

13TH NATIONAL SYMPOSIUM ON CLASS ACTIONS



The annual **must attend** program for the Class Action bar. This year's program topics include:

- The 2016 Trial Report: an update on high-profile cases from across the country
- Jurisdictional challenges to certification
- What you need to know about coordinating multi-province class actions
- Defining the class: the new certification battleground?
- Tips and insights from experienced class action judges from across the country
- Summary judgment: class-wide disposition without certification?
- Latest international developments from the US, UK and Europe
- Emerging issues in Privacy & Cyber security class actions: lessons learned from Ashley Madison

Plus! Don't miss our **Live Moot Court** where senior counsel will conduct a mock appeal of a securities class action before the SCC.

Join more than 45 top experts as they drill down on the most critical new and emerging issues.

What some of our past attendees have said:

"THE BEST THING ABOUT THE PROGRAM WAS THE INTERPLAY BETWEEN PLAINTIFF AND DEFENSE COUNSEL"

"BREADTH OF AND QUALITY OF SPEAKERS WAS TOP NOTCH."

"THOUGHT PROVOKING DISCUSSION ON PANELS. GOOD MATERIALS."

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Interactive in-person program

Chair

Garry D. Watson, QC
Professor Emeritus, Osgoode Hall Law School, York University

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Dates and Times

April 21, 2016
9:00 a.m. - 5:15 p.m. EDT
April 22, 2016
9:00 a.m. - 12:30 p.m. EDT

Can't make the live program?

Online Replay Date: June 1 - 2, 2016

13TH NATIONAL SYMPOSIUM ON CLASS ACTIONS

Class actions are still booming, with a never-ending list of high profile new cases. These massive litigation files continue to foster old and new challenges for counsel who must be on top of their game to succeed in this increasingly complex and competitive field.

Canada's premier forum for class actions debate is in a class of its own. This truly national program, now in its 13th year, assembles the leading Canadian and international experts who will take you through the most critical issues in this constantly evolving field.

Over two intensive days, get the key updates about the most critical current and emerging issues. Connect with and learn from experienced litigators and judges as they share their experience and insights about effective strategies to employ and the minefields to avoid. Engage directly with colleagues and experts from across the country in this unique national in-person only forum.

Topics include:

- Strategies for managing multi-jurisdictional class actions
- How are limitation periods impacting class definition?
- When can a defendant force you to sue elsewhere?
- The most significant proposed changes to US Rule 23 and how they will impact your practice
- Critical case law update: summary of the year's leading cases plus the key take aways for counsel

Space is limited. Secure your spot for Canada's authoritative Class Actions conference.

WHO SHOULD ATTEND

- Plaintiff and Defence Counsel Practicing in Class Actions
- In-house counsel
- Government litigators
- Liability Insurers
- Notice and Settlement Specialists

REGISTER NOW by visiting
osgoodepd.ca/classactions

Chair

Garry D. Watson, QC, Professor Emeritus, Osgoode Hall Law School, York University

Faculty

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Koskie Minsky LLP

Robert Bell, *Lerners LLP*

The Hon. Justice

Edward P. Belobaba, *Ontario Superior Court of Justice*

Ward K. Branch*, *Branch MacMaster LLP, Vancouver*

Luciana P. Brasil, *Branch MacMaster LLP, Vancouver*

John P. Brown

McCarthy Tétrault LLP

Elizabeth J. Cabraser

Lieff Cabraser Heimann & Bernstein, San Francisco

Clint G. Docken, QC

Docken & Company, Calgary

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Jones LLP

Catherine Beagan Flood

Blake, Cassels & Graydon LLP

Sandra A. Forbes, *Davies Ward Phillips & Vineberg LLP*

Ward Phillips & Vineberg LLP

David T.S. Fraser

McInnes Cooper

The Hon. Justice

Pierre-C. Gagnon, *Superior Court of Quebec*

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CIBC Legal Department

Adrian C. Lang*, *Associate General Counsel, Legal, Corporate & Compliance Group, BMO Financial Group*

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Caroline Zayid

McCarthy Tétrault LLP

*Planning Committee also includes **Marie Audren**, *Borden Ladner Gervais LLP, Montreal* and **Gordon McKee**, *Blake, Cassels & Graydon LLP*

Why this event is essential
for the Class Actions bar ...



AGENDA

DAY ONE: THURSDAY, APRIL 21, 2016

8:30

Registration and Continental Breakfast

Sponsored By:



9:00

Welcome and Introduction

GARRY D. WATSON, QC, Professor Emeritus, Osgoode Hall Law School, York University

9:05

The Trial Report: Review of the Year's Key Class Action Cases

Moderator:

KIRK M. BAERT, Koskie Minsky LLP

Panellists:

ROBERT BELL, Lerner's LLP

DEBORAH GLENDINNING, Osler, Hoskin & Harcourt LLP

CATHERINE MCKENZIE, Irving Mitchell Kalichman S.E.N.C.R.L./L.L.P., Montreal

This session will provide an update on recent high-profile class action cases from across the country while highlighting lessons learned and practical take aways, including:

- Lessons from *Anderson v. Canada et al*
 - What are the right causes of action in a claim against the government?
 - Choosing your defendants: is less usually more?
 - Going to trial: what do you have to be ready for and what can you do to prepare?
- The principles of causation and collective recovery in class action common issues trials
- Using aggregate damages for some but not all categories of loss (*Ramdath*)

10:00

Best Practices for Coordinating Multi-Province Class Actions

Moderator:

WARD K. BRANCH, Branch MacMaster LLP, Vancouver

Panellists:

BARRY GLASPELL, Borden Ladner Gervais LLP

CATHERINE BEAGAN FLOOD, Blake, Cassels & Graydon LLP
THE HON. JOHN D. ROOKE, Associate Chief Justice, Court of Queen's Bench of Alberta

- The Ontario and Alberta courts views on appropriate venue for competing multi-jurisdictional class proceedings (*Kohler and Kutlu*)
- Update on stay requests in multi-province cases: is there a trend of judges not wanting to systematically suspend local cases?
- Are access to justice, judicial economy and behavior modification best and fairly achieved by one class action? With opt out for those with significant claims? Or opt in for non-residents?
- Should counsel be more aggressive at simply pushing actions in one jurisdiction? (*Bancroft-Snell v. Visa*)

10:45

Break

11:00

Defining the Class - the New Certification Battleground?

Moderator:

LUCIANA P. BRASIL, Branch MacMaster LLP

Panellists:

JAMES SULLIVAN, Blake, Cassels & Graydon LLP, Vancouver

ROBERT W. LEURER, QC, MacPherson Leslie & Tyerman LLP, Regina

- Must two or more class members want to pursue the class action? (*Keatley and Levesque*)
- How do we deal with troublesome "consumers"? (*Ileman and Unlu*)
- Are limitation periods impacting class definition? (*Amyotrophic*)
- What is the impact of the "Trilogy"?

11:45

Jurisdictional Challenges to Certification

Moderator:

JOHN P. BROWN, McCarthy Tétrault LLP

Panellists:

TRISTRAM MALLETT, Osler, Hoskin & Harcourt LLP, Calgary

CHARLES M. WRIGHT, Siskinds LLP, London, Ontario

- When can a defendant force you to sue you elsewhere? *Douez v. Facebook*, 2015 BCCA 279
- When can you include worldwide class members? (*Airia Brands/Excalibur*)

AGENDA (Cont'd)

12:30

Luncheon

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1:30

Carts Before Horses? The Latest on Pre-Certification Motions

Moderator:

SANDRA A. FORBES, *Davies Ward Phillips & Vineberg LLP*

Panellists:

SCOTT MAIDMENT, *McMillan LLP*

CELESTE POLTAK, *Koskie Minsky LLP*

- What's happening in different jurisdictions?
- Procedural issues arising when pre-certification motions are heard by a lower court while pending appeals on reserve (*Celestica*)
- Summary judgment: class-wide disposition without certification? (*Player and Sandoff*)
- Carriage motions: what is the current prevailing test? Are they worth the fight? (*Barrick*)
- Jurisdictional challenges: have they been resurrected? (*Shah*)

2:15

Follow the Money: The Latest on Fees and Funding

Moderator:

RAYMOND F. WAGNER, QC, *Wagners, Halifax*

Panellists:

CLINT G. DOCKEN, QC, *Docken & Company, Calgary*

STEVE J. TENAI, *NORTON ROSE FULBRIGHT CANADA LLP*

ANDRÉ LESPÉRANCE, *Trudel, Johnston & Lespérance Inc., Montreal*

- Approval of third party financing: champerty or access to justice? (*Marcotte*)
- Presumptive validity: have courts and counsel adopted the default retainer percentage fee approach espoused in *Cannon*?
- Delayed funding of fees

3:00

Break

3:15

Keeping An Eye Out Across the Border and Abroad: Recent International Developments in Class Actions

Moderator:

SYLVIE RODRIGUE, Ad.E., *Torys LLP*

Panellists:

ELIZABETH J. CABRASER, *Lieff Cabraser Heimann & Bernstein, San Francisco*

JAMES C. MARTIN, *Reed Smith LLP, Pittsburgh*

- Update on recent USSC class action decisions of interest including *Spokeo*, *Tyson Foods*, *Campbell Ewald*
- How are US courts making class certification decisions in light of *Walmart* and *Costco*?
- What are the key proposed changes to U.S. Rule 23?

- Update on EU collective redress and class actions legislation: would the UK lead the way?

4:00

Recent Developments in Privacy & Cyber Security Class Actions: Where Do Things Stand Post Ashley Madison?

DAVID T.S. FRASER, *McInnes Cooper*

R. REENA LALJI, *Senior Counsel, CIBC Legal Department*

EMMANUELLE ROLLAND, *Borden Ladner Gervais LLP, Montreal*

- The doctrine of intrusion upon seclusion: impacts of *Hopkins*, *Tsige*, *Ari*, *Condon* and the like
- Best practices in case of a security breach
- *Sofio v. IIROC*: No-go for loss of personal data class actions claiming moral damages in absence of identity theft or fraud in Quebec - what's next?
- Warning: snooper class action cases on the rise
- Lessons learned from Ashley Madison
- Is there a future for the other privacy tort, public disclosure of private facts?
- Exploring settlement strategies

4:30

Pro-Sys Update: Proving Harm on a Class Wide Basis

Moderator:

PAUL J. MARTIN, *Fasken Martineau DuMoulin LLP*

Panellists:

DAVID A. KLEIN, *Klein Lawyers LLP, Vancouver*

CAROLINE ZAYID, *McCarthy Tétrault LLP*

In *Pro-Sys*, the SCC held that there must be plausible and credible evidence that a methodology exists by which the loss can be proven on a class-wide basis at trial for that price fixing class action to be certified. That principle has since been applied in other types of cases, including in *Charlton*, *Andriuk*, and *Miller*.

This panel will discuss the extension of the concept to other cases and its implications for certification across the country.

5:15

Day One Concludes

WINE & CHEESE RECEPTION

Immediately following the last session on Day One. All delegates and faculty are cordially invited to attend.

Sponsored by:

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DAY TWO: FRIDAY, APRIL 22, 2016

8:30

Registration and Continental Breakfast

9:00

Cross Country Legislative Update

Moderator:

MONIQUE JILESEN, *Lenczner Slaght Royce Smith Griffin LLP*

Panellists:

JEAN SAINT-ONGE, *Ad.E., Lavery Lawyers LLP, Montreal*

AMANDA M. QUAYLE, *McDougall Gauley LLP, Regina*

- Changes to Saskatchewan's no-costs regime: why? What are the implications?
- Incoming 2016 class action legislative amendments in Quebec: what are they? What impact will they have?

9:45

The Latest on Consumer Protection and Competition Class Actions

Moderator:

ADRIAN C. LANG, *Associate General Counsel, Legal, Corporate & Compliance Group, BMO Financial Group*

Panellists:

MAHMUD JAMAL, *Osler, Hoskin & Harcourt LLP*

MICHAEL A. EIZENGA, *Bennett Jones LLP*

NORMAND PAINCHAUD, *Sylvestre Fafard Painchaud, Montreal*

- What consumer causes of action/claims are amenable to certification?
- Update on aggregate damages and *Ramdath*
- Is the *Competition Act* the only game in town for competition cases?
- After *Wakelam* and *Watson* - where are we now in BC and the rest of the country?

10:30

Break

10:45

Live Moot Court: Securities Class Actions

Counsel:

PETER R. JERVIS, *Rochon Genova LLP*

ANDREW GRAY, *Torys LLP*

Judges:

PROFESSOR POONAM PURI, *Osgoode Hall Law School, York University*

MICHAEL ROBB, *Siskinds LLP, London, Ontario*

DANA M. PEEBLES, *McCarthy Tétrault LLP*

In this unique session, Counsel will conduct a mock appeal of a securities class action in the Supreme Court of Canada. Specific topics raised will be based on the *Green v. CIBC* case.

11:30

Judicial Panel: A View from the Bench

Moderator:

LINDA R. ROTHSTEIN, *Paliare Roland Rosenberg Rothstein LLP*

Panellists:

THE HON. JUSTICE EDWARD P. BELOBABA, *Ontario Superior Court of Justice*

THE HON. JUSTICE PIERRE-C. GAGNON, *Superior Court of Quebec*

THE HON. JOHN D. ROOKE, *Associate Chief Justice, Court of Queen's Bench of Alberta*

This panel of experienced class action judges from across the country will enlighten us with tips and insights. *This is certain to be a lively discussion and one not to miss!*

12:30

Conference Concludes

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13th National Symposium on Class Actions

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\$1695 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/classactions for details. Please inquire about financial assistance.



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“Very educational and informative. Good balance of plaintiff and defence perspectives.”

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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 (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.

Dates & Time

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9:00 a.m. – 5:15 p.m. EDT
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Please arrive a half hour early for sign-in and material pick-up.
Dress is business casual.

Location

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1 Dundas St. W., 26th Floor
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