

22<sup>nd</sup> ANNUAL CONFERENCE OF ONTARIO BOARDS & AGENCIES

# COBA 2010

GOOD GRIEF!  
GOOD GOVERNANCE!



THURSDAY,  
NOVEMBER 4, 2010

MACDONALD BLOCK, QUEEN'S PARK  
900 BAY STREET, TORONTO, ONTARIO



Sponsored by the Society of Ontario  
Adjudicators and Regulators (SOAR)

# 2010 COBA THEME: GOOD GRIEF! GOOD GOVERNANCE!

The *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, designed to improve the delivery of administrative justice to Ontario residents, will have a significant impact on the administrative justice community – from front-line staff to members to Chairs. In addition to its highly regarded sessions on administrative law, alternative dispute resolution and decision writing, COBA 2010 – **Good Grief! Good Governance!** will explore governance, accountability, transparency and efficiency. Our excellent speakers (respected judges, law practitioners, members, and recognized leaders in the academic world) will share their knowledge, experience and advice on these important topics.

7:30-8:30 am

**Registration and Continental Breakfast**  
Registration located outside Ontario Room.

8:45-9:00 am

**Conference Welcome**  
COBA Co-Chairs – **EMANUELA HEYINCK**, Pay Equity Commission and **BOB BUTTERWORTH**, Environment and Land Tribunals Ontario - Assessment Review Board

9:00-9:15 am

**Opening Remarks**  
**HONOURABLE CHRIS BENTLEY**, Attorney General

9:15-10:30 am

**Plenary Session: Administrative Governance Reform versus Administrative Justice Reform**

**MODERATOR: LINDA LAMOUREUX**, Health Professions and Health Services Appeal & Review Boards

**SPEAKERS: PHILIP BRYDEN**, Faculty of Law - University of Alberta; **MICHAEL GOTTHEIL**, Environment and Land Tribunals Ontario; **HEATHER MCNAUGHTON**, Former Chair of the BC Human Rights Tribunal

A frank discussion exploring the challenges, opportunities, similarities and differences in governance and justice reform initiatives across Canada. Participants are encouraged to join the conversation.

10:30-10:45 am

**Refreshment Break**

10:45 am-12:00 noon

**Concurrent Sessions**

**SESSION #1**

**Accountability and Governance – What Does it Mean to Me?**

**MODERATOR: LYNDA TANAKA**, Licence Appeal Tribunal

**SPEAKERS: CAROL PAUKER**, Corporate Policy Branch and Policy Coordination Office - Ministry of Government Services; **DAMAN THABLE**, Office of the Conflict of Interest Commissioner; **MIKE UHLMANN**, Adjudicative Agency Modernization Initiatives - Ministry of Government Services

Across the country the public and legislators are making changes in tribunal and agency accountability requirements. What does that mean to the individual part-time or full time member, and to staff? Is it really going to change day to day work? Is it just more paperwork? This workshop will grapple with the specific new requirements under Ontario's *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, regulations, directives, and conflict of interest requirements.

**SESSION #2** **Statutory Interpretation 101**

**MODERATOR: VOY STELMASZYNSKI**, Ontario Labour Relations Board

**SPEAKER: PROFESSOR RANDAL GRAHAM**, Faculty of Law - University of Western Ontario

Learn the basic rules and conventions of reading and applying legislation. What are the common aids and maxims for the construction of legislation? What is the role of the *Legislation Act*? Does the same word mean the same thing throughout a statute? What happens when French and English versions of the same statute seem to mean different things? A popular, award-winning professor and author unlocks the mysteries of interpretation for non-legally trained tribunal members as well as those seeking a refresher of their interpretive skills.

10:45 am-12:00 noon

**Concurrent Sessions CONT'D**

**SESSION #3**

**Adjudicator Accreditation: Yeah or Nay!**

**MODERATOR: JUDITH MCCORMACK**, Faculty of Law - University of Toronto

**SPEAKERS: RON ELLIS**, QC, Former Chair of WCAT; **PAUL DAVID MCCUTCHEON**, Fraser Milner Casgrain LLP Canada; **TOBY VIGOD**, Former Chair of the Environmental Review Tribunal

Should members of Ontario's adjudicative tribunals and regulatory agencies exercising adjudicative functions be accredited? This impressive panel will discuss the "pros" and "cons" of adopting an accreditation program for adjudicators in Ontario. What are the anticipated benefits and difficulties arising from such an accreditation requirement? How extensive should an accreditation program be? What would the accreditation program cover? Should this program be a mandatory condition for appointment and/or for re-appointment? Who should incur the costs of the accreditation program? Should members be able to complete the accreditation process "on the job" or should this be an eligibility requirement? How would members maintain their competency level? Are there other accreditation programs in the private or public sectors that can provide useful insights?

**SESSION #4**

**Doing More With Less: Managing Relationships and Harnessing Technology**

**MODERATOR: LORI COLEMAN**, Health Boards Secretariat

**SPEAKERS: JUSTICE R. JOHN HARPER**, Superior Court of Ontario - Family Court; **DAVID DRAPER**, Human Rights Tribunal of Ontario

Staff in administrative tribunals are bombarded daily with incoming communications through a variety of mediums and are accountable to ensure that responses are clear, concise and timely. Given these demands, it is increasingly important to leverage the use of technology to ensure effective service delivery in a consistent manner. The speakers for this panel will share their experiences and make recommendations about case management systems, video conferencing, web based communications and other technology-based systems – proving the adage that you can do more with less!

12:00-1:00 pm

**Buffet Luncheon and Volunteer Thank You Presentations**

**IAN STRACHAN**, SOAR President, to present volunteer thank you gifts.

1:00-2:15 pm

**Plenary Session - Administrative Law "Blast"**

**MODERATOR: JERRY DEMARCO**, Environment and Land Tribunals Ontario - Environmental Review Tribunal

**SPEAKERS: JEFF COWAN**, WeirFoulds LLP; **FREYA KRISTJANSON**, Cavalluzzo Hayes Shilton McIntyre & Cornish LLP; **LESLIE MCINTOSH**, Ministry of the Attorney General; **TERRENCE O'SULLIVAN**, Lax O'Sullivan Scott

This all-star panel will address the leading topics of interest in administrative law:

- The Year in Review: What are the recent leading precedents? What is the Divisional Court saying about tribunal decisions? What are the highlights... and lowlights of 2010?
- Written Reasons: What are the key requirements of acceptable written reasons? How should adjudicators explain the "why" of their decisions? What does the *Clifford* decision mean for everyday tribunal decision-making?
- Emerging Issues from the Supreme Court: What does the *Conway* decision have to say about administrative tribunals and the *Charter*? How will the *Criminal Lawyers' Association* decision affect access to information?
- Topical Update: What procedural tools are available to achieve efficiencies in hearings while ensuring fairness? What are the new developments in administrative law, public inquiries and civil litigation, including regulatory negligence?

Be ready for blast off with these talented panelists and get up to speed on these important administrative law issues.

2:15-2:30 pm

**Refreshment Break**

2:30-3:45 pm

**Concurrent Sessions**

## SESSION #5

## Remedies

**MODERATOR:** DR. LILIAN MA, Landlord and Tenant Board

**SPEAKERS:** PROFESSOR JEFFREY BERRYMAN, University of Windsor;

JUSTICE DAVID J. MCCOMBS, Ontario Superior Court of Justice;

DEAN LORNE SOSSIN, Osgoode Hall Law School - York University

The topic of remedies raises many challenging issues for adjudicators and others:

- How to quantify monetary awards.
- How to address consistency in awards when there is a range of remedy options.
- What is the role of the Superior Court in the supervision of remedies?

Join our experts from the bench and academia as they offer insights and advice on these important topics.

## SESSION #6

Performance Management:  
No Surprises / Developing Best Practices

**MODERATOR:** GRACE KNAKOWSKI, Law Society of Upper Canada

**SPEAKERS:** MURRAY WM. GRAHAM, Landlord and Tenant Board;

MARK SANDLER, Cooper & Sandler, LLP / Law Society of Upper Canada;

GARY YEE, Social Benefits Tribunal

Our three presenters bring different perspectives to the topic of adjudicator performance management and education. The panel will provide practical examples of how to best provide feedback and educate adjudicators within regulatory and non-regulatory environments. The panel will discuss the delicate balance between establishing quality performance and education standards without fettering the panel's discretion in light of the recently enacted *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* that provides for enhanced accountability of adjudicative tribunals to their host ministries.

## SESSION #7

## Mediation Tool Kit

**MODERATOR:** CATHERINE BICKLEY, Pay Equity Hearings Tribunal

**SPEAKER:** KATHLEEN KELLY, ADR Chambers

Does an emphasis on performance management impact on the integrity, reputation, and quality of tribunal and agency mediation processes? With performance management comes increasing measurement of outcomes. One concern is that a focus on quantitative results, which are the easiest to measure, could lead to pressure to "get a deal" at all costs. Yet, mediators typically strive to help the parties achieve durable agreements that will not only benefit the parties but will also be in the public interest. How can these goals be met in a results-driven environment? Is it all about the numbers? How can quality be measured? In this lively, interactive workshop, our experienced speaker will tackle these challenging questions, invite your input, and provide practical tips and strategies to enhance mediation results in a performance driven environment.

## SESSION #8

## Clarity in Decision Writing

**MODERATOR:** MARK NAKAMURA, Health Professions Appeal and Review Board

**SPEAKERS:** JUSTICE JOHN LASKIN, Court of Appeal for Ontario;

JUSTICE ANNE MOLLOY, Ontario Superior Court of Justice

Hear comments, constructive criticism and positive suggestions from jurists who sit on appeal from the decisions of many Ontario tribunals. This is a wonderful opportunity for adjudicators to reflect on their decision writing style, approach and content.

3:45-4:30 pm

## Closing Plenary: Self-Represented Litigants - From Challenges to Solutions

**MODERATOR:** CAROLINE KING, Landlord and Tenant Board

**SPEAKER:** MADAME JUSTICE GLORIA EPSTEIN, Court of Appeal for Ontario

Self-represented Litigants: What do you do with parties who do not know what they don't know? Justice Gloria Epstein from the Court of Appeal for Ontario has answers! Hear real world advice and practice tips about dealing with uninformed (and the malevolently well informed) self-represented litigants at the pre-hearing, hearing, and post hearing stages. Avoid abuses of process and preserve not only justice, but the optics of justice.

4:30 pm

Closing Remarks and Evaluation  
Form Draw Prizes

COBA Co-Chairs – EMANUELA HEYNINCK, Pay Equity Commission and BOB BUTTERWORTH, Environment and Land Tribunals Ontario - Assessment Review Board

4:40 pm

SOAR Annual General Meeting and Elections  
IAN STRACHAN, SOAR President

5:00 pm

Pre-Dinner Reception  
Sutton Place Hotel

6:00 pm

SOAR Medal Dinner  
Stop 33, Sutton Place Hotel

Join SOAR and the administrative justice community in honouring the 2010 SOAR Medal Winners – Mary Camacho, Dean Lorne Sossin and Justice Kevin Whitaker. Enjoy an excellent opportunity to pay tribute to these incredible individuals, as well as to mix and mingle with colleagues in a wonderful setting with superb cuisine!

## Thank You to the 2010 COBA Planning Committee Volunteers!

EMANUELA HEYNINCK

Pay Equity Commission  
(COBA Co-Chair)

BOB BUTTERWORTH

Environment and Land Tribunals  
Ontario - Assessment Review Board  
(COBA Co-Chair)

CATHERINE BICKLEY

Pay Equity Hearings Tribunal

LORI COLEMAN

Health Boards Secretariat

JERRY DEMARCO

Environment and Land Tribunals Ontario -  
Environmental Review Tribunal

LINDA GEHRKE

City of Toronto

CAROLINE KING

Landlord and Tenant Board

GRACE KNAKOWSKI

Law Society of Upper Canada

LINDA LAMOUREUX

Health Professions and Health Services  
Appeal and Review Boards

DR. LILIAN MA

Landlord and Tenant Board

MARK NAKAMURA

Health Professions Appeal and Review  
Board

ELIZABETH NASTASI

Financial Services Commission of Ontario

GARY STANLEY

Ontario Highway Transport Board

VOY STELMASZYNSKI

Ontario Labour Relations Board

LYNDA TANAKA

Licence Appeal Tribunal

JOSÉE TURCOTTE

Ontario Securities Commission

TOBY VIGOD

Former Chair, Environmental Review  
Tribunal (until Feb. 2010)

- NOTE:**
1. Written materials are not provided for COBA presentations. Any papers or notes provided by speakers will be available on the SOAR website after the conference at [www.soar.on.ca](http://www.soar.on.ca). This is being done to reduce SOAR's carbon footprint and keep pace with the technological/electronic availability of documents.
  2. Room locations for each session and activity will be outlined in the on-site final program found in each delegate kit at the time of registration. Registration will be located just outside the Ontario Room.



TIME	EVENT	SPEAKERS
7:30-8:30 am	<b>REGISTRATION AND CONTINENTAL BREAKFAST</b>	
8:45-9:00 am	<b>CONFERENCE WELCOME</b>	COBA Co-Chairs: <b>EMANUELA HEYNINCK</b> , Pay Equity Commission <b>BOB BUTTERWORTH</b> , Environment and Land Tribunals Ontario - Assessment Review Board
9:00-9:15 am	<b>OPENING REMARKS</b>	<b>THE HONOURABLE CHRIS BENTLEY</b> , Attorney General
9:15-10:30 am	<b>PLENARY SESSION</b> Administrative Governance Reform versus Administrative Justice Reform	<b>LINDA LAMOUREUX</b> , Health Professions and Health Services Appeal and Review Boards (Moderator) <b>PHILIP BRYDEN</b> , Faculty of Law, University of Alberta <b>MICHAEL GOTTHEIL</b> , Environment and Land Tribunals Ontario <b>HEATHER MCNAUGHTON</b> , Former Chair - BC Human Rights Tribunal
10:30-10:45 am	<b>REFRESHMENT BREAK</b>	
10:45 am-12:00 noon	<b>CONCURRENT SESSIONS</b> 1. Accountability and Governance – What Does it Mean to Me?  2. Statutory Interpretation 101  3. Adjudicator Accreditation: Yeah or Nay!  4. Doing More With Less: Managing Relationships and Harnessing Technology	<b>LYNDA TANAKA</b> , Licence Appeal Tribunal (Moderator) <b>CAROL PAUKER</b> , Corporate Policy Branch and Policy Coordination Office, Ministry of Government Services <b>DAMAN THABLE</b> , Office of the Conflict of Interest Commissioner <b>MIKE UHLMANN</b> , Adjudicative Agency Modernization Initiatives, Ministry of Government Services  <b>VOY STELMASZYNSKI</b> , Ontario Labour Relations Board (Moderator) <b>PROFESSOR RANDAL GRAHAM</b> , Faculty of Law - University of Western Ontario  <b>JUDITH MCCORMACK</b> , Faculty of Law - University of Toronto (Moderator) <b>RON ELLIS</b> , QC, Former Chair of WCAT <b>PAUL DAVID MCCUTCHEON</b> , Fraser Milner Casgrain LLP Canada <b>TOBY VIGOD</b> , Former Chair - Environmental Review Tribunal  <b>LORI COLEMAN</b> , Health Boards Secretariat (Moderator) <b>JUSTICE R. JOHN HARPER</b> , Superior Court of Ontario – Family Court <b>DAVID DRAPER</b> , Human Rights Tribunal of Ontario
12:00-1:00 pm	<b>BUFFET LUNCHEON / VOLUNTEER THANK YOU PRESENTATIONS</b>	<b>IAN STRACHAN</b> , SOAR President
1:00-2:15 pm	<b>PLENARY SESSION</b> Administrative Law “Blast”	<b>JERRY DEMARCO</b> , Environment and Land Tribunals Ontario – Environmental Review Tribunal (Moderator) <b>JEFF COWAN</b> , WeirFoulds LLP <b>FREYA KRISTJANSON</b> , Cavalluzzo Hayes Shilton McIntyre & Cornish LLP <b>LESLIE MCINTOSH</b> , Ministry of the Attorney General <b>TERRENCE O’SULLIVAN</b> , Lax O’Sullivan Scott
2:15-2:30 pm	<b>REFRESHMENT BREAK</b>	
2:30-3:45 pm	<b>CONCURRENT SESSIONS</b> 5. Remedies  6. Performance Management: No Surprises / Developing Best Practices  7. Mediation Tool Kit  8. Clarity in Decision Writing	<b>DR. LILIAN MA</b> , Landlord and Tenant Board (Moderator) <b>PROFESSOR JEFFREY BERRYMAN</b> , University of Windsor <b>JUSTICE DAVID J. MCCOMBS</b> , Ontario Superior Court of Justice <b>DEAN LORNE SOSSIN</b> , Osgoode Hall Law School, York University  <b>GRACE KNAKOWSKI</b> , Law Society of Upper Canada (Moderator) <b>MURRAY WM. GRAHAM</b> , Landlord and Tenant Board <b>MARK SANDLER</b> , Cooper & Sandler, LLP / Law Society of Upper Canada <b>GARY YEE</b> , Social Benefits Tribunal  <b>CATHERINE BICKLEY</b> , Pay Equity Hearings Tribunal (Moderator) <b>KATHLEEN KELLY</b> , ADR Chambers  <b>MARK NAKAMURA</b> , Health Professions Appeal and Review Board (Moderator) <b>JUSTICE JOHN LASKIN</b> , Court of Appeal for Ontario <b>JUSTICE ANNE MOLLOY</b> , Ontario Superior Court of Justice
3:45-4:30 pm	<b>CLOSING PLENARY</b> Self-Represented Litigants – From Challenges to Solutions	<b>CAROLINE KING</b> , Landlord and Tenant Board (Moderator) <b>MADAME JUSTICE GLORIA EPSTEIN</b> , Court of Appeal for Ontario
4:30 pm	<b>CLOSING REMARKS/ EVALUATION FORM DRAW PRIZES</b>	COBA Co-Chairs: <b>EMANUELA HEYNINCK</b> , Pay Equity Commission <b>BOB BUTTERWORTH</b> , Environment and Land Tribunals Ontario - Assessment Review Board
4:40 pm	<b>SOAR ANNUAL GENERAL MEETING AND ELECTIONS</b>	<b>IAN STRACHAN</b> , SOAR President
5:00 pm	<b>SOAR MEDAL DINNER NETWORKING RECEPTION</b>	Sutton Place Hotel
6:00 pm	<b>SOAR MEDAL DINNER</b>	Stop 33, Sutton Place Hotel

**HOTEL ACCOMMODATION**

A block of guest rooms with a special group rate of \$170 per night + taxes, has been set aside for COBA conference attendees at the Sutton Place Hotel, 955 Bay Street, Toronto, Ontario M5S 2A2, Tel: 416-924-9221 Fax: 416-924-1778, www.toronto.suttonplace.com. Government rates may also be available by contacting the hotel directly. These rates are based on availability at the time of reservation and will require government identification to be presented upon check-in. Please contact the hotel directly if you require a reservation at 416-924-9221 or 1-866-378-8866. Please be sure to specify “Society of Ontario Adjudicators and Regulators (SOAR)” to receive the group rate. It is strongly recommended that reservations be made no later than October 8, 2010. Reservations made after this date will be provided on a space and rate availability basis only.



# COBA 2010

## Conference of Ontario Boards & Agencies

Thursday, November 4, 2010 • Macdonald Block, Queen's Park • Toronto, Ontario



# REGISTRATION FORM

Please complete this form for each individual attending the conference and scan/email it to [info@soar.on.ca](mailto:info@soar.on.ca), or Fax to 416-695-9977, or register on-line at [www.soar.on.ca](http://www.soar.on.ca)

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Special Needs (eg. dietary, accessibility, etc.) please specify: \_\_\_\_\_

Lawyer  Non-Lawyer  I do not want my contact information to appear on the COBA registrant list for future networking purposes amongst attendees.

REGISTRATION FEES (Please Circle)	Early Fee (on Oct. 4 or before)	Regular Fee (on Oct. 5 or after)	Non-Government Fee	AMOUNT DUE
COBA Only	\$350	\$400	\$425	
COBA & Dinner Select Meal Choice: <input type="radio"/> Beef <input type="radio"/> Salmon	\$445	\$495	\$520	
Dinner Only Select Meal Choice: <input type="radio"/> Beef <input type="radio"/> Salmon	\$110	\$110	\$110	
			+ 13% HST	
			Total =	

## DISCOUNT

For every four (4) registrations received from one organization (all registration forms **MUST** be submitted simultaneously), one (1) additional complimentary registration is provided.

## SESSION SELECTION

Please indicate your attendance at **ONE** session in each of the morning and afternoon:

10:45 am - 12 noon  1. Accountability & Governance – What Does it Mean to Me?  2. Statutory Interpretation 101  
 3. Adjudicator Accreditation: Yeah or Nay!  4. Doing More With Less: Managing Relationships and Harnessing Technology

2:30 - 3:45 pm  5. Remedies  6. Performance Management: No Surprises / Developing Best Practices  
 7. Mediation Tool Kit  8. Clarity in Decision Writing

## PAYMENT FORMAT

Cheque enclosed payable to SOAR Name on credit card (please print clearly) \_\_\_\_\_  
 Charge my VISA/Mastercard (only) Credit card number \_\_\_\_\_  
 Cheque to follow payable to SOAR Signature \_\_\_\_\_ Exp. Date \_\_\_\_\_ / \_\_\_\_\_

### IMPORTANT INFORMATION

**HOW TO REGISTER:** Please return your completed registration form (one per person) to: [info@soar.on.ca](mailto:info@soar.on.ca) or Fax 416-695-9977 or mail to: Society of Ontario Adjudicators and Regulators (SOAR), 1 Eva Road, Suite 304, Etobicoke, ON M9C 4Z5  
**CONFIRMATION:** You will receive an e-mail within seven business days of SOAR receiving your registration form, confirming that you are registered for the conference. Please contact us if you have not received this confirmation.

**PAYMENTS:** If paying by cheque, indicate registrant names directly on cheque and mail to SOAR at the above address.

**LOCATIONS:** All COBA business sessions will be held at the Macdonald Block, 900 Bay Street, Toronto. **The SOAR Medal Dinner** will be held at Stop 33, The Sutton Place Hotel, 955 Bay Street, Toronto.

**FOR MORE INFORMATION:**  
Phone 416-695-1271 Fax 416-695-9977 E-mail [info@soar.on.ca](mailto:info@soar.on.ca)

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**CANCELLATIONS:** All registrations received are considered firm. Cancellations made on Oct. 4/10 or before will be refunded less a \$50.00 administration fee. No refunds for cancellations on Oct. 5/10 or after. Attendee name changes may be submitted up to and including Oct. 29/10 only.

**Register on-line at [www.soar.on.ca](http://www.soar.on.ca)**