontario)

Get advice directly from the decision-makers! This panel of judges will discuss their biggest do's and don'ts for litigators when it comes to evidence. Providing their unique perspective and practical tips on topics such as:

- Unfavourable evidence (oral and documentary)
- Dealing with electronic evidence
- The return to in-person trials
- Hearsay objection rulings at trial
- The right way to produce a book of documents

5:00 p.m.

Program Concludes

“Outstanding faculty and content.”

Chair

Jacqueline L. King, C.S.
Levitt LLP

Faculty

The Hon. Justice Lee Akazaki
Superior Court of Justice (Ontario)

The Hon. Todd L. Archibald
Archibald Mediation and
Arbitration Solutions Inc.

The Hon. Justice Charles Chang
Superior Court of Justice (Ontario)

The Hon. Justice Peter Lauwers
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The Hon. Justice Barbara MacFarlane
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Superior Court of Justice (Ontario)

The Hon. Justice Jamie Trimble
Superior Court of Justice (Ontario)

The Hon. Michael H. Tulloch
Court of Appeal and Chief Justice
of Ontario

The Hon. Justice Darla Wilson
Court of Appeal for Ontario

“Great speakers.
Great topics.”

Robert B. Bell
Lerners LLP

Chris Burr
Blake, Cassels & Graydon LLP

Tom Curry
Lenczner Slaght LLP

Geoff R. Hall
McCarthy Tétrault LLP

Maureen Littlejohn
Davies Ward Phillips & Vineberg LLP

Nicole Mantini
Torys LLP

Lisa C. Munro
Lerners LLP

Sarah Shaikh
General Counsel, Public Prosecution
Service of Canada

Tanya Walker
Walker Law

Frank Walwyn
WeirFaulds LLP

“This is my second time taking this program because I found it so helpful. I recommend it to my peers.”

Ann-Louise Cole, Senior Legal Counsel, Definity

Registration Details

Early Bird Price: \$695 + TAX (until October 31st)

Early Bird – Newly Licensed*: \$347.50 + TAX

Regular Rate: \$895 + TAX

Regular – Newly Licensed*: \$447.50 + 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 prior to the start date of the program. 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 start of the program. If a cancellation request is made with less than 14 days notice, an administrative fee equal to 20% of the program cost, to a maximum of \$250 will apply per person. Payment is required to receive access to the program.



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Eligible CPD Hours – LSO (ON): 7h 10m CPD (6h Substantive; 1h 10m Professionalism)

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Register today at:

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Email: osgoodepd@osgoode.yorku.ca



Phone: 416 597 9724



Mail: 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



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