the Spotlight

Winter 2020

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THE CONTINUING LEGAL EDUCATION SOCIETY OF BRITISH COLUMBIA

CLE BC

More Topics, More Depth, More Ways to Learn

the Spotlight

Winter 2020

THE CONTINUING LEGAL EDUCATION SOCIETY OF BRITISH COLUMBIA

THE CONTINUING LEGAL EDUCATION SOCIETY OF BRITISH COLUMBIA

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Your guide to the essential resources for your practice!

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CLEBC delivers the most reliable and practical BC-specific legal education and information directly from the leading members of the legal community.

More topics, more depth, more ways to learn.

WINTER/SPRING COURSES *at a Glance*

Mark Your Calendars

Our courses provide in-depth coverage of a wide range of topics to help you earn your CPD credits. New courses will be added throughout the fall. Check our website calendar for updates.

cle.bc.ca/courses

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More in Store

For full course details and pricing, visit us online or contact customer service.

store.cle.bc.ca

Payment Options

Your ability to access our resources is important to us. Call our friendly Customer Service team today at 604.893.2121 or 1.800.663.0437 to learn more about the following payment options:

Easy Pay Plan and Bursary

Want to make a purchase today, but prefer a payment plan? Ask about our Easy Pay Plan.

Unable to attend a course without help from CLEBC? Ask about our Bursary Program, where you can apply for a discount on registration fees for up to three courses per calendar year.

More ways to save

Early Bird discount

Register for a course before the Early Bird deadline and save on your registration fee.

Plus-one pricing

Gather your colleagues around a computer, or in a boardroom to save on webinars and rebroadcasts. Groups pay full price for the main registrant + $249 for a one-day course and $449 for a two-day course for each additional viewer (if your group includes a student, the first registration must be at the full rate if a lawyer is participating).

Articled student pricing

Articled student pricing is available for webinar and in-person registration. Visit store.cle.bc.ca and view individual courses for details.

BUSINESS LAW

Recently Updated

BRITISH COLUMBIA COMPANY LAW PRACTICE MANUAL

From incorporation to dissolution: Every step of every transaction under the Business Corporations Act and Societies Act

This publication is essential for: lawyers who advise on transactions under the *BC Business Corporations Act* and *Societies Act*.

Focused on practice and procedure, the *British Columbia Company Law Practice Manual* keeps your client compliant with the *BC Business Corporations Act* and *Societies Act* and maps out the steps of every transaction and filing from incorporation and meetings to amalgamations and dissolution. You'll find commentary, explanations, and leading case law curated by leading BC corporate law practitioners, dozens of precedents for companies and societies (with an expanded societies chapter in 2019), and eight checklists.

ONLINE-ONLY $124/year
PRINT + ONLINE PACKAGE $349

cle.bc.ca/819

BRITISH COLUMBIA PERSONAL PROPERTY SECURITY ACT PRACTICE MANUAL

Get answers to your PPSA questions—from negotiating security to non-compliance

This publication is essential for: lawyers looking for practical guidance on personal property secured transactions in BC.

Advising clients on secured transactions is complex. *The British Columbia Personal Property Security Act Practice Manual* is BC's only practice-oriented resource that takes you through all parts of a secured transaction. The handy "Quick Reference Guide" provides quick guidance on how to deal with common procedural questions. The information in the chapters will assist you in achieving your goal, whether drafting a security agreement, negotiating a priority agreement, or enforcing a security interest.

ONLINE-ONLY $114/year
PRINT + ONLINE PACKAGE $349

cle.bc.ca/817

Corporate Governance 2020

DATE **Thursday, February 27, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

Manoeuvring the corporate minefield

Who should attend: Corporate counsel, in-house counsel, and corporate/commercial litigators.

Learning level: Advanced

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Joseph A. Garcia — *Blake, Cassels & Graydon LLP, Vancouver*

Be more effective as counsel advising corporate officers and boards of directors of privately held and public companies. Join us for a practical analysis of current trends and key issues in corporate governance law and their implications for your corporate clients.

Early Bird (Regular price after January 30, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1672

For complete information, follow the web links beside this symbol.

CRIMINAL LAW

Recently Updated

CANADIAN CRIMINAL JURY INSTRUCTIONS

The bench and bar's indispensable guide to criminal jury trial preparation

This publication is essential for: judges and lawyers preparing for criminal jury trial instructions.

You know how much work is involved in a criminal jury trial—research, case law analysis, the elements of the charge. Canadian *Criminal Jury Instructions* (*CRIMJI*) puts all of the legal research that goes into preparing a jury instruction to work for you. Guided by a cross-Canada editorial board, this authoritative resource provides you with over 150 model instructions on trial procedures, evidence, and major offences and defences. Each instruction gives you an outline of key components of the instruction, discusses relevant case law, and highlights alternatives and notes of caution.

With *CRIMJI*, you will be able to:

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- explain evidence and law relevant to your case in plain language understandable to a jury

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Ardith Walpetko We'dalx Walkem, QC and Linda W. Russell, CEO, CLEBC *Photo credit: Travis Dudfield*

2019 LEADERS IN LEARNING: ARDITH WALPETKO WE'DALX WALKEM, QC

Once every two years, CLEBC honours extraordinary individuals for their contribution to the enhancement of learning in the BC legal community with the Leaders in Learning Award.

This year's recipient, Ardith Walpetko We'dalx Walkem, QC, has demonstrated incredible commitment to mentorship, role modeling, and delivering learning opportunities to lawyers throughout her career, particularly regarding Indigenous laws and Truth and Reconciliation.

Ardith has contributed prolifically to CLEBC by lending her time and expertise to numerous programs, publishing papers, and even leading training sessions for CLEBC staff and Board members. Her first CLEBC project involved co-chairing the first Indigenous Legal Orders and the Common Law conference, which brought together leaders of Indigenous nations and judges from all levels of court—a first in British Columbia. With the support of LSBC and CLEBC, she produced the powerful short film "But I Was Wearing a Suit", which was presented at the Law Society of BC's Truth and Reconciliation Symposium. In this film, Indigenous lawyers tell stories exposing racism and bias in the legal profession. She also created a project called "Testify: Indigenous Laws and the Arts", where artists and legal thinkers collaborated to create art that highlighted the absence of Indigenous law in the legal landscape.

Educating lawyers on Indigenous laws and experiences is instrumental for correcting biases inherent in the legal profession. Ardith has keenly identified educational opportunities and acted on them. She is the author of *Wrapping Our Ways Around Them: Aboriginal Communities and the CFCSA Guidebook* published by the ShchEma-mee.tkt Project (Nlaka'pamux Nation Tribunal Council). She led the drafting of CLEBC's Truth and Reconciliation Action Plan, continues to chair CLEBC's Truth and Reconciliation Committee, and co-chairs CLEBC's Indigenous Laws Conference. CLEBC staff members have also benefited from Ardith's desire to educate —she has led training sessions for CLEBC staff and board members. Ardith's initiatives have not gone without notice—they have been recognized by both legal and non-legal organizations across the country. Her reach extends far beyond the British Columbia legal profession.

Beyond her many contributions, CLEBC staff say that Ardith works tirelessly to produce excellent programs and services to the legal profession. She is patient and kind, and always says "yes" to working on projects that are important to her, all while running her law firm, Cedar and Sage Law Corporation. She is passionate about education and is never afraid to speak hard truths when they need to be heard. These traits contribute to her ability to provide outstanding and unique contributions to our legal community and mark her as a true leader in learning.

It is with great pleasure that CLEBC presents the 2019 Leaders in Learning Award to Ardith Walpetko We'dalx Walkem, QC.

DISPUTE RESOLUTION

Intermediate Family Law Mediation

DATE **Wednesday, January 15 to Friday, January 17, 2020**
TIME 9:00 am – 5:30 pm (all days)
VENUE CLEBC Boardroom, 500 – 1155 West Pender Street, Vancouver

Only a few seats left! To register, call Customer Service.

The third course in CLEBC's Family Law Mediation curriculum, this course will give you a better understanding of family dynamics and power in mediation. You will also learn about process design options and have the opportunity to enhance your interview skills through role play and exercises. Finally, you will hear about how to document and record sessions, agreements, and memorandums of understanding to give you a better understanding of the nature and source of conflict in the context of family dispute resolution, and the role and objectives of a mediator. For those wishing to become Family Law Mediators under the *Family Law Act*, this is the third of four courses in our 80-hour curriculum.

Early Bird (Regular price after December 18, 2020)

IN-PERSON $1,539 ($1,709)

Registration includes a hard copy of the workshop materials. These materials will NOT be distributed electronically. Lunch is on your own.

cle.bc.ca/1663

Advanced Family Mediation – Dealing with Difficult Issues in Family Mediation

DATE **Thursday, April 23 and Friday, April 24, 2020**
TIME 9:00 am – 5:30 pm (both days)
VENUE CLEBC Boardroom, 500 – 1155 West Pender Street, Vancouver

Only a few seats left! To register, call Customer Service.

The fourth and final course in CLEBC's Family Law Mediation curriculum, this course will focus on issues such as bias and impartiality, ethical issues in mediation, high conflict personalities, culture, co-mediation, and multi-party disputes.

Early Bird (Regular price after March 26, 2020)

IN-PERSON $1,139 ($1,269)

Registration includes a hard copy of the workshop materials. These materials will NOT be distributed electronically. Lunch is on your own.

cle.bc.ca/1664

EMPLOYMENT/ LABOUR

Mediation Skills Level 2

DATE **Monday, February 10 to Wednesday, February 12, 2020**
TIME 9:00 am – 5:00 pm (all days)
VENUE CLEBC Boardroom, 500 – 1155 West Pender Street, Vancouver

Preparing for mediation practice, building process, and skills

Who should attend: Mediators in training wanting to experiment with process, build their skills, and learn new skills.

Learning level: Advanced

Law Society of BC CPD Hours: 24
(a minimum of 3 hours will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Sharon Sutherland — *True North Dispute Management, Delta*

This three-day course builds on the foundation provided by the Fundamentals of Mediation course (or an equivalent) by introducing more skills and providing lots of practice opportunities. The course features advanced process and techniques as well as practical mediation problems and practice issues.

Presented through an interest-based negotiation lens, the course also explores other mediation approaches and encourages thought and discussion about mediation philosophy. Participants should expect focused, intensive coaching of role play practice sessions (on Days 2 and 3) by accomplished mediators.

Upon completion of Fundamentals of Mediation and Mediation Skills Level 2, you will receive a Certificate of Attendance confirming completion of 40 hours of mediation training. This course is approved by Mediate BC as an acceptable mediation course towards qualification for the Civil Roster.

**Prerequisite: Fundamentals of Mediation, Family Law Mediation Level 1/Introduction to Family Dispute Resolution, or equivalent foundation-level mediation course from another provider.*

Early Bird (Regular price after January 13, 2020)
IN-PERSON $1,539 ($1,709)

Registration includes a print copy of the workshop materials. Lunch is on your own.

cle.bc.ca/1699

Family Violence Screening Training for Litigators and DR Professionals

DATE **Thursday, May 28 and Friday, May 29, 2020**
TIME 9:00 am – 5:30 pm (both days)
VENUE CLEBC Boardroom, 500 – 1155 West Pender Street, Vancouver

Practices to help you effectively identify family violence

Who should attend: "Family Law Dispute Resolution Professionals" as defined by the *Family Law Act*, including: family justice counselors, mediators, arbitrators, parenting coordinators, and family lawyers.

Learning level: All levels

Law Society of BC CPD Hours: 14
(a minimum of 2 hours will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chairs
Carol W. Hickman, QC — *Virgin Hickman, Vancouver*
Arlene H. Henry, QC — *Arlene H. Henry Law Corporation, Vancouver*

For many, ending an intimate partnership is a time of danger. "Family violence" is defined under the BC *Family Law Act* ("*FLA*") to include all elements of physical and emotional violence and abuse. Research shows that family law professionals often fail to ask questions needed to properly assess risk, and may also fail to recommend the most appropriate dispute resolution processes for their clients. This highly interactive two-day workshop is the only in-person, comprehensive family violence training available in BC. Featuring real case studies, personal stories, role-playing, coaching, and review of current literature, research, and statistics, this is a must-attend event for family dispute resolution professionals looking to meet their training requirements under the *FLA*.

**Mediate BC Roster mediators will receive 20% off the full regular course registration fee. Call Customer Service at 604.893.2121 to register.*

Early Bird (Regular price after April 30, 2020)
IN-PERSON $1,139 ($1,269)

Registration includes a copy of the workshop materials. Lunch is on your own.

cle.bc.ca/1703

Recently Updated

EMPLOYMENT STANDARDS IN BRITISH COLUMBIA: ANNOTATED LEGISLATION AND COMMENTARY

Speedy, reliable answers to employment standards issues in BC

This publication is essential for: lawyers, employers, and other labour and employment advisors.

Employment law issues arise often in your clients' workplace and even in your own. *Employment Standards in British Columbia* offers you succinct commentary and case annotations to accompany the full text of the *Employment Standards Act* and Employment Standards Regulation. This resource brings the ever-expanding body of employment standards tribunal and court decisions under control. Annually updated, seasoned practitioners judiciously select and summarize only the most significant new decisions for your review.

With this resource, you will be able to:

- easily find the general principles and leading cases relating to any particular section of the Act
- competently advise your clients as to their employment standards rights or employers' best practices
- keep current with any significant changes or developments in employment standards law

ONLINE-ONLY: $194/year
PRINT + ONLINE PACKAGE: $289

cle.bc.ca/865

For complete information, follow the web links beside this symbol.

FAMILY LAW

Access to Justice for Children: Best Interests of the Child

DATES **Thursday and Friday March 5 and 6, 2020**
TIME 9:30 am – 4:30 pm *(both days)*
VENUE Vancouver location TBA

Working with children in all areas of law

Who should attend: Lawyers in all practice areas, judges, family justice counselors, mediators, arbitrators, parenting coordinators, psychologists, psychiatrists, social workers, law students, and everyone whose work impacts children.

Learning level: All levels

Law Society of BC CPD Hours: 14 hours *(a minimum of 2 hours will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)*

Course Chairs
Halie Kwanxwa'loga Bruce — *Cedar and Sage Law Corporation, Chilliwack*
The Honourable Donna J. Martinson, QC — *Retired Justice of the Supreme Court of BC, Vancouver*
Suzanne S. Williams — *Brown Henderson Melbye, Victoria*

This multi-disciplinary training meets the needs of professionals who work with children in all areas of law. It will help you sharpen your knowledge and practice on the best interests of the child, and meet each child's unique circumstances considering influences such as culture, ability and trauma.

Using a practice framework, grounded in the UN Convention on the Rights of the Child, we will provide essential information on healthy development for children, best interest practices, and other access to justice needs at each age and stage of the child's life.

You will receive concrete examples and tips on how to adapt your practice to meet the child in their particular context. We will also explore the continuum of services available to children in BC to address these issues, and how to triage a situation given the lived reality of the child.

Early Bird (Regular price after February 6, 2020)

WEBINAR (Both days) **$889** ($989)
IN-PERSON* (Either day) **$619** ($679)
IN-PERSON* (Both days) **$1,129** ($1,239)

Registration includes an electronic copy of the reference materials. *Lunch is included both days.

cle.bc.ca/1656

Recently Updated

FAMILY LAW DESKBOOK

Legal support staff's "go-to" manual for managing family law files

This publication is essential for: legal support staff working on family law files.

Whether you are already working in or are new to a family law practice, you need a resource to help you manage the many aspects of a family law file—from file organization to document preparation and filing. With the *Family Law Deskbook* at arm's reach, you have quick and easy access to explanations of why the law firm is organized the way it is, what your role is, how to find information, how to complete documents, and, importantly, how to communicate with clients. Checklists, charts, forms, and sample documents provide you with tools to help you work most efficiently. Succinct and clear explanations of legal concepts help you understand the context of your work in a family law file.

With this resource, you will be able to:

- speedily complete tasks with over 100 precedents unique to family law support staff needs
- verify your work against comprehensive checklists
- find answers to common practice issues quickly
- train new staff with the assistance of a comprehensive resource
- help the firm maintain efficient file management systems

Buy today and provide vital support on family law files to your firm!

ONLINE-ONLY $104/year
PRINT + ONLINE PACKAGE $299

cle.bc.ca/807

For complete information, follow the web links beside this symbol.

LITIGATION

Recently Updated

PRACTICE BEFORE THE REGISTRAR

Know what to expect at your registrar's hearing

This publication is essential for: anyone requiring guidance for appearing before a master or registrar in BC.

Faced with a hearing before a Supreme Court or Court of Appeal registrar and don't know what to do? Turn to *Practice Before the Registrar* for guidance from the registrars themselves and from experienced practitioners. Learn when and why to seek a hearing, the procedure to get your hearing, what happens at the hearing, and steps to take after the hearing. With clear discussions of the law and procedure and 80 sample forms, this resource will help you smoothly navigate the many types of hearings before the registrar, from costs assessments, family law references, bankruptcy matters, and settling orders to reviews and appeals.

ONLINE-ONLY $104/year
PRINT + ONLINE PACKAGE $299

cle.bc.ca/753

SMALL CLAIMS ACT & RULES: ANNOTATED

Your handy Small Claims Court Act and Rules guide with commentary

This publication is essential for: anyone appearing in Small Claims Court.

Small Claims Court may be the right court to take your client's case. With *Small Claims Act and Rules: Annotated*, you have quick and easy access to the complete text of the Small Claims Act and Small Claims Rules along with annotations of case law selected and summarized by provincial court judges. Designed to complement CLEBC's *Provincial Court Small Claims Handbook*, this resource is your guide to getting the right outcome for your client in Small Claims Court.

ONLINE-ONLY $184/year
PRINT + ONLINE PACKAGE $279

cle.bc.ca/757

Damages 2020

DATE **Thursday, April 30, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

What good is a right without the right remedy? Your essential primer on the law of damages!

Who should attend: All civil litigators including counsel who handle personal injury, general tort, and commercial claims.

Learning level: Fundamental/Intermediate

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Mark V.C. Virgin — *Virgin Hickman, Vancouver*

When a right has been found to have been infringed and causation has been established—the question turns to that of remedies: the law of damages.

The law of damages is a complex subject, combining overarching principles with specific elements relating to the nature and type of loss sustained and expectations on how to balance the interests of the parties against the backdrop of the expectations of commerce and society.

This comprehensive one day course will review first principles, current trends and then examine specific areas within the law of damages where there are noteworthy elements.

Early Bird (Regular price after April 2, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1708

ENJOYING THE SPOTLIGHT?

We'd like your feedback!

We invite you to complete our survey online for a chance to win 1 of 5 **$50 Amazon gift cards** (or for CLEBC to donate $50 to your favourite charity).

cle.bc.ca/survey2019

LITIGATION

Costs 2020

DATE **Thursday, February 13, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

You cannot afford to mismanage cost issues on your litigation files!

Who should attend: All litigation counsel and paralegal and senior legal support staff who have conduct of the costs aspects of files.

Learning level: All

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Gregory T. Palm — *Hamilton Duncan Armstrong + Stewart Law Corporation, Surrey*

There is no aspect of the litigation process that is not affected by costs. As litigation counsel, you must be able to manage all cost aspects of your files, as between you and your client and also as between your client and the opposing side, from the opening retainer to the final bill of costs. This comprehensive one day course is designed to give counsel at all levels a strong working knowledge of the principles and practice that govern the law of costs. This course will focus on the core areas and current issues and developments in this critical facet of litigation practice.

Early Bird (Regular price after January 16, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1704

For complete information, follow the web links beside this symbol.

Defamation, Privacy and Media Law 2020

DATE **Wednesday, April 8, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

We are all digital citizens now!

Who should attend: Civil litigators and media management personnel.

Learning level: All

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Daniel W. Burnett, QC — *Owen Bird Law Corporation, Vancouver*

Defamation law, media law, and the law surrounding privacy continue to evolve and morph in the face of rapid technological change, the growth of the internet, and the boom in global communications. The fundamental issues remain the same but there are also many new twists engendered by new technology and its operation within larger social trends. The reality for everyone is that our digital identities are becoming ever more important.

This comprehensive one-day course will review a range of individual, corporate, and media issues in defamation, privacy, and media law as well as exploring practical practice matters facing counsel. This year's program will feature leading counsel on key issues in this important and expanding niche of contemporary practice.

Early Bird (Regular price after March 11, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1707

Intellectual Property for Litigators 2020

DATE **Monday, April 6, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

The IP essentials that every litigator should know!

Who should attend: Lawyers who seek a comprehensive introduction to IP including corporate counsel, corporate solicitors, and civil litigators. This course may also be of interest to litigation counsel seeking an update on current issues and strategies in IP litigation.

Learning level: All

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Christopher S. Wilson — *Norton Rose Fulbright Canada LLP, Vancouver*

Different forms of intellectual property dictate different strategies for litigation. When an IP issue arises, will you be prepared to give your clients the litigation advice they need?

At this course, you will gain a solid grounding that will permit you to evaluate, advise on, and manage an IP claim. You will learn the essential characteristics of the different classes of IP and their implications for litigation. You will come away from this course with appropriate litigation strategies to protect your client's IP interest and to avoid pitfalls in managing these IP files.

Early Bird (Regular price after March 9, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1706

REAL ESTATE LAW

eDiscovery and Electronic Evidence 2020

DATE **Friday, March 13, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

Manage the information—take command of the litigation!

Who should attend: Civil litigators, paralegals, and legal support staff who manage documentary discovery.

Learning level: Intermediate

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Graham J. Underwood — *Legal Services Branch, Ministry of Attorney General, Victoria*

The digital age is fully upon us as technology continues to re-shape and re-define the process of civil litigation. With the rise of electronically stored information comes an array of issues relating to the management, search and presentation of, such digital information. In the pre-trial context comes the issue of using computer software to assist with discovery in searching electronically stored data; this issue is particularly important where there is a very large data base. In the trial preparation and trial conduct context there are issues relating to establishing the fidelity and admissibility of evidence in an electronic format. This comprehensive one day program will quickly bring practitioners up to speed on current issues and best practices for effectively managing electronic evidence in the litigation process.

Early Bird (Regular price after February 14, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1705

Recently Updated

LAND TITLE PRACTICE MANUAL

Your inside look into the BC Land Title and Survey Authority

This publication is essential for: anyone who deals with land title matters in BC.

Published under authority of the Land Title and Survey Authority (LTSA), *Land Title Practice Manual* is *the* reference resource for BC conveyancers. Used by LTSA staff when reviewing registration applications, this indispensable resource provides you with the full *Land Title Act* containing section-by-section commentary with applicable forms, practice tips, and case summaries. In addition, you will find annotated relevant sections of over 20 other statutes and regulations affecting land title practice. Examples of documents acceptable to the LTSA, guidance on instrument registration, and a survey of liens and charges are also included as handy materials.

The 2019 update has extensive changes to incorporate new legislation that came into effect on November 15, 2019 and includes:

- New Part 10.1 of the *Land Title Act* and consequential amendments to other legislation
- New land transfer form templates coming and LTSA's forthcoming transition to Web Filing
- Comprehensive revisions to all annotations, including new case law from the BCSC and BCCA and E-Filing Directions v. 1.0
- All other legislative and regulatory amendments to November 1, 2019, most notably amendments to the *Agricultural Land Commission Act* and associated regulations
- *Cannabis Control and Licensing Act* and Cannabis Licensing Regulation to sections on government liens and charges and administrative monetary penalties

ONLINE-ONLY $319/year
PRINT + ONLINE PACKAGE $639

cle.bc.ca/775

LAND TITLE ELECTRONIC FORMS GUIDEBOOK

Prepare your electronic land title forms with accuracy

This publication is essential for: anyone who prepares electronic land title forms in BC.

Since introducing e-filing, the accuracy and precision of conveyancers filling out land title forms has never been more important for land title application registrations. Published under authority of the Land Title and Survey Authority of BC, the *Land Title Electronic Forms Guidebook* assists you in proper completion of land title forms in BC. This guide begins with a discussion of select *Land Title Act* provisions and the Director of Land Titles' general requirements. Subsequent chapters each focus on a specific form, taking you step-by-step through how to complete each field, and providing you with pointers, recommendations, and mistakes to avoid.

Highlights of the 2019 Update

- Incorporates legislative amendments to Part 10.1 of the *Land Title Act*, effective November 15, 2019
- Displays new images of all revised land title forms
- Contains revised instructions to reflect changes to legislation, Director's Directions, and LTSA practice
- Also reflects the November 2018 Survey and Plan Rules and the revised and renamed Electronic Land Title Plan and Plan Application Requirements

ONLINE-ONLY: $29/year
PRINT + ONLINE PACKAGE $89

cle.bc.ca/780

REAL ESTATE LAW

Recently Updated

BRITISH COLUMBIA BUILDERS LIENS PRACTICE MANUAL

Practical solutions to your builders lien problems and questions

This publication is essential for: lawyers needing practical guidance on BC builders lien issues.

Builders liens issues arise frequently in construction and real estate practices and you need to have speedy answers for your clients. The *British Columbia Builders Liens Practice Manual* guides you through practical issues that frequently arise under the *Builders Lien Act*, covering the entire process from how to file a claim of lien all the way to enforcing a lien. With each topic, you receive guidance, relevant sections of the Act, case law, and templates to help you address the specific lien issue that your client is facing.

ONLINE-ONLY $114/year
PRINT + ONLINE PACKAGE $319

cle.bc.ca/761

CONVEYANCING DESKBOOK

Legal support staff's step-by-step guide to conveyancing in BC

This publication is essential for: legal support staff that work with residential real estate conveyances.

Conveyancing involves so many details that it is hard to keep track of all the tasks you need to complete. *Conveyancing Deskbook* offers you practical, step-by-step instructions for all tasks involved in transferring land in BC. With checklists for each step in the process, practice notes for acting for the purchaser and the lender, over 70 forms and precedents, and a glossary of common terms, this manual will guide you through a problem-free conveyance.

ONLINE-ONLY $194/year
PRINT + ONLINE PACKAGE $289

cle.bc.ca/785

SKILLS & PRACTICE MANAGEMENT

Dealing With High Conflict Personalities

DATE **Friday, February 28, 2020**
TIME 9:00 am – 4:30 pm
VENUE Vancouver location TBA

Simple strategies for resolving high conflict situations with high conflict people

Who should attend: Lawyers, mediators; this course may also be of interest to paralegals and legal support staff.

Learning level: All levels

Law Society of BC CPD Hours: 6.5
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Instructor
Michael J. Lomax. JD — *High Conflict Institute, Victoria*

Have you noticed more people engaging in "high conflict" behaviour these days? Someone yelling at a receptionist? A colleague who often gets into arguments and doesn't take responsibility for their actions? A client who files multiple complaints over a miscommunication?

These types of behaviours are increasingly common, and as a legal professional, it is more important than ever to be able to manage individuals with high conflict personalities who repeat patterns of high conflict behaviours.

At this one-day workshop, you will learn the theory of high conflict behaviour, and explore skills and techniques to manage high conflict disputes. You will draw from your own experiences, refine your existing skillset, and practice new strategies, so that can you leave this course with insight and confidence when dealing with high conflict behaviour.

Join us and learn how to effectively clear up conflict today!

Early Bird (Regular price after January 31, 2020)
IN-PERSON $629 ($699)

cle.bc.ca/1702

Robert's Rules of Order—Demystified

DATE **Tuesday, April 7, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA

Who should attend: Anyone wishing to gain a better understanding of meeting procedures and anyone who sits on a board or committee.

Learning level: All levels

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Instructor
Eli Mina, MS, PRP — *Vancouver*

We will discuss the application of parliamentary procedure and Robert's Rules of Order in meetings. You will gain an understanding of rules and the principles that they are intended to uphold. As a result of this workshop, you will be better able to advise your clients on the correct and practical application of rules in meetings, to facilitate progress and effective decision-making.

Limited enrolment. Register early to avoid disappointment!

Early Bird (Regular price after March 10, 2020)
IN-PERSON $629 ($699)

Registration includes a print and electronic copy of the workshop materials plus a copy of the book, *Robert's Rules of Order—11th Edition*. Lunch is on your own.

cle.bc.ca/1698

Watch for your event web page

sent to you via email a few days before your course or conference. Access all details including course materials, agenda, evaluations and more!

For complete information, follow the web links beside this symbol.

Welcome to Our New Directors

We are pleased to welcome five new CLEBC Board Directors beginning September 1, 2019. Several of these new members are current CLEBC contributors and we greatly appreciate their continued support in this new capacity.

Professor Cristie Ford

Peter A. Allard School of Law
University of British Columbia
Vancouver, BC

Dr. Cristie Ford is a Professor of Law at UBC Allard School of Law and Director of the Centre for Business Law at UBC Allard School of Law. Dr. Ford's research focuses primarily on regulatory theory as it relates to international, US, and Canadian financial and securities regulation.

She has authored multiple articles and two books: *Innovation and the State: Finance, Regulation, and Justice* (Cambridge University Press, 2017); and, with His Excellency the Right Honourable David Johnston and Kathleen Rockwell, the leading text *Canadian Securities Regulation* (5th ed., 2014).

Prior to joining UBC, Professor Ford practiced in securities regulation and administrative law, including at Davis Polk and Wardwell LLP in New York. She obtained her graduate degrees from Columbia Law School, where she also taught in a variety of capacities. Professor Ford edited the interdisciplinary, peer-reviewed journal Regulation & Governance from 2012 through 2015 and now sits on its Executive Board, among other editorial and advisory boards. She has served on several occasions as a consultant to the Canadian Department of Finance. She has lectured in law schools and to academic audiences across North America and in Europe, Australia, and Israel. She was a Killam Faculty Research Fellow in 2012/2013, and in 2015/2016 received the George Curtis Memorial Award for Teaching Excellence.

Amanda Krishan

VK Law Corporation
Kimberley, BC

Amanda Krishan grew up in Saskatchewan, where she attended the University of Saskatchewan for her undergraduate and law degrees. Her practice is primarily focused on immigration law and wills and estates. Amanda completed her articles in Surrey before joining a law firm in Cranbrook. She was called to the bar in 2017.

In 2019, Amanda and her partner opened VK Law Corporation to provide legal services to Kimberley and the East Kootenays.

Amanda is an active member of the Kootenay Bar Association. When not in the office, Amanda enjoys camping, kayaking, cross-country skiing, and going on walks with her dog.

Scott Morishita

Rice Harbut Elliott LLP
Vancouver, BC

Scott Morishita earned his law degree from the University of Victoria in 2005 and was called to the bar in 2007.

Scott started his legal career at Alexander Holburn Beaudin & Lang LLP, where he was an articled student and then an associate, practising primarily insurance defence. He then spent six years practising plaintiffs personal injury at Slater Vecchio LLP and then Collette Parsons Harris. In 2012, he moved to an in-house role at the Municipal Insurance Association of BC, defending local governments. In 2019, Scott returned to a plaintiffs personal injury practice at Rice Harbut Elliott LLP, where he is associate counsel.

Scott is an elected member of the CBABC Provincial Council. He was recently appointed to the CBABC Access to Justice Committee. He is a board member of RainCity Housing & Support Society and has been a volunteer with the Lawyers Assistance Program of BC for over 10 years.

In his spare time Scott enjoys cooking and baking, travelling, and following US politics.

Greg Palm

Hamilton Duncan
Surrey, BC

Greg Palm obtained his law degree from UBC in 2000 and was called to the Bar of British Columbia in 2001. Since that time, he has built a broad civil litigation practice with a focus on commercial litigation, employment and human rights law, collections and foreclosures matters and real estate disputes. In addition, Greg dedicates a significant portion of his practice to disputes between lawyers and their clients over legal fees and related matters as well as disputes over the costs of litigation. In those areas, Greg is acknowledged as a leader in the field and is a well-recognized author and presenter, including multiple publications and presentations for CLEBC.

Greg is an active member of the BC Branch of the Canadian Bar Association as a two-term member of the Provincial Council (representing Westminster County), the current chair of the Professional Issues Committee, and a member of the BarTalk editorial board. He is also a former president and current executive member of the Surrey Bar Association, is a regular volunteer for Access Pro Bono and regularly volunteers his time for the Law Society of British Columbia, including as a guest instructor at PLTC. He also served three years as managing partner at his current firm, Hamilton Duncan, in Surrey, BC.

Mary-Jane Wilson

Wilson Rasmussen LLP
Surrey, BC

Mary-Jane Wilson graduated from the University of Victoria in 1986 and was called to the bar in 1987. She practices in the areas of wills, estates, estate planning, and real estate law.

She received the Surrey Board of Trade "Women in Business" award in the "Professional" category in 2014, recognizing women with proven business acumen, outstanding leadership skills, notable achievements of expertise and exemplary community involvement.

Mary Jane Wilson is a full member of the Society of Trust and Estate Practitioners (STEP) and holds a TEP designation, which is the only widely recognized designation for professionals in the trusts and estate administration industry.

She is a long-standing member of the Surrey Bar Association and a past Director of the Surrey Board of Trade, as well as a Past President of the Fraser Valley Estate Planning Council. She also served as a director of the Surrey Foundation and the Surrey Hospice Society for many years.

For a number of years, she has mentored young women lawyers as part of the formal mentoring program through the CBABC Women Lawyers Forum. She is committed to giving back to the profession and helping to ensure that an increasing numbers of women lawyers continue in the profession.

She is the author of the British Columbia Probate Kit, now in its fourth edition. This publication is of great assistance to those who have lost a friend or loved one with the steps needed to probate and administer an estate in British Columbia if they cannot afford a lawyer. She has also written about wills and estates matters for Retirement Ready Magazine, Easy Living Magazine, Successful Senior Magazine, The Now Newspaper and other publications.

In the Spotlight... Colin Galinski

This month's spotlight is on CLEBC contributor **Colin Galinski** of Galinski Pension and Benefits Law Corporation. Colin is a seasoned contributor who has worked on such publications as: *Family Law Sourcebook for British Columbia*, *Annotated Family Practice*, and has presented at numerous conferences including: Family Law Conference, Canadian Elder Law Conference, and Employment Law Conference.

We appreciate our volunteer contributors.

CLEBC truly appreciates all of our volunteer contributors who devote their valuable time, expertise, and commitment to the successful development of continuing legal education resources in our province.

Here, with our "In the Spotlight" series, we share a glimpse of what our contributors are up to, what inspires them in their daily practice, and their interests outside of the law.

They give, we learn, and the benefits are immeasurable.

How did you first get involved with CLEBC?

My first involvement with CLEBC was in 2009 when I co-authored a paper for the Human Rights Conference; I was hooked right away. Over the next couple of years I presented at the CLEBC Employment Law Conference and presented and was on the planning committee for the CLEBC seminar Pension & Benefits: Critical Issues & What's Often Overlooked. Tom Anderson, QC (a 2018 in the Spotlight star!) and I also did a live CLE-TV broadcast in the early days.

I've gotten to know Tom very well professionally and as a friend over the past 10 years; his widely-known dedication to CLEBC was contagious.

What are you currently working on (or have most recently worked on) with CLEBC?

I feel very fortunate to be in an annual groove with CLEBC: starting in 2013/14 I have had the pleasure of drafting the annual updates to the pension division content in the *Annotated Family Practice* and the *Family Law Sourcebook*. 2020 will also be my 5th opportunity to deliver the pension division module to the Advanced Family Law Mediation course. I've recently presented at the Biennial Family Law Conference (2019) and I enjoy presenting at the more specialized courses as well, such as Aging, Death, and Divorce (in 2017; a cheery topic!) and Elder Law Conference (2017), which are very relevant topics in our world of changing demographics.

Pension law intersects with so many other areas of law, and what I value most about CLEBC is that its many courses and publications provide practical information and skills to BC lawyers to identify and address the many nuances and pitfalls of pension law.

Pension and benefits law is a very specialized area of practice. What lead you to practice in this area?

The world of pension law is fascinating. Pensions in Canadian society have a magnitude that is difficult to fully appreciate. Once we break through the technical aspects, there is a common thread that runs through all pension work (whether it's on behalf of a large pension fund client or a family law lawyer navigating a complex pension division issue), and that is a concept I've come to describe as "dignity in retirement."

It is important to keep in mind that at the other end of this exceedingly technical and nuanced work there is a real live human being that is depending on these retirement funds to enjoy his/her elder years. My strongly held view is that when all professionals working with pensions keep in mind the goal of providing dignity in retirement to Canadian retirees, our work becomes more collaborative and professionally satisfying, with better outcomes for the pension plan members.

What is the most valuable piece of advice you have received?

I've received two highly valuable pieces of advice. Both were given by mentors who were far too gracious (and subtle) to ever appear to be dolling out bits of wisdom or life suggestions.

Tom Anderson, QC, taught me to handle pension division work with an unwavering focus on fairness, transparency, and ensuring that all involved are aware of the various options under the legislation and terms of the plan at issue. In keeping with its nature as family property, a pension should be divided on relationship breakdown in a manner that as much as possible preserves dignity in retirement for both parties. Tom was a trusted resource to lawyers across BC, and it's an honour to carry on this work in the same vein.

The second, and much earlier piece of advice I received was more a gentle nudge than true advice. About 15 years ago, well before I had considered law school, I spent 5 years working in labour relations at a university in Ontario after I completed graduate school. One evening in October my colleagues and I were back at the office debriefing after a particularly challenging collective bargaining session. The Chief Negotiator, a retired law professor, casually asked me if anyone ever spoke to me about law school. I replied that no one in my world had ever said those two words to me! He let me know the last sitting of the LSAT for that year was coming up in November and I should think about taking a crack at it, which I did. I was admitted to law school in January and began courses that September. It was not so much advice that I received, but a subtle encouragement that changed the course of my life.

Other than law, what are you passionate about?

I'm passionate about my family and the outdoors, and am constantly amazed at the variety and beauty of BC's natural spaces. My wife (also a lawyer) and I spend a lot of time with our young children in the mountains – where we can relax, see some incredible sights, and get away from the demands of our work lives.

WILLS, ESTATES, AND TRUSTS

Estate Planning Express 2020 — 15 Minute Topics

DATE **Friday March 6, 2020**
TIME 9:00 am – 12:30 pm
VENUE Vancouver location TBA
or attend via webinar

Who should attend: Mid to senior lawyers practising in the area of estate planning and administration.

Learning level: Intermediate/Advanced

Law Society of BC CPD Hours: 3.5
(a minimum of 30 minutes will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Kirsten Jenkins — *Norton Rose Fulbright Canada LLP, Vancouver*

Keep abreast of developing issues in the world of estate planning. This fast paced half day course will touch upon a host of recent legislative changes, best practices in estate planning and solutions to quirky issues that arise each summarized in 15 minute increments.

Early Bird (Regular price after February 7, 2020)
WEBINAR $299 ($329)
IN-PERSON $329 ($369)

Registration includes an electronic copy of the reference materials. Lunch is on your own.

cle.bc.ca/1697

Estate Planning for Blended Families 2020

DATE **Thursday, April 16, 2020**
TIME 9:00 am – 4:00 pm
VENUE Vancouver location TBA
or attend via webinar

Who should attend: Lawyers practising in the area of wills, estates, and trusts. This course may also be of interest to lawyers practising in the area of family law.

Learning level: Intermediate/Advanced

Law Society of BC CPD Hours: 6
(a minimum of 1 hour will involve aspects of professional responsibility and ethics, client care and relations, and/or practice management)

Course Chair
Anna Laing — *Farris LLP, Vancouver*

Blended families are increasingly the norm and have very unique planning aims and requirements. There are a variety of tools available to lawyers to assist in planning for these families. This course will look at the available tools, the risks involved in the use of each one, and the considerations involved with choosing the appropriate tools for your clients.

Early Bird (Regular price after March 19, 2020)
WEBINAR $489 ($549)
IN-PERSON* $619 ($679)

Registration includes an electronic copy of the reference materials. *Lunch is included.

cle.bc.ca/1700

Unable to attend without financial support? Find information about CLEBC's Bursary Program and Easy Pay Plan on page 4.

On behalf of CLEBC, I express my heartfelt thanks to our more than 1,000 talented contributors who share their expertise and knowledge with us each year.

We are so grateful for their practical how-to guidance and experience that help us produce quality content. Through their contributions, BC lawyers practise more confidently, work more efficiently, and advocate more effectively.

CLEBC contributors come from diverse backgrounds and include lawyers, judges, paralegals, legal support staff, and other experts and academics in the larger legal community. They bring years of practice from all over North America and provide the perspectives of all firm sizes and practice areas.

Thank you to CLEBC contributors for being leaders and teachers in our community and for helping to create and enhance our vibrant BC legal profession. The time, energy, and dedication that they commit to our publications and courses is amazing and inspiring. We are so grateful for their willingness to share practice experience, debate legal developments, refine professional ethics, and perform legal analysis to help their colleagues and continuing legal education in our province.

They are the cornerstone of CLEBC's ability to produce high-quality practice resources relevant to the legal questions, procedural issues, and client needs that BC legal professionals face daily. All of their extraordinary contributions, whether as an editorial board member, course chair, publication author, course presenter, course material author, or online moderator are deeply appreciated.

With gratitude,

Linda W. Russell

Linda W. Russell
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December 2 – 18, 2019

Monday December 2

FULL-DAY COURSES

Creditors' Remedies 2019

Family Law Provincial Court Practice

Trusts in the 21st Century: Surviving in a Sea of Change

Employment Law Conference 2019 – Day #1

SHORT PROGRAMS

Top Ten Technology Issues for Business Lawyers

Employment Law Issues for Tech Companies

Privacy and Cyber Security Issues

Cannabis and Intellectual Property Issues

Legal Topics Arising From Emerging Technologies

Canada's New Trademarks Act

Tuesday December 3

FULL-DAY COURSES

Legal Research 2019

A Deeper Dive: The Intersection of Family Law and Psychology 2019 – Day #1

Use of Financial Statements for Legal Professionals 2019

Employment Law Conference 2019 – Day #2

HALF DAY COURSE

Solicitors' Legal Opinions

SHORT PROGRAMS

Corporate Procedures 2019 (I): S.85 Rollovers

Corporate Procedures 2019 (II): S.86 Reorganization

Corporate Procedures 2019 (III): S.51 Reorganization

SHORT PROGRAMS (ETHICS STREAM)

Illumination of Implicit Bias

Succession Planning for Lawyers

Wednesday December 4

FULL-DAY COURSES

Discovery Practice 2019

A Deeper Dive: The Intersection of Family Law and Psychology 2019 – Day #2

Tax Fundamentals for the Estate Practitioner

Subdivision Regulation and Discretion

CLE-TV: Advanced Securities 2019 Series

SHORT PROGRAMS (ETHICS STREAM)

Stress, Pressure, and Ethical Decision Making for Lawyers

Ethics and Commercial Law 2018

Monday December 9

FULL-DAY COURSES

Anti-Money Laundering 2019

12th Biennial Family Law Conference 2019 – Day #1

Basics of Wills and Estate Planning 2019 – Day #1

Securities Litigation 2019

Commercial Leasing 2019: The Life of a Lease

SHORT PROGRAMS (ETHICS STREAM)

Professionalism – Malpractice Pitfalls of Daily Law Office Computing

Champagne Technology on a Beer Budget (Technology for Tightwads)

Tuesday December 10

FULL-DAY COURSES

Civil Resolution Tribunal and Personal Injury Practice 2019

12th Biennial Family Law Conference 2019 – Day #2

Basics of Wills and Estate Planning 2019 – Day #2

Tax Issues for Commercial Practitioners 2019

SHORT PROGRAMS (ETHICS STREAM)

CLE-TV: Increasing Productivity Through Happiness

"Deal" Best Practices for Solicitors

CLE-TV: Sexual Misconduct in the Legal Profession

CLE-TV: Mentoring Best Practices

CLE-TV: Anti-Money Laundering – Client Identification and Verification Rules

Wednesday December 11

FULL-DAY COURSES

Family Law Provincial Court Practice

Trusts in the 21st Century: Surviving in a Sea of Change

Employment Law Conference 2019 – Day #1

SHORT PROGRAMS (ETHICS STREAM)

CLE-TV: Increasing Productivity Through Happiness

SHORT PROGRAMS

Top Ten Technology Issues for Business Lawyers

Employment Law Issues for Tech Companies

Privacy and Cyber Security Issues

Cannabis and Intellectual Property Issues

Legal Topics Arising From Emerging Technologies

Canada's New Trademarks Act

CLE-TV: Speculation and Vacancy Tax

Thursday December 12

FULL-DAY COURSES

Personal Injury Conference 2019

A Deeper Dive: The Intersection of Family Law and Psychology 2019 – Day #1

Use of Financial Statements for Legal Professionals 2019

Employment Law Conference 2019 – Day #2

HALF DAY COURSE

Solicitors' Legal Opinions

SHORT PROGRAMS

Corporate Procedures 2019 (I): S.85 Rollovers

Corporate Procedures 2019 (II): S.86 Reorganization

Corporate Procedures 2019 (III): S.51 Reorganization

SHORT PROGRAMS (ETHICS STREAM)

Illumination of Implicit Bias

Succession Planning for Lawyers

Monday December 16

FULL-DAY COURSES

How to Be a Great Litigation Junior 2019

A Deeper Dive: The Intersection of Family Law and Psychology 2019 – Day #2

Tax Fundamentals for the Estate Practitioner

Subdivision Regulation and Discretion 2019

CLE-TV: Advanced Securities 2019 Series

SHORT PROGRAMS (ETHICS STREAM)

Stress, Pressure, and Ethical Decision Making for Lawyers

Ethics and Commercial Law 2018

Tuesday December 17

FULL-DAY COURSES

Personal Injury Conference 2019

12th Biennial Family Law Conference 2019 – Day #1

Basics of Wills and Estate Planning 2019 – Day #1

Securities Litigation 2019

Commercial Leasing 2019: The Life of a Lease

SHORT PROGRAMS (ETHICS STREAM)

Professionalism – Malpractice Pitfalls of Daily Law Office Computing

Champagne Technology on a Beer Budget (Technology for Tightwads)

Wednesday December 18

FULL-DAY COURSES

12th Biennial Family Law Conference 2019 – Day #2

Basics of Wills and Estate Planning 2019 – Day #2

Tax Issues for Commercial Practitioners 2019

SHORT PROGRAM

CLE-TV: Speculation and Vacancy Tax

SHORT PROGRAMS (ETHICS STREAM)

CLE-TV: Increasing Productivity Through Happiness

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Crowder v. British Columbia (Attorney General)
[2019] C.D.C. 70645 (CLE), 2019 BCSC 1824, Vancouver S194533

The B.C. Supreme Court struck down the government's new limits on expert reports in motor vehicle actions, finding that they were unconstitutional because they violated the exclusive powers of a court's control over its processes.

In February 2019 the Lieutenant Governor in Council enacted Supreme Court Civil Rule 11-8 by Order in Council No. 40/2019. Rule 11-8 limited expert opinion evidence on the issue of damages arising from personal injury or death to three experts and to one report from each expert, and limited the disbursements recoverable for expert opinion evidence. Rule 11-8(3) set out the limit on the number of experts. Rule 11-8(4) provided for additional evidence of joint experts by consent of the parties. Rule 11-8(5) permitted the court to order additional joint experts or to appoint an expert. Rule 11-8(8) limited the amounts that may be recovered as disbursements for expert opinion evidence. Rule 11-8(10) provided that the rule applied to all vehicle actions. Rule 11-8(11) provided exceptions to the application of the Rule. The petitioners were GC, who was a claimant in a vehicle action, and the Trial Lawyers Association. They challenged the Order in Council, seeking a declaration that the OiCs were unconstitutional and of no force and effect, as contrary to s. 96 of the Constitution Act, 1867, or not authorized by the *Attorney General Act* (the Act). The court allowed the petition, in part; subrules 11-8(3), (4), (5), (10) and (11) were set aside. Portions of R. 11-8 were *ultra vires* the *Attorney General Act*, being inconsistent with the object of the Act and the scope of the statutory mandate. There is no express authority in the Act which allowed the Lieutenant Governor in Council to effect a change in substantive law through rules of civil procedure, and the effect of the impugned Rule was to change the substantive law of evidence that had guided this court from its inception. Further, Rule 11-8 infringed s. 96 of the *Constitution Act, 1867*, because it infringed on the court's core jurisdiction to control its process. Rule 11-8 placed the court in a role that it should not be placed in by transferring from the parties to the court the responsibility of ensuring that there would be relevant evidence upon which to decide the issues in a personal injury case. That intruded upon the core function of the court: to decide a case fairly upon the evidence adduced by the parties. The use of court-appointed expert witnesses is inconsistent with the traditional means of litigating legal disputes in Canada. If it was thought that the court would engage in a pre-trial planning exercise in order to determine what evidence was needed, that would require judges to depart from their traditional non-adversarial role, contrary to the principle of party presentation. If the expectation was that the court would identify the needed evidence after expert evidence had been led at trial, then that was practically unworkable. Further, joint experts are not a satisfactory replacement for expert witnesses chosen and instructed by the parties. Like court-appointed experts, joint experts depart from the principle of party presentation. In addition, court-appointed and joint experts raised issues around litigation privilege.

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Your British Columbia guide to debt recovery and collections

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April

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May

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