

Western Canadian Class Actions Conference 2009

A must attend for all Western Canadian practitioners!

Friday, November 20, 2009

There are *three* learning options for this course:

1. a face-to-face live event in Vancouver;
2. a real time live webcast; or
3. a subscription to this course as part of the Webcast Archive.

Pan Pacific Hotel
999 Canada Place
Vancouver

9:00 am - 4:30 pm (*Note early start time!*)

WHO SHOULD ATTEND: Judges, plaintiff, defence, and corporate counsel throughout Western Canada who are interested in, acting on, or defending against class action cases.

LEARNING LEVEL: Intermediate/Advanced

Class actions are a growing method of resolving large scale disputes. Now that Western Canada is blanketed with legislation, trends are emerging, as are effective (and ineffective) practices. Where does Western Canada fit within the complex national class action environment? Join some of the top class action counsel in the country for this Western Canadian Conference that will answer this question, and more!

LAW SOCIETY OF BC CPD HOURS: Attendance at this course can be listed as **7.5 hours** of continuing professional development (CPD) (a minimum of **1 hour** will involve professional responsibility and ethics, client care and relations, and/or practice management). A Certificate of Attendance will be issued at the course.

COURSE CHAIR

Ward K. Branch — *Branch MacMaster, Vancouver*

FACULTY

The Honourable Madam Justice Brenda J. Brown — *Supreme Court of British Columbia, Vancouver*

The Honourable Madam Justice Sheila Greckol — *Alberta Court of Queen's Bench, Calgary*

The Honourable Madam Justice Gene Anne Smith — *Court of Appeal for Saskatchewan, Regina*

Marie Audren — *Borden Ladner Gervais LLP, Montreal*

Paul R. Bennett — *Hordo & Bennett, Vancouver*

Andrew D. Borrell — *Fasken Martineau DuMoulin LLP, Vancouver*

Luciana P. Brasil — *Branch MacMaster, Vancouver*

The Honourable Donald I. Brenner, QC — *Brenner ADR and Farris, Vaughan, Wills & Murphy LLP, Vancouver*

Laura Bruneau — *Bruneau Group, Ottawa*

J.J. Camp — *Camp Fiorante Matthews, Vancouver*

Bradley W. Dixon — *Borden Ladner Gervais LLP, Vancouver*

Wayne P. Forbes — *Pollock & Company, Winnipeg*

David A. Klein — *Klein, Lyons, Vancouver*

Steven H. Leidl — *Macleod Dixon LLP, Calgary*

Robert W. Leurer, QC — *MacPherson, Leslie & Tyerman LLP, Regina*

E.F. Anthony Merchant, QC — *Merchant Law Group LLP, Regina*

Reidar M. Mogerman — *Camp Fiorante Matthews, Vancouver*

David T. Neave — *Blake, Cassels & Graydon LLP, Vancouver*

Normand Painchaud — *Sylvestre Fafard Painchaud Avocats, Montreal*

John Rossos — *Bridgepoint Financial Services Inc., Toronto*

Jay Strosberg — *Sutts, Strosberg LLP, Windsor*

James M. Sullivan — *Blake, Cassels & Graydon LLP, Vancouver*

Jill Yates — *McCarthy Tetrault LLP, Vancouver*

CLEBC PROGRAM LAWYER

Catherine J. Branch cbranch@cle.bc.ca

PRICING

EARLY BIRD (Register **by October 23, 2009** and SAVE)
Regular/Live Webcast: \$495 | Student: \$285 (live course only)

After October 23, 2009

Regular/Live Webcast: \$585 | Student: \$325 (live course only) | Webcast Archive: Call Customer Service.

Gather around one computer and save on live webcast costs!

Pay full price for the first registration and have additional viewers from your firm join you for \$100 each. For more information, contact Customer Service: 604.893.2121 or TF 1.800.663.0437.

Registration includes course materials and lunch.

ITEM NO.: 1026909W

PROGRAM AGENDA

Thursday, November 19, 2009

Pre-Conference Reception: co-sponsored by Branch MacMaster, Vancouver and The Bruneau Group, Ottawa

Time: 5:00 pm – 7:00 pm

Location: The offices of Branch MacMaster

Friday, November 20, 2009

Welcome and Introduction

Ward K. Branch — *Branch MacMaster, Vancouver*

Western Canada Check-up

- are certain jurisdictions more friendly to class actions than others?
- what types of actions are being brought in each province?

Manitoba: Wayne P. Forbes — *Pollock & Company, Winnipeg*

Saskatchewan: Robert W. Leurer, QC — *MacPherson, Leslie & Tyerman LLP, Regina*

Alberta: Steven H. Leidl — *Macleod Dixon LLP, Calgary*

British Columbia: Jill Yates — *McCarthy Tetrault LLP, Vancouver*

What is Actually Preferable to a Class Action?

- arbitration
- defendant's voluntary ADR procedures
- statutory remedies
- judicial review
- test cases
- individual trials
- small claims actions
- representative actions

Paul R. Bennett — *Hordo & Bennett, Vancouver*

Andrew D. Borrell — *Fasken Martineau DuMoulin LLP, Vancouver*

David T. Neave — *Blake, Cassels & Graydon LLP, Vancouver*

Networking Break

Certification: How Much Evidence Does the Court Really Want?

- does the plaintiff have to file expert evidence in order to get certified?
- should the court ensure that the evidence a plaintiff files is tested through cross-examination?
- does the plaintiff have to rebut all of the defendant's evidence?

The Honourable Madam Justice Sheila Greckol — *Alberta Court of Queen's Bench, Calgary*
J.J. Camp — *Camp Fiorante Matthews, Vancouver*
James M. Sullivan — *Blake, Cassels & Graydon LLP, Vancouver*

Top 10 Ethical Questions in Class Actions

- can you contact a potential plaintiff to ask if they are interested in acting as a class representative?
- how should class counsel manage an offer made to the proposed individual representative plaintiff prior to certification?
- can class counsel ensure that the class representative receives some payment for their efforts?
- if the defendant makes an offer that class counsel believes is in the best interests of the class, and the class representative will not accept it, what should you do?
- can or must class counsel offer to give the representative plaintiff an indemnity for costs?
- can a private company provide such an indemnity?
- can defence counsel insist that class counsel not act in any further litigation against the defendant as a term of a settlement?
- should class counsel ever accept an offer to have fees directly paid by the defendant?
- should defence counsel ever make such an offer?
- should class counsel who lose a carriage fight have to send their clients out for independent legal advice before opting out their clients?

The Honourable Madam Justice Brenda J. Brown — *Supreme Court of British Columbia, Vancouver*
Ward K. Branch — *Branch MacMaster, Vancouver*
Bradley W. Dixon — *Borden Ladner Gervais LLP, Vancouver*

Lunch With Featured Speaker: "What I Have Learned From 15 Years in the Class Action Trenches"

Ward K. Branch — *Branch MacMaster, Vancouver*

Real Access to Justice: The Overwhelming Importance of Making a Claims Process User-Friendly

- why are take-up rates so low?
- what type of notice actually works?
- how long is the ideal claim form?
- how do you make it not sound like legalese?
- what are some creative ways to make it easier for claims to be made?

Laura Bruneau — *Bruneau Group, Ottawa*

Lessons Learned From Quebec

- why are claims certified there that are certified nowhere else?
- why are environmental cases so popular there?
- why do they have so many class action trials?
- is the plaintiff-friendly pendulum starting to swing backwards?

Marie Audren — *Borden Ladner Gervais LLP, Montreal*
Normand Painchaud — *Sylvestre Fafard Painchaud Avocats, Montreal*

The Problem With the Canadian Approach to Counsel Fees

- what would a class negotiate as the fee structure if they had the power to do so?
- should hours be dumped completely as a measure?
- what is the right percentage?
- will Canadian society support percentage fees when the absolute amount is very high?

Luciana P. Brasil — *Branch MacMaster, Vancouver*
Jay Strosberg — *Sutts, Strosberg LLP, Windsor*

Networking Break

The ABC's of Class Action Financing

John Rossos — *Bridgepoint Financial Services Inc., Toronto*

Solving the National Class Action Problem

1. The Counsel

- are counsel the problem or the solution?
- is increased cooperation between firms the problem or the solution?
- must and should counsel file everywhere?

David A. Klein — *Klein, Lyons, Vancouver*
E.F. Anthony Merchant, QC — *Merchant Law Group LLP, Regina*

2. The Courts

- are the courts showing too much or too little comity to each other?
- can the courts create a protocol that solves the problem absent legislation?

The Honourable Madam Justice Sheila Greckol — *Alberta Court of Queen's Bench, Calgary*
The Honourable Madam Justice Gene Anne Smith — *Court of Appeal for Saskatchewan, Regina*
The Honourable Donald I. Brenner, QC — *Brenner ADR and Farris, Vaughan, Wills & Murphy LLP, Vancouver*

A MUST-HAVE RESOURCE RECOMMENDED BY YOUR COLLEAGUES

Class Proceedings Act—Annotated

A guide written for judges and lawyers

This book is essential for: all practitioners involved in class action lawsuits.

The *Class Proceedings Act* imposes on lawyers and judges significant responsibilities beyond those in normal civil actions, but offers little guidance on how these responsibilities should be discharged. In writing *Class Proceedings Act—Annotated*, the Honourable Mr. Justice Frank Maczko set out to provide practical advice for those charged with making decisions in the proceedings. He has created a handy, current reference brimming with precise commentary on the key issues. Organized as a series of discussions prompted by specific sections of the Act, this guide is the book to keep at hand and to take to court.

30763P | ISBN 1-55258-094-6 | 174 pp. | \$150

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