

# Agenda

## HUMAN RIGHTS CONFERENCE 2016 (10130316)

Thursday & Friday, November 24 & 25, 2016 – Pan Pacific Hotel

Course Chairs: **Sandra F. Guarascio** – Roper Greyell LLP, Vancouver  
**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver

Planning Committee: **Jonathan Chapnick** – Senior Advisor, Workplace Mental Health, University of British Columbia, Vancouver  
**Devyn Cousineau** – BC Human Rights Tribunal, Vancouver  
**Robyn Durling** – Co-Director, BC Human Rights Clinic, Vancouver  
**Diana Juricevic** – BC Human Rights Tribunal, Vancouver  
**Christopher M. McHardy** – McCarthy Tetrault LLP, Vancouver  
**Catherine A. Sullivan** – Barrister & Solicitor, Burnaby  
**Laura Track** – British Columbia Civil Liberties Association, Vancouver

CLEBC Program Lawyer: **Nadia Myerthall**

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### Day 1: Thursday, November 24, 2016

- 9:00 – 9:10 WELCOME AND INTRODUCTION  
**Sandra F. Guarascio** – Roper Greyell LLP, Vancouver  
**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver
- 9:10 – 10:10 JUDICIAL REVIEW OF BC HUMAN RIGHTS TRIBUNAL DECISIONS
- review and update of significant BC Supreme Court, BC Court of Appeal and Supreme Court of Canada cases
- Katherine A. Hardie** – BC Human Rights Tribunal, Vancouver  
**David G. Wong** – Fasken Martineau DuMoulin LLP, Vancouver
- 10:10 – 11:05 UNDUE HARDSHIP: AN EMPLOYER'S DUTY TO ACCOMMODATE A DISABLED EMPLOYEE
- review of recent cases exploring accommodation requirements and the threshold for undue hardship
  - considerations including the extent of the need to modify duties and qualifications
  - factors the employer must be able to demonstrate to have a failure to accommodate complaint dismissed pursuant to s. 27 of the Code
- Stephanie Low** – Hamilton Howell Bain & Gould, Vancouver  
**Shanti P. Reda** – Hamilton Howell Bain & Gould, Vancouver  
**Michael A. Watt** – Alexander Holburn Beaudin + Lang LLP, Vancouver
- 11:05 – 11:20 BREAK

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- 11:20 – 12:15
- DEALING WITH MEDICAL MARIJUANA IN THE WORKPLACE
- duty to accommodate and medical marijuana
  - how to assess impairment
  - impact on drug and alcohol policies
  - workplace safety issues
- Robyn Durling** – Co-Director, BC Human Rights Clinic, Vancouver  
**Carolyn M. MacEachern** – Young Anderson, Vancouver
- 12:15 – 1:25
- LUNCH WITH FEATURED SPEAKER  
REVITALIZED ROLE OF CANADIAN HUMAN RIGHTS COMMISSION
- Sheila M. MacPherson** – Commissioner, Canadian Human Rights Commission, Ottawa
- 1:25– 2:05
- Occupational Addiction Medicine
- the body of knowledge and skills required for expertise in Occupational Addiction Medicine
  - best practices for disability management of employees with substance use disorders
  - determination and assurance of fitness of safety sensitive works who use or have been dependent upon addictive substances, drugs and/or medications
- Ray Baker, MD, FCFP, FASAM** – Associate Clinical Professor, UBC Faculty of Medicine, Vancouver
- 2:05 – 3:05
- EXPERT EVIDENCE IN HUMAN RIGHTS CASES
- the use of expert evidence in human rights cases
  - law and procedure for introducing expert evidence before the tribunal
  - practical tips for working with an expert
- Ray Baker, MD, FCFP, FASAM** – Associate Clinical Professor, UBC Faculty of Medicine, Vancouver  
**Greg Heywood** – Roper Greyell LLP, Vancouver  
**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver
- 3:05 – 3:20
- BREAK
- 3:20 – 4:25
- POLITICAL BELIEF AND FREE SPEECH UNDER THE HUMAN RIGHTS CODE
- defining “political belief” under the *Human Rights Code*
  - recent cases and jurisdictional comparison
  - freedom of expression in the human rights analysis
  - restricting employee expression as discrimination
- G. James Baugh** – McGrady & Company, Vancouver  
**Devyn Cousineau** – BC Human Rights Tribunal, Vancouver
- 4:25 – 4:30
- CLOSING QUESTIONS & COMMENTS
- Sandra F. Guarascio** – Roper Greyell LLP, Vancouver  
**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver

## Day 2: Friday, November 25, 2016

- 9:00 – 9:10 WELCOME AND INTRODUCTION  
**Sandra F. Guarascio** – Roper Greyell LLP, Vancouver  
**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver
- 9:10 – 10:15 CASE LAW UPDATE  
  - key cases
  - analysis and trends
  - effects on practice**Christopher M. McHardy** – McCarthy Tetrault LLP, Vancouver  
**Laura DeVries** – McCarthy Tetrault LLP, Vancouver
- 10:15 – 11:10 JUDICIAL REVIEW ADVOCACY  
  - effective advocacy in judicial review of human rights decisions**The Honourable Madam Justice Linda A. Loo** - Supreme Court of BC, Vancouver  
**The Honourable Madam Justice Heather M. MacNaughton** - Supreme Court of BC, Vancouver  
**Jennifer S. Russell** – Roper Greyell LLP, Vancouver
- 11:10 – 11:25 BREAK
- 11:25 – 12:20 Developments In The Law Of Prima Facie Discrimination  
  - evolution of the prima facie test
  - prima facie in practice**Donald J. Jordan, QC** – Harris & Company LLP, Vancouver  
**Lindsay Waddell** – Moore Edgar Lyster, Vancouver
- 12:20 – 1:10 NETWORKING LUNCH
- 1:10 – 2:15 ADDRESSING THE HARMS OF LABOUR EXPLOITATION AND HUMAN TRAFFICKING:  
THE POTENTIAL OF HUMAN RIGHTS PROCESSES TO PROVIDE REDRESS AND RESTORE DIGNITY  
  - trend of temporary foreign workers using human rights statutes and processes for remedies in cases of labor exploitation and human trafficking
  - human trafficking for labour exploitation - a serious crime and gross violation of international human rights standards
  - two recent human rights cases in Canada illustrating the potential of domestic human rights remedies to address the exploitation and harm suffered**Devyn Cousineau** – BC Human Rights Tribunal, Vancouver  
**Rosalind Currie** – Director, BC's Office to Combat Trafficking in Persons, Ministry of Public Safety & Solicitor General, Vancouver  
**Natalie Drolet** – Executive Director/Staff Lawyer, West Coast Domestic Workers Association, Vancouver  
**Bethany Hastie** – Lecturer, Peter A. Allard School of Law, University of British Columbia, Vancouver  
**Larissa Maxwell** – Manager, Anti-Human Trafficking Programs, The Salvation Army, Vancouver

2:15 – 3:10

ACCOMMODATING SUBSTANCE USE DISORDERS IN THE UNIONIZED WORKPLACE:  
CURRENT APPROACHES AND A CREATIVE WAY FORWARD

- an overview of the current state of the law on substance use disorders in unionized workplaces, including how they can be accommodated
- the strengths and weaknesses of commonly used tools
- could Ulysses Agreements be an effective tool moving forward?

**Heather D. Hoiness** – Moore Edgar Lyster, Vancouver

**Julie Menten** – Roper Greyell LLP, Vancouver

3:10 – 3:25

BREAK

3:25 – 4:25

ETHICS FACT PATTERNS

- what would / should you do?
- discussions in context

**Shona A. Moore, QC** – Moore Edgar Lyster, Vancouver

**Gabriel M.A. Somjen** – Borden Ladner Gervais LLP, Vancouver

4:25 – 4:30

CLOSING QUESTIONS & COMMENTS

**Sandra F. Guarascio** – Roper Greyell LLP, Vancouver

**Lindsay M. Lyster** – Moore Edgar Lyster, Vancouver